

10 November 2021

The General Manager  
Northern Beaches Council  
PO Box 82  
Manly NSW 1655

**Attention:** Alex Keller

## **SECTION 4.55 MODIFICATION TO DA2021/0010 – DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE**

**PROPERTY AT: 10 GARDERE AVENUE, CURL CURL (LOT 5 DP 6000)**

### **1. INTRODUCTION**

To whom it may concern,

Reference is made in relation to Development Consent **DA2021/0010**, that was granted on 5 May 2021 for the approved development, at 10 Gardere Avenue, Curl Curl, formally described as Lot 5 DP 6000. This modification relates to construction of a retaining wall on the eastern boundary.

This Application is made pursuant to Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), to modify Development Consent **DA2021/0010** (refer to **Appendix 1**), which granted Development Consent for:

*"Demolition works and construction of dwelling house"*

The proposed modification is minor in nature and remains consistent with all applicable Statutory Planning Framework as outlined in **Section 4** below and therefore remains in keeping with what was previously approved under **DA2021/0010**. The proposed modification is for construction of a retaining wall on the eastern boundary of the property. The modification sought is outlined in **Section 3** below.

The following supporting documentation has been provided as part of this Modification Application:

- **Appendix 1** Development Consent **DA2021/0010** – Notice of Determination
- **Appendix 2** Plans - Architectural for the proposed retaining wall
- **Appendix 3** Site (Boundary Identification) Survey
- **Appendix 4** Plans - Engineering plans
- **Appendix 5** Letter of consent from the owner of the neighboring property

### **2. SITE LOCATION AND CHARACTERISTICS**

The subject site is identified as 10 Gardere Ave, Curl Curl, being legally described as Lot 5 DP 6000.

The site exhibits an area of 455.3m<sup>2</sup> with a primary frontage to Gardere Ave to the north. To the east, west and south the site is adjoined by dwelling houses, and dwelling houses are similarly situated to the north on the opposite side of Gardere Ave.

In its pre-demolition state, the site comprised a single storey dwelling of older construction with a white clad façade, pitched tile roof and open-form carport. The existing dwelling is setback substantially further than any other dwellings in the street, and also exhibits a significantly smaller scale than any other dwellings in the street.

Site landscaping includes turf, shrubs and a frangipani tree in the front yard, and primarily turf in the rear yard. The mature trees to the rear of the dwelling are situated on the neighbouring property.

#### Section 4.55(1A) Application

DA2021/0010 – 10 Gardere Avenue, Curl Curl

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The site also includes an underground stormwater pipe and sewer main passing through the rear yard.

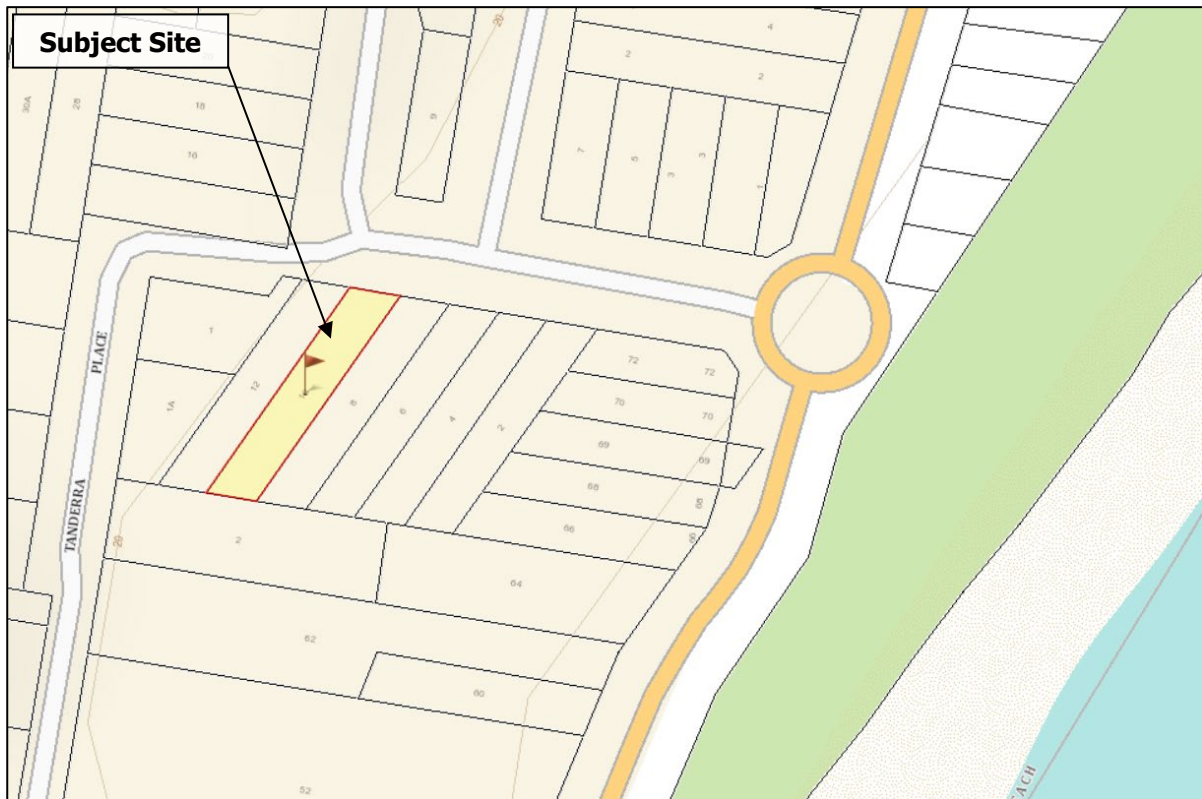
The site is shown in **Figure 1** and **Figure 2** below.



