

5 November 2014

Moorgate Property Pty Ltd  
Suite 1 Lvl 1 27 Belgrave Street  
MANLY NSW 2095

Dear Sir/Madam

**Application Number:** Mod2014/0117  
**Address:** Lot 2 DP 1181713 , 5 Lawrence Street, FRESHWATER NSW 2096  
Lot 1 DP 1181713 , 18 Marmora Street, FRESHWATER NSW 2096  
**Proposed Development:** Modification of Court Consent DA2007/0856 for mixed use  
development comprising basement car parking, retail/commercial  
building, residential apartment buildings (10 units), detached dwelling  
and staged construction of the development.

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's eServices website at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on (02) 9942 2111 or via email quoting the application number, address and description of works to [council@warringah.nsw.gov.au](mailto:council@warringah.nsw.gov.au)

Regards,

Tony Collier  
**Development Assessment Manager**

## NOTICE OF DETERMINATION

|                            |                                     |
|----------------------------|-------------------------------------|
| <b>Application Number:</b> | Mod2014/0117                        |
| <b>Determination Type:</b> | Modification of Development Consent |

### APPLICATION DETAILS

|                                        |                                                                                                                                                                                                                                            |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Applicant:</b>                      | Moorgate Property Pty Ltd                                                                                                                                                                                                                  |
| <b>Land to be developed (Address):</b> | Lot 2 DP 1181713 , 5 Lawrence Street FRESHWATER NSW 2096<br>Lot 1 DP 1181713 , 18 Marmora Street FRESHWATER NSW 2096                                                                                                                       |
| <b>Proposed Development:</b>           | Modification of Court Consent DA2007/0856 for mixed use development comprising basement car parking, retail/commercial building, residential apartment buildings (10 units), detached dwelling and staged construction of the development. |

### DETERMINATION - APPROVED

|                       |            |
|-----------------------|------------|
| <b>Made on (Date)</b> | 10/10/2014 |
|-----------------------|------------|

The request to modify the above-mentioned Development Consent has been approved as follows:

#### A. Modify the description of the approved development to read as follows:

*"Modification of Development Consent DA 2007/0856 granted for the demolition of existing buildings and construction of a mixed use development comprising of basement car parking, three storey retail/commercial building, 16 dwellings in 2 residential flat buildings and a detached dwelling and subdivision into 2 lots and the staged construction and occupation of the development."*

#### B. Add Condition No.1B - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Modification Approved Plans

| Architectural Plans - Endorsed with Council's stamp |       |             |
|-----------------------------------------------------|-------|-------------|
| Drawing No.                                         | Dated | Prepared By |
|                                                     |       |             |

|                                              |        |                  |
|----------------------------------------------|--------|------------------|
| A-0010 Issue B                               | Jun 14 | Benson McCormack |
| A-0050 Issue B                               | Jun 14 | Benson McCormack |
| A-0100 Issue B                               | Jun 14 | Benson McCormack |
| A-0101 Issue B to A-0116 Issue B (inclusive) | Jun 14 | Benson McCormack |
| A-0200 Issue B to A-0214 Issue B (inclusive) | Jun 14 | Benson McCormack |
| A-0221 Issue B                               | Jun 14 | Benson McCormack |
| A-0222 Issue B                               | Jun 14 | Benson McCormack |
| A-1600 Issue B                               | Jun 14 | Benson McCormack |
| A-1612 Issue B                               | Jun 14 | Benson McCormack |

| <b>Engineering Plans</b> |              |                                        |
|--------------------------|--------------|----------------------------------------|
| <b>Drawing No.</b>       | <b>Dated</b> | <b>Prepared By</b>                     |
| 111927-00-MIE000 Rev 00  | 10.04.14     | Meinhardt Infrastructure & Environment |
| 111927-00-MIE100 Rev 01  | 10.04.14     | Meinhardt Infrastructure & Environment |
| 111927-00-MIE150 Rev 00  | 10.04.14     | Meinhardt Infrastructure & Environment |
| 111927-00-MIE151 Rev 00  | 10.04.14     | Meinhardt Infrastructure & Environment |
| 111927-00-MIE010 Rev 00  | 30.04.10     | Meinhardt Infrastructure & Environment |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |               |                    |
|-----------------------------------------------------------------------------------------|---------------|--------------------|
| <b>Report No. / Page No. / Section No.</b>                                              | <b>Dated</b>  | <b>Prepared By</b> |
| Geotechnical Assessment Report Ref: 27296ZHRpt                                          | 21 March 2014 | JK Geotechnics     |

