

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2021/0548
Responsible Officer:	Alex Keller
Land to be developed (Address):	Lot 5 DP 6000, 10 Gardere Avenue CURL CURL NSW 2096
Proposed Development:	Modification of Development Consent DA2021/0010 for demolition works and construction of dwelling house
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Paul Andrew Torrington Annette Torrington
Applicant:	Willow Tree Planning
Application Lodged:	30/07/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	10/08/2021 to 24/08/2021
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The modification sought to Development Consent DA2021/0010, is in relation to the following scope of works:

- Addition of a roof over existing balcony at second floor with side screen elements; and
- Amendment to Window W20 at the second level bathroom.

The additional roof over the balcony extends a maximum of 1.62m metres from the existing roof and has a diagonal offset to the west in order to follow the road line and keep in line with the existing 6.5m setback requirements from the front boundary. Cosmetic change to the front fencing as shown on the plan details.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Warringah Development Control Plan - D7 Views

SITE DESCRIPTION

Property Description:	Lot 5 DP 6000 , 10 Gardere Avenue CURL CURL NSW 2096
Detailed Site Description:	<p>The site has an angled street frontage of 10.06 metres (m) to Gardere Avenue, with a maximum depth of 50.29m and lot area of 455.3 square metres (sqm). The site is on the southern side of Gardere Avenue with has a moderate cross fall from west to east, including some minor retaining walls along the boundary lines. The existing dwelling and structures are to be demolished for the construction of the new dwelling under DA2021/0010.</p> <p>There are no heritage items within the immediate vicinity and there are no significant rock outcrops or large trees within the site.</p> <p>The site contains a Council stormwater line and is therefore subject to potential overland flow across the rear of the site draining toward the east. The land is within landslip "Area B" classification and is situated 150m from Curl Curl beach. Surrounding development consists part 2 or 3 storey dwelling houses in a landscaped setting, with a number of nearby properties also having outbuildings or Secondary dwellings on site.</p> <p>Many properties (including the subject site) along Gardere</p>

Avenue have coastal views of the area toward Curl Curl Beach and shared view lines along the Gardere Road alignment between Carrington Parade and Tanterra Place.

Map:



SITE HISTORY

Building application No.C1036/58 for a weatherboard dwelling was approved in 1958 and was subject to later alterations / additions in 1962 and 1965.

Development Application No.DA2020/1121 for demolition and construction of a dwelling house was withdrawn on 16.12.2020. The current proposal seeks to address concerns regarding stormwater, landscaping, views, privacy and built form controls.

Development Application No.2021/0010 for demolition and construction of a dwelling house was approved by Council on 4.5.2021

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2021/0010, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> • No significant impact on adjacent land and compliance with the building controls is consistent. • Minor change affects a bathroom window and flat awning section under eaves on front veranda only. • The additional roof over the balcony extends a maximum of 1.62m metres from the existing roof and has a diagonal offset to the west in order to follow the road line and keep in line with the existing 6.5m setback requirements from the front boundary. • The existing window on the second floor for the bathroom, Window W20, is proposed to change from a 600mm high window with a sill level of 1800mm of obscure glass to a 1500mm high window, with a sill level of 900mm in clear glass. The plantation shutters would installed to this window similar to those for the bedrooms. • The proposed modification would not alter the use as a residential dwelling and would have minimal impacts to the built form. • The proposed amendments would be in keeping with the materials, finishes and architectural style approved for the dwelling.
(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA2021/0010 for the following reasons:</p> <ul style="list-style-type: none"> • Compliance with the built form controls maintains consistency with the original development consent. • Reasons for the granting of approval and conditions of DA2021/0010 remain consistent with the modification changes. • Amenity impact of privacy, overshadowing, views,

Section 4.55(1A) - Other Modifications	Comments
	<p>landscape amenity, noise amenity, drainage, streetscape and building bulk remain substantially the same.</p> <ul style="list-style-type: none"> • Cosmetic change to the front fencing remains consistent with front fencing requirements of the DCP.
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, and the Northern Beaches Community Participation Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the