**Figure 1. Existing Site Development (SIX Maps 2020)**

#### Section 4.55(1A) Application

DA2021/0010 – 10 Gardere Avenue, Curl Curl



**Figure 2. Cadastral Map (SIX Maps 2020)**

The subject site is located in the suburb of Curl Curl which forms part of Northern Beaches Local Government Area (LGA) (former Warringah LGA).

The site context exhibits a low density residential character, being dominated by detached dwelling houses with two (2) to three (3) storeys and of varying styles and ages of construction. The landform exhibits a sloping topography, with dwellings stepped accordingly and orientated to take in coastal views to the east.

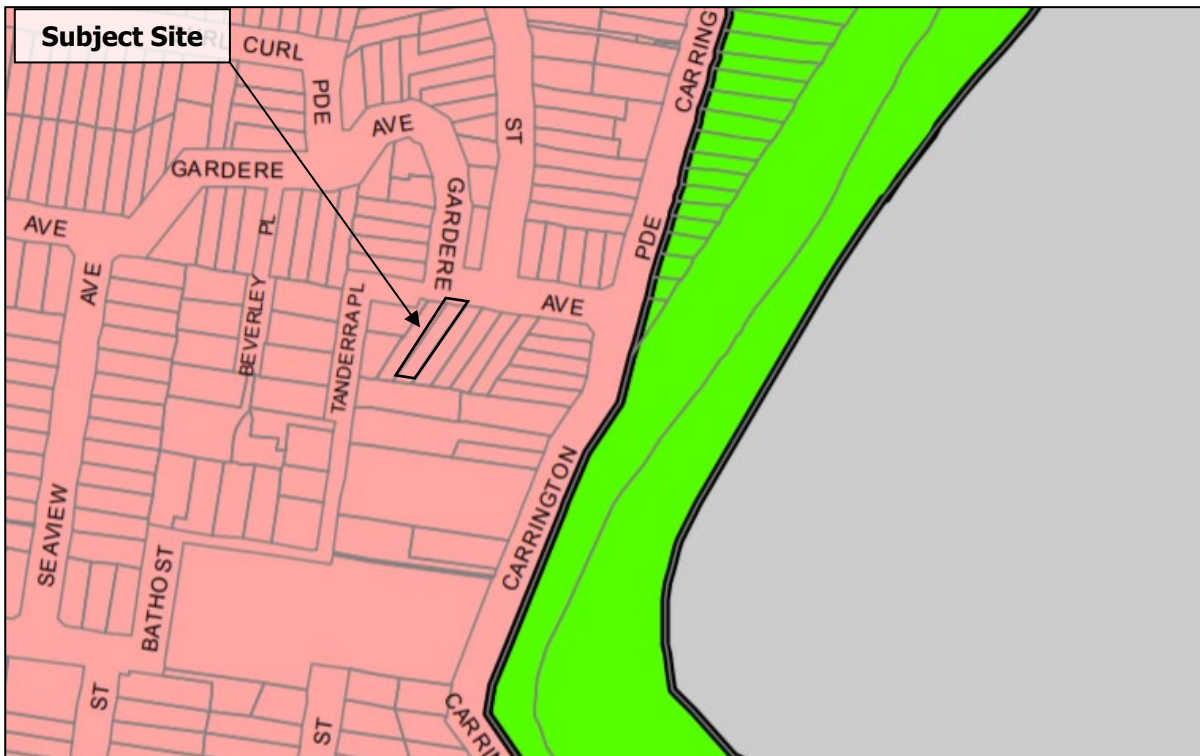
The site is situated within 100m walk of South Curl Curl beach. A variety of other reserves and parks are scattered through the surrounding area, and Curl Curl Lagoon is situated approximately 650m walk to the north.

The site is serviced by public transport, including bus stops along Carrington Pde with services connecting to Manly and Warringah Mall.

The identified land portion is subject to the provisions of the WLEP 2011 and categorises the Site within the R2 Low Density Residential as displayed in **Figure 3** below.

**Section 4.55(1A) Application**

DA2021/0010 – 10 Gardere Avenue, Curl Curl



**Figure 3. Zoning Map (NSW Legislation 2020)**

## Section 4.55(1A) Application

DA2021/0010 – 10 Gardere Avenue, Curl Curl

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### 3. PROPOSED MODIFICATION

The modification sought to Development Consent **DA2021/0010** (refer to **Appendix 1**), is in relation to the following scope of works:

- Construction of a concrete sleeper retaining wall on the eastern boundary

The proposed retaining wall is to allow for the backfill of a depression in the land, mid-way down the eastern boundary of the lot. This will allow for a more level access path down the side of the house. The proposed retaining wall will be 18 meters long at a TOW (Top Of Wall) height at RL15.7 and built to natural ground level. The wall height will taper towards the front of the lot. Architectural Plans are attached at **Appendix 2**.

