

Details Required under Clause 115 of the EP&A Regulation 2000

(a) Applicant's Name

Moorgate Finance Pty Ltd

(b) A Description of the Development as Approved

Council's Notice of Determination of Development Application under Section 80(3) of the Act describes the proposed development under Development Application No. 2007/0856 (as modified) as:

"Demolition of existing buildings and construction of a mixed use development comprising basement car parking, three-storey retail/commercial building, 10 residential apartments in two buildings and a detached dwelling and subdivision into (2) lots and the staged construction and occupation of the development."

(c) The Address and Formal Particulars of the Title of the Land on which the Development is to be Carried Out

Lot 1 and Lot 2 DP1181713, 5 and 5A Lawrence Street, Freshwater and 18 Marmora Street, Freshwater.

(d) A Description of the Proposed Modification to the Development Consent

The details of the proposed amendments to the consent are set out in Section 4 of this report. For the purposes of the Regulations the application seeks to modify the description of the development proposal and Conditions 1, 23, 27 and 94 of Development Application No. 2007/0856 (as modified).

(e) A Statement that Indicates Either

- i) That the modification is merely intended to correct a minor error, misdescription or miscalculation, or
- ii) That the modification is intended to have some other effect as specified in this report

Subclause (i) above does not apply to this Section 96AA application.

In respect to subclause (ii) above, the modification is intended to amend the DA plans for the residential component of the mixed use proposal at the site as well as proposed modifications to conditions 1, 23, 27 and 94 of Development Consent DA2007/0856 and MOD 2013/0112 originally approved by the Court in *Minnici V Warringah Council* (2009) NSW LEC 1098 issued on 3 April 2009.

(f) A Description of the Expected Impacts of the Modification

The proposed modifications generally satisfies all of the relevant objectives and planning controls under the applicable SEPP's, the former WLEP 2000, WLEP 2011, WDCP 2011 and the "rules of thumb" provisions under the RFDC. The amended proposal will require minor variations to the rear building setback, wall height and building envelope controls for the proposed detached dwelling (Building D) under WDCP 2011 and to the building separation "rule of thumb" between the 2 x three (3) storey residential flat buildings (Buildings B and C) under the RFDC which are all planning control variations which were approved by the Court in granting Development

Consent DA 2007/0856 to the original mixed use proposal. These minor variations are not expected to give rise to adverse impacts upon surrounding properties of the public domain.

An environmental assessment in these regards is provided at Section 6 of this report.

- (g) An undertaking to the effect that the development (as to be modified) will remain substantially the same as the development which was originally approved**

Section 5 of this report addresses Section 96AA of the EP& A Act where it is concluded that the proposed modification to Condition 1, 23, 27 and 94 of Development Consent DA2007/0856 and MOD 2013/0112 will result in a development that is substantially the same as that originally approved by the Court.

- (h) if the applicant is not the owner of the land, a statement signed by the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),**

The owner's consent has been provided on the form which accompanies this submission to Council.