Section 4.15 'Matters for Consideration'	Comments
	residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and</p>

Section 4.15 'Matters for Consideration'	Comments
	proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 10/08/2021 to 24/08/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Cameron Paul Russell Garland Melinda Ann Garland	12 Gardere Avenue CURL CURL NSW 2096

The following issues were raised in the submissions for the modification have been addressed below (and includes submission issues by Consultants on behalf of the above property owners):

- Views
- Notification

The matters raised within the submissions are summarized and addressed as follows:

- ***Concern that the modification proposal will further impact views toward Curl Curl beach (along Gardere Ave) in relation to the awning and side screen.***

Comment:

This issue has been considered in detail within this assessment report under *Part D7 Views*. Views include parts of the ocean horizon and coastal interface. In originally considering this issue with DA2021/010 various influencing factors were identified, including the differences in adjacent floor / site levels, setbacks and building configurations / design, drainage easement /

overland flow at the rear, existing subdivision pattern, roof design and the Planning Principle (Views) established in *Tenacity Consulting v Warringah Council (2004) NSW LEC 140*. This dealt with views across the property boundary, in the central part of the site in a south east direction toward the southern end of Curl Curl beach as well as views across the front setback area of the site, from No.10 Gardere Avenue, north eastwards toward Curl Curl beach.

The modification changes proposed remain consistent with the conditions of consent and the reasons for granting approval in relation to view sharing. In summary, compliance with the front setback is retained and the new awning and side screen position do not create any unreasonable view impact. Therefore, this issue does not warrant refusal of the modification application.

- ***Concern that the statement of environmental effects for the modification sought 'no notification'.***

Comment:

The modification proposal was notified in accordance with Council's *Community Participation Plan* to enable sufficient opportunity for submissions and consideration of the modification by adjacent or surrounding neighbours notified. Original submissions and file information for DA2021/010 and submission for the modification have been reviewed in context of the modification application. Therefore, this issue does not warrant refusal of the modification application.

REFERRALS

No referrals were sent in relation to this application

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP 55 - Remediation of Land

The requirements and considerations of the SEPP 55 (and Draft SEPP) were addressed in detail under assessment of DA2021/0010 and the modification work proposed is consistent with the SEPP.

SEPP (Building Sustainability Index: BASIX) 2004

The requirements and considerations of the SEPP BASIX were addressed in detail under assessment of DA2021/0010 and the modification work proposed is consistent with the SEPP.

SEPP (Infrastructure) 2007

The requirements and considerations of the SEPP (Infrastructure) 2007 were addressed in detail under assessment of DA2021/0010 and the modification work proposed is consistent with the SEPP.

SEPP (Coastal Management) 2018

The requirements and considerations of the SEPP (Coastal Management) 2018 were addressed in detail under assessment of DA2021/0010 and the modification work proposed remains consistent with the SEPP.

Warringah Local Environmental Plan 2011

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.0m	8.0m (No change)	N/A	Yes (As approved)

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
5.3 Development near zone boundaries	Yes
5.8 Conversion of fire alarms	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Warringah Development Control Plan

Built Form Controls

Standard	Requirement	Approved	Proposed	Complies
B1 Wall height	7.2m	5.7m to 7.5m Dwelling house	No change	No (As approved)
B3 Side Boundary Envelope	45 degrees at 5m	Encroachment Dwelling	No change	No (As

