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**Sent:** 19/08/2013 11:52:39 AM  
**Subject:** Mod2013/0112 ? 5 & 5A Lawrence St, Freshwater  
**Attachments:** Mod2013-0112Freshwater.doc;

Submission attached.

17th August 2013

To: The General Manager  
Civic Centre, 725 Pittwater Road  
Warringah Council  
DEE WHY NSW 2099

Dear Sir

RE: Modification No: Mod2013/0112 – (DA2007/0856)  
ADDRESS: 5 & 5A Lawrence Street and 18 Marmora Street, Freshwater

I wish to OBJECT to the proposed modification for the following reasons:

1. The underground pedestrian access and associated stairs appear to have a useful function in providing a convenient connection between the commercial development near to Lawrence Street and the car park at the rear. The information submitted with the application does not provide adequate reasons to justify the removal of the access way.
2. The information submitted with the application does not provide adequate reasons to justify the removal of Condition 95, which requires the consolidation of Lots A and B. It is worth noting that an important component of the development is the provision of commercial development (on ground and upper floors) on the southern portion of the site. The apartments at the rear (northern portion) of the property were approved as part of a land use package that included commercial (only) use on the southern portion of the land.
3. The condition relating to the right of carriage way over a small portion of land in the north western corner should NOT be removed. The justification for this condition is to allow for future pedestrian access between the public car park in Oliver Street and the hall at the rear of the Uniting Church in Marmora Street.

Re Condition 115:

The modification to remove Condition 115 is not a trivial or minor amendment for the neighbouring property, or indeed for the residents of the local street, or the many people who use the church facility and find it difficult to park nearby. A pedestrian connection would allow better utilisation of the Oliver Street Council car park and relieve parking congestion in Marmora Street.

The corner segment of land is very small compared to the size of the site, but is a necessary link if pedestrian access is to be provided in the future between the church hall and public car park. In previous years pedestrian access was provided on an informal basis with the agreement of land owners. The right of carriageway provides an opportunity to formalise this access.

The affected land is part of a Council drainage easement along the northern boundary of the subject site and the adjoining property to the west. The easement is a corridor of land that could be used for a pedestrian access. It is in the community interest that Condition 115, which relates to the right of carriageway, is retained.

#### Re Information Provided

The documents available on the website in conjunction with Mod2013/0112 do not appear to include the Section 96AA report (with Appendix A and B) referred to in the notification letter.

The Notification Plan highlights the pedestrian access way and associated stairs (proposed for removal). However, it does not show the location of the triangular portion of land identified for the purpose of a right of carriage way, or the boundary of lots A and B that are to be consolidated.

In conclusion:

I do not support the proposed modifications to:

1. Remove reference to the underground pedestrian access,
2. Remove reference to the consolidation of allotments, or
3. Remove provision for a right of carriageway over the subject property to provide pedestrian access to the adjoining Church property in Marmora Street.

Yours sincerely

Ann Sharp

#### ATTACHMENT 1

##### SECTION 96AA Application

The purpose of this s96AA application is to modify the conditions of the consent issued for the following purposes:

- *Allow for the staging of the construction and occupation of the proposed mixed use development approved by the Court;*
- *Remove reference to the underground pedestrian access;*
- *Remove reference to the consolidation of allotment as the consent issued by the Court included approval of a proposed subdivision of the site into two (2) lots; and*
- *Remove provision for a right of carriageway over the subject property to provide pedestrian access to the adjoining Church property in Marmora Street.*

#### ATTACHMENT 2

Land and Environment Court consent granted on 3 April 2009

*Minnici v Warringah Council [2009] NSWLEC 1098*

*File Number: 11108 of 2008*

CONSENT ORDERS - DEVELOPMENT APPLICATION :- mixed commercial retail and residential development, residential amenity, traffic and parking, streetscape

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

**95. Consolidation of Lots**

Prior to the issue of an Interim/ Final Occupation Certificate Lots 9 Sec 2 DP 10321, Lot A and B DP 375558 are to be consolidated into one lot and evidence of the registration of the appropriate survey plan by Land & Property Information is to be submitted to the Principal Certifying Authority.

***Reason:*** *To ensure the orderly development of land. (DACGFcl)*

**115. Right of Carriageway**

The Applicant agrees to grant Lot 8/1/10321 a right of carriage way over a triangular portion of current Lot 394/752038 measuring approximately 1m x 1m in the north western corner, subject to Lot A/256986 granting a right of way in favour of Lot 8/1/10321