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) The development is to be undertaken generally in accordance with the following:

| <b>Landscape Plans</b> |              |                      |
|------------------------|--------------|----------------------|
| <b>Drawing No.</b>     | <b>Dated</b> | <b>Prepared By</b>   |
| LP01 Revision E        | 4/4/14       | Spirit Level Designs |

| <b>Waste Management Plan</b> |              |                    |
|------------------------------|--------------|--------------------|
| <b>Drawing No.</b>           | <b>Dated</b> | <b>Prepared By</b> |
| Waste Management Plan        | Not dated    | Moorgate Finance   |

The development must be carried out in compliance with the following:

| <b>Other Department,</b> | <b>eServices Reference</b> | <b>Dated</b> |
|--------------------------|----------------------------|--------------|
|--------------------------|----------------------------|--------------|

|                             |                               |              |
|-----------------------------|-------------------------------|--------------|
| <b>Authority or Service</b> |                               |              |
| Ausgrid                     | Response Energy Aust Referral | 25 June 2014 |

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

**C. Modify Condition 23 - BASIX Certificate to read as follows:**

**23. BASIX Certificate**

The development shall fully comply with the schedule of BASIX Commitments specified within BASIX Certificate No. 539768M. Plans and specifications that reflect those commitments identified on the BASIX Certificate to be satisfied prior to the issue of the Construction Certificate for the staged construction for Lot 1 in DP 118173, shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure the development complies with the requirements of the SEPP (Building Sustainability Index: BASIX 2004).

**D. Modify Condition 27 - Section 94 Contribution to read as follows:**

**27. Warringah Section 94A Development Contribution Plan**

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. \$102,500 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate for the staged construction for Lot 1 in DP 1181713. \$87,730 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate for Lot 2 DP in 1181713. These amounts have been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney -0 All Groups Index).

The basis for the contributions is as follows:

| <b>Warringah Section 94 Development Contributions Plan</b>                         |                  |                |
|------------------------------------------------------------------------------------|------------------|----------------|
| Stage 1 contribution based on a total residential development cost of \$10,250,000 |                  |                |
| <b>Contributions</b>                                                               | <b>Levy Rate</b> | <b>Payable</b> |
| Total Section 94A Levy                                                             | 0.95%            | \$ 97,375.00   |
| Section 94A Planning and Administration                                            | 0.05%            | \$ 5,125.00    |
| Total                                                                              | 1.0%             | \$ 102,500.00  |

|                                                                                   |                  |                |
|-----------------------------------------------------------------------------------|------------------|----------------|
| <b>Warringah Section 94 Development Contributions Plan</b>                        |                  |                |
| Stage 2 contribution based on a total commercial development cost of \$ 8,773,000 |                  |                |
| <b>Contributions</b>                                                              | <b>Levy Rate</b> | <b>Payable</b> |
| Total Section 94A Levy                                                            | 0.95%            | \$ 83,343.50   |
| Section 94A Planning and Administration                                           | 0.05%            | \$ 4,386.50    |
| Total                                                                             | 1.0%             | \$ 87,730.00   |

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2014.

**E. Modify Condition 94 - BASIX Compliance Certification to read as follows:**

**94. BASIX Compliance Certification**

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173, all the selected BASIX commitments as detailed in the BASIX Certificate No. 539768M, lodged with the Section 96AA Application, must be completed.

Reason: To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004).

**Important Information**

This letter should therefore be read in conjunction with DA2007/0856 dated 3 April 2009 and Mod2013/0112 dated 6 September 2013 and MOD2014/0052 dated 29 May 2014.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Section 97AA of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

**Right to Review by the Council**

You may request the Council to review the determination of the application under Section 96AB of the Environmental Planning and Assessment Act 1979. Any request to review the application must be lodged and determined within 28 days after the date of the determination shown on this notice.

*NOTE: A fee will apply for any request to review the determination.*

**Signed**            On behalf of the Consent Authority

Signature           \_\_\_\_\_

Name                Tony Collier, Development Assessment Manager

Date                  10/10/2014