	East	house		approved)
	45 degrees at 5m West	Within envelope Dwelling house	No change	Yes
B5 Side Boundary Setbacks	0.9m	0.95m Dwelling wall	No change	Yes
	0.9m	1.0m Dwelling wall Pergola frame	No change No change	Yes No (As approved)
B7 Front Boundary Setbacks	6.5m	6.5m to 9.3m Garage wall	No change	Yes
		7.9m to 11.0m Dwelling wall	No change	Yes
		6.5m to 3.6m Front balcony	44%	No (As approved)
		Roof eaves 6.5m to 8.9m	No change	Yes
B9 Rear Boundary Setbacks	6.0m	16m to 13m Dwelling wall	No change	Yes
D1 Landscaped Open Space and Bushland Setting	40% 182.sqm	35.7% 162.7sqm	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	Yes	Yes
B7 Front Boundary Setbacks	Yes	Yes
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities	Yes	Yes
C4 Stormwater	Yes	Yes
C6 Building over or adjacent to Constructed Council Drainage Easements	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	Yes	Yes
D2 Private Open Space	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	No	Yes
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
D20 Safety and Security	Yes	Yes
D21 Provision and Location of Utility Services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

D7 Views

Merit consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To allow for the reasonable sharing of views.*

Comment:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

1. Nature of the views affected

“The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. 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, e.g. a water view in which the interface between land and water is visible is

more valuable than one in which it is obscured".

Comment to Principle 1:

The views from No.12 Gardere Avenue include the coastal fringe toward Curl Curl beach ocean horizon, generally north-west and visible along the road corridor of Gardere Avenue, as well as a second outlook toward the south-east over the central rear of No.10 Gardere toward the southern end of Curl Curl beach reserve area toward the headland and beyond. This is described in the assessment of DA2021/0010 in further detail. The modification is relevant to the the front setback area where the views are shared, principally since properties overlook each other with view line along and across the lower part of Gardere Avenue. The view is diagonally, past the front setbacks of various dwellings along the southern side of the street looking toward the north-west. Various elements obscure or interfere parts of the view line to the north-east. The alternate view corridor (from the kitchen) to the south east includes other dwellings, apartment buildings, trees, power line structure, balcony elements and the like that create a shared view line and changed by the modification proposal. At the front however the general focal interest is toward the ocean Curl Curl beach north-east and also, with the coastal interface toward the south-east (see Image 1). Views include focal points such as the ocean horizon, beach surf zone and land / water interface. For the modification proposal the position of the building at No.8 Gardere Avenue influences where the view line is 'walled out' by that dwellings bulk and height.



Image 1: Indication of NE view (from 12 Gardere Ave) toward beach and No.8 Gardere Avenue.

2. What part of the affected property are the views obtained

"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 to Principle 2:

Following the approval of DA2021/0010 the views toward Curl Curl are maintained from the

central area of front balcony of No.12 Gardere Avenue and from a standing position in the kitchen area to the south east (side view). The view across front setback area is shared and therefore conditions were required to ensure the roof eaves (above the front terrace) did not unnecessarily block water views. Considerations factored in that this view is also across a side boundary, but along the street alignment at the front of the property. The modification seeks to provide a low flat roof awning for weather protection of the living room front terrace given that the gable eaves were conditioned to be shorter to comply with the 6.5m front setback. The angled front roof awning proposed complies with the 6.5m front setback and is approximate to the upper balustrade level of No.12 Gardere Avenue and No.8 Gardere Avenue. In consideration of this the angle boundary creates a staggered (sawtooth) arrangement along the front setback for the southern side of Gardere Street and therefore elements such as front balconies, garages, and other built forms impact on the particular view angles toward the east and north east.

The assessment of DA2021/0010 provides a detailed analysis of the view situation and this analysis has been reviewed in detail as part of this modification assessment.



Image 2: Upper storey comparison and front setback line comparison for the modification proposal showing the flat balcony awning.

