



15 May 2019



General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

Attention: Tom Prosser



Dear Mr Prosser,

**Re: 72 Carrington Parade, Curl Curl – DA2019/0380**

I have been engaged by David Webb of 2 Gardere Avenue, Curl Curl to undertake an assessment of this development proposal and prepare a submission to Council.

In undertaking this assessment I have reviewed the documentation published on Council's web site and inspected 2 Gardere Avenue, Curl Curl.

**View sharing**

My assessment concludes that the proposal fails to satisfy the Land and Environment Court's planning principle for view sharing (*Tenacity Consulting v Warringah Council* [2004] NSWLEC 140) and Part D7 of *Warringah Development Control Plan 2011*.

As shall be demonstrated below, a more skilful design could retain a significantly greater proportion of the views currently enjoyed from 2 Gardere Avenue whilst maintaining the development potential of 72 Carrington Parade.

The existing dwelling house at 2 Gardere Avenue enjoys extensive views to the east and north-east to North Curl Curl Beach and the Pacific Ocean. The dwelling house has been designed to obtain the maximum benefit possible from these available views by providing a series of windows on the eastern wall of the living room and kitchen as well as a deck at the front of the site.

The proposal is for a 2-storey dwelling house extending to within 900mm of the boundary with 2 Gardere Avenue. The proposed dwelling house has a 900mm setback to the southern side boundary and a variable setback to Gardere Avenue ranging from nil to 3.5m.

The following photographs show the views that are currently available and the views that will be lost as a result of the proposal. They were taken from a position standing approximately 1.0m back from the balustrade or glazing.

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**Photograph 1:** Existing view from living room window.



**Photograph 2:** Proposed view from living room window.



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Applying the four-step assessment process from the *Tenacity* judgement:

*26 The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.*

Comment: The views are of the Pacific Ocean and Curl Curl Beach as well as the pine trees in Flora and Ritchie Roberts Reserve. The views are whole views, including the land-water interface and the more distant views of Dee Why Head. In my opinion the views are highly valuable.

*27 The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.*

Comment:

The views are enjoyed from both sitting and standing positions. They are obtained over the side boundary of 2 Gardere Avenue but over the rear boundary of 72 Carrington Parade.

*28 The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.*

Comment: The extent of the impact from within the living room and dining room of 2 Gardere Avenue is devastating. As shown in photograph 2 above, the entirety of the view will be lost as a result of the proposal. The extent of the impact from the balcony is severe with the view loss comprising the majority of the water views that are currently available. It is noted that the extent of the impact depends on where one is standing on the balcony, with a lesser impact when standing in the north-western corner (as depicted in the applicant's view analysis) than within the central or southern portions of the balcony. Photographs 3 and 4 above are taken from the central part of the balcony.

*29 The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant*



*with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.*

Comment: The proposal does not comply with numerous development controls, particularly the setback control to Gardere Avenue. The proposal has sought to respond to the impact on 2 Gardere Avenue by providing a variable setback to Gardere Avenue, ranging from 3.5m down to nil. This approach achieves the retention of views from the north-western corner of the balcony of 2 Gardere Avenue but results in severe and devastating impacts on views from the living areas and majority of the balcony.

The impact arises because of the height of the rear portion of the proposed dwelling house. The proposed parapet level of the rear portion of the proposed dwelling house (RL 17.0) is 1.4m above the floor level of the balcony at 2 Gardere Avenue. The result is that the average man (eye height 1.6m) and woman (eye height 1.5m) will retain almost no view over the proposed dwelling house.

The higher parts of the proposed dwelling house (lift/stairs to roof terrace and solid balustrade to roof terrace) result in greater impacts. It is considered that there is no requirement or entitlement to a roof terrace in circumstances where it is creating a severe impact on neighbouring views.

Of particular concern, however, is the rear portion of the dwelling house. In this location the design seeks to provide a ground floor level that is partially excavated into the ground resulting in a loss of internal amenity for those rooms. At the same time this elevates the parapet of the rear part of the dwelling to a height that has a devastating impact on views from 2 Gardere Avenue.

A more skilful design would relocate the lower level rooms proposed at the rear of the dwelling house to an upper level in the central portion of the dwelling house in the approximate location of the roof terrace. This would enable the rear portion of the proposed dwelling house to be single storey and provide for views across the top of the building to Curl Curl Beach and the Pacific Ocean from 2 Gardere Avenue. It would also improve the amenity of those rooms in the proposed dwelling house by providing additional natural sunlight and views.

Taking a visual cue from existing site conditions, a single-storey building extending from the rear boundary to the location of the existing palm tree on the northern boundary of 72 Carrington Parade, approximately 8.4m from the north-western corner of the site, would strike a suitable balance between the sharing of views with 2 Gardere Avenue and the maintenance of the development potential of 72 Carrington Parade.

This approach would also negate the need for a variable setback to Gardere Avenue as views would be retained over the top of the building, providing for more development potential through the possibility of a reduced setback to Gardere Avenue for the single-storey part of the building.



### **Landscaped area and visual bulk**

Part D1 of WDCP 2011 requires that 40% of the site be provided as landscaped area. The proposal only provides half of the required landscaped area, with a total of only 20% (55.0m<sup>2</sup>) proposed.

The proposal is for the demolition of the existing dwelling house and construction of a new dwelling house, unconstrained by existing structures. In this situation it is reasonable to expect that the landscaped area control would be complied with.

An increased landscaped area would enable the visual bulk of the building to be reduced and softened. This is particularly the case with regards to the presentation of the building to 2 Gardere Avenue, where a 2-storey building is proposed with a setback of only 900mm. The setback is insufficient to provide landscaping of any significance between the buildings. The situation is exacerbated by the proposed 4.1 metre excavation at the western end of the site to provide for a basement area.

A reduction in the bulk of the building as it presents to 2 Gardere Avenue, as discussed above with regards to view sharing, would assist in ameliorating the impacts with regards to the visual bulk of the building and the lack of a landscaped separation between the buildings.

### **Excavation**

The proposal involves excavation of up to 4.1 metres (western end of basement under slab RL7.9, existing ground level RL11.98). The excavation is proposed to 0.35m of the boundary with 2 Gardere Avenue (as shown on DA 104, Issue E).

The Geotechnical Investigation by STS GeoEnvironmental Pty Ltd has only investigated for a proposal that *"will require excavating to depths of between 2.0 and 3.0 metres below existing ground surface levels"*<sup>1</sup>.

The Geotechnical Investigation notes that sub-surface conditions on the site include loose sands to a depth of 1.0m and loose to medium dense sands below that. These conditions mean that the potential impacts on neighbouring sites are greater.

The Geotechnical Investigation needs to be updated so that it addresses the full depth of the proposed excavation.

Should the updated Geotechnical Investigation support the proposal it is requested that Council require dilapidation reports addressing the existing and future conditions of the site and structures at 2 Gardere Avenue.

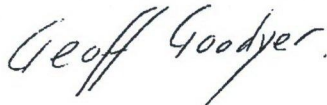
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<sup>1</sup> STS GeoEnvironmental Pty Ltd, "Geotechnical Investigation, Acid Sulfate Soils Assessment and Preliminary Landslip Assessment", December 2018, Page 2.

### **Conclusion**

Thank you for providing Mr Webb with the opportunity to make a submission and I trust the concerns raised in this letter will be given full consideration by Council. If you have any questions please feel free to contact me.

Yours sincerely,

A handwritten signature in black ink that reads "Geoff Goodyer". The signature is written in a cursive style with a long, sweeping underline.

Geoff Goodyer  
**Symons Goodyer Pty Ltd**

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