3. Extent of impact

"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 to Principle 3:

The view from both standing and sitting positions is available from the front balcony areas. With DA2021/0010 views from front living room, kitchen area and minor windows along the eastern side of No.12 Gardere Avenue have changed by the built form of the approved dwelling for No.10 Gardere Avenue. The two principal view corridors to the north-east (street outlook) and south-east across various properties toward South Curl Curl (rear side boundary outlook) for part of the

consideration for views from No. 12 Gardere Avenue and the view elements retained by the design approved under DA2021/0010. The modification seeks to ensure no significant impact or change on the standing view from the kitchen (toward south Curl Curl) and the proposed awning and side screen at the front is designed, so at a standing position, persons look across the top of it and since it is aligned to comply with the 6.5m front setback. The front corner dwelling walls of No.8 Gardere Street then forms the 'edge' of the view line. The modification changes remain consistent with the view sharing approved under DA2021/0010 in terms of the view corridor, eaves position and relationship between standing and sitting view impacts, including the position of side screens. The change is 'minor' due to its alignment with No.12 Gardere Avenue.

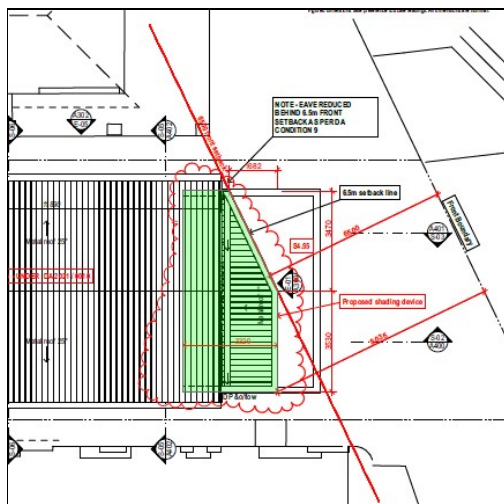


Image 3 and 4: Indication of standing view retained across central side boundary for kitchen area within No.12 Gardere Avenue. View across front setback alignment.

4. Reasonableness of the proposal that is causing the impact

"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 skillful 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 to Principle 4:

As stated the dwelling at No.12 Gardere Street has two view corridors (one across the front corner and one across the centre / rear) to contend with in terms of creating skillful design which accommodates the view impact in a to share the view and responds to the objectives of the planning controls. In demonstrating consistency with this fourth step the centre view corridor (kitchen area) is unchanged as per the approved plans. This was covered in detail in the original view assessment for DA2021/0010.

For the view corridor across the front corner of the site from No.12 Gardere Avenue the element of the view angle was most affected by the corner roof section (hood) that covers part of the front balcony. Therefore, the setback for this roof overhang was approved to be setback further, to comply with 6.5m to Gardere Avenue. The front apex of gable roof at 7.1m and height of RL24.11 is retained. The flat awning proposed and side screen sections enables weather

protection for operable balcony doors with minimal visual bulk due to the flat profile and being shaped to angle along the setback to comply with the 6.5m front setback. The side screen to the terrace is substantially the same as approved. The solid front wall position of No.8 Gardere Street has been used to assist in the design to ensure the modification proposed by the new flat awning section remains consistent with that approved under DA2021/0010 and remains consistent with the objectives of the built form controls.

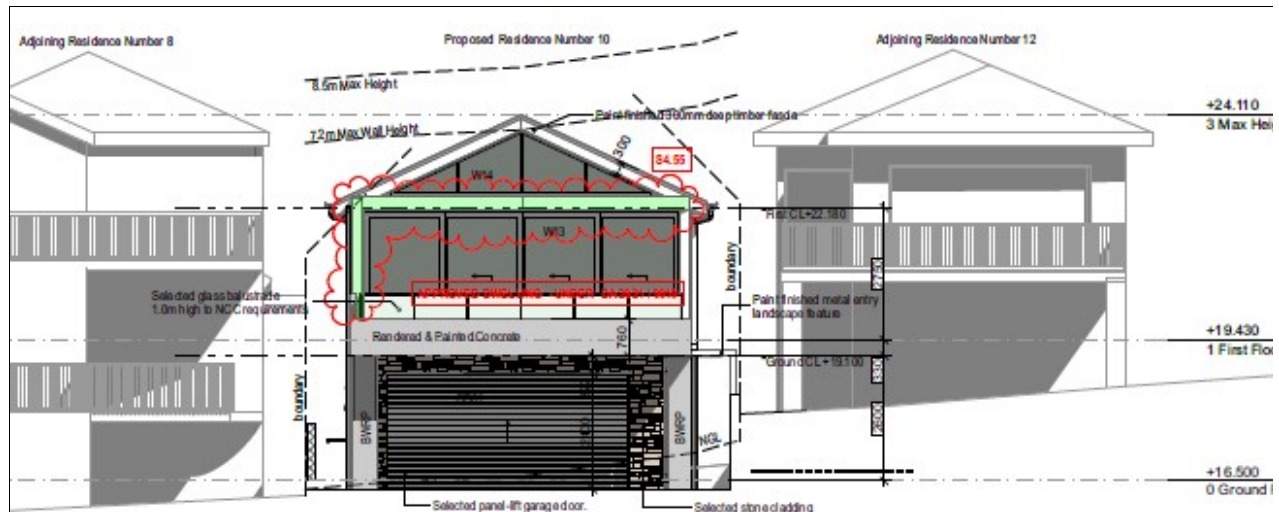


Image 5: Relative positions between No.8 Gardere Avenue, No.10 Gardere Avenue (centre) and No.12 Gardere Avenue.

In doing so, the amenity and design appearance can be maintained with the modification by "sharing" the setback adjustment by marginally reducing the internal depth of the living kitchen room with the front balcony area, to achieve a more skilful design solution that achieves a compliant roof setback.

As detailed in the view analysis for DA2021/0010 the front living room corner side window for No.12 Gardere Avenue and the viewing angle (being visibility of the ocean) is partly hindered by No.8 Gardere Avenue and other existing development on northern side of Gardere Avenue. The broader view from the front part of the living room and adjacent the balcony sliding door is substantially retained as per the approved plans for the 6.5m setback line due to the lower NE corner of the front balcony gable roof.

- *To encourage innovative design solutions to improve the urban environment.*

Comment:

The proposed modification maintains a suitable streetscape impact that is consistent with the requirements of *Part D11 Roofs* of the WDCP. The modification has incorporated conditions required under DA2021/0010 to ensure innovative design solution that achieves a compliant roof setback.

- *To ensure existing canopy trees have priority over views.*

Comment:

There are no trees causing any significant obstruction to views, however the WDCP gives

priority to trees in terms of view impact.

Having regard to the above assessment, it is concluded that the proposed modification of the development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2021/0548 for Modification of Development Consent DA2021/0010 for demolition works and construction of dwelling house on land at Lot 5 DP 6000, 10 Gardere Avenue, CURL CURL, subject to the conditions printed below:

A. Add Condition No.1A - 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
580.A03 Site Plan	14.7.2021	Urban Harmony
580.A100 Ground Floor	14.7.2021	Urban Harmony
580.A101 First Floor	14.7.2021	Urban Harmony
580.A102 Roof Plan	14.7.2021	Urban Harmony
580.A300 Elevations 1	14.7.2021	Urban Harmony
580.A301 Elevations 2	14.7.2021	Urban Harmony
580.A400 Sections 1	14.7.2021	Urban Harmony
580.A401 Sections 2	14.7.2021	Urban Harmony
580.A402 Sections 3	14.7.2021	Urban Harmony
580.A403 Sections 4	14.7.2021	Urban Harmony
580.A600 Window Schedule	14.7.2021	Urban Harmony
580.A701 Front Fence Elevation & 3D	14.7.2021	Urban Harmony

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
580.A700 Landscape Concept Plan	17.7.2021	Landscape Concept Plan

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

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Alex Keller, Principal Planner

The application is determined on 13/10/2021, under the delegated authority of:



Rebecca Englund, Acting Development Assessment Manager