As per the Engineering drawings at **Appendix 4**, the house slab is piered and self-supporting. The proposed retaining wall is marked RW1-P3 and will be retaining only the backfill between the house and the boundary. The rearward end of the retaining wall will be 1,000mm away from the stormwater pipe which burdens the property. The extracted Engineering drawings include detail for the concrete sleeper retaining wall construction.

As per the site survey at **Appendix 3**, the retained ground level will slope towards the Eastern boundary, which will be built to a TOW RL at 15.7. The proposed modification will not alter the existing flood patterns of the site as determined by the 1:100 ARI storm event analysis submitted with the consented DA2021/0010.

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. The amendment is not considered to impact on any of the other matters considered under **DA2021/0010** as it remains consistent with all applicable Statutory Planning Framework as outlined in **Section 4** below.

### 4. STATUTORY PLANNING FRAMEWORK.

#### 4.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the principal planning and development legislation in New South Wales. Pursuant to Part 4, the proposed development is considered Local Development. The modification sought to Development Consent **DA2021/0010** warrants consideration of the provisions of Section 4.55(1A) of the EP&A Act. The following tests require consideration in this instance:

*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*

**Comment:** Given the nature and extent of the modification proposed, the modification sought would have no undue environmental impacts. Overall, there is no intensification of the proposal or additional environmental impacts. **Section 5** of this Planning Report considers the proposed developments impact on the immediate and surrounding environments.

- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*

**Comment:** The proposed modification would result in largely the same built-form outcomes to that previously approved under **DA2021/0010**.

- c) it has notified the application in accordance with:*

## Section 4.55(1A) Application

DA2021/0010 – 10 Gardere Avenue, Curl Curl

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- (i) *the regulations, if the regulations so require, or*
- (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

**Comment:** Given the nature of the modification, notification of this Application should not be required as the outcomes of the proposed development would remain substantially and materially the same as previously approved under **DA2021/0010**.

- 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.*

**Comment:** The affected neighbour on the Eastern boundary has been involved in the planning for the retaining wall and has provided a letter in support for the construction of the proposed retaining wall attached as **Appendix 5**. No submissions are apparent at the time of writing this Planning Report in accordance with the Act. The modification does not give cause to any substantial changes which warrant notification.

Having regard to the above, the proposed modification is considered to be substantially and materially the same as the development approved under **DA2021/0010** as it pertains to the minor addition of a retaining wall.

### 4.2 Warringah Local Environmental Plan 2011

The site is subject to the provisions of WLEP2011. The site is zoned R2 Low Density Residential pursuant to WLEP2011 (**Figure 3**).

The objectives of the R2 zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

**Response:** The proposal will continue to meet the objectives of the R2 Low Density Residential Zone by providing residential housing that is in keeping with the character of the surrounding area.

### 4.3 Permissibility

The following permissibility applies within the R2 zone:

#### *2 Permitted without consent*

*Home-based child care; Home occupations.*

#### *3 Permitted with consent*

*Bed and breakfast accommodation; Boarding houses; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; **Dwelling houses**; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals.*

#### *4 Prohibited*

**Section 4.55(1A) Application**

DA2021/0010 – 10 Gardere Avenue, Curl Curl

*Any development not specified in item 2 or 3.*

Accordingly, Dwelling Houses are permitted with consent in the R2 zone. The proposed modifications will not change the use as a dwelling house.

Outlined below in **Table 2**, is a summary of all WLEP2011 provisions applicable to the proposed development.

<b>Table 1. WLEP2011 Development Standards and Provisions</b>	
<b>WLEP2011 Clause</b>	<b>Standard/Provision and Assessment</b>
Minimum Lot Size	<p>The site is subject to a 450m<sup>2</sup> minimum lot size standard.</p> <p>The proposal would not include subdivision.</p>
Maximum Building Height	<p>The site is subject to an 8.5m maximum building height standard.</p> <p>The proposed development would exhibit a maximum height of 7.786m, thereby complying with the standard.</p>
Maximum FSR	The site is not subject to a maximum FSR standard.
Land Reservations	The site is not affected by any land reservations.
Heritage	The site does not comprise any heritage items and is not within a heritage conservation area.
Acid Sulfate Soils	The site is not identified as comprising acid sulfate soils.
Flood Planning Area	<p>The site is currently affected by overland flows during the 1:100 ARI storm event.</p> <p>The proposed modifications will not alter the existing flood patterns on site.</p>
Landslip Risk	<p>The site is identified in 'Area B – Flanking Slopes 5° to 25°'.</p> <p>Pursuant to Clause 6.4, consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <ul style="list-style-type: none"> <li>(a) <i>the application for development has been assessed for the risk associated with landslides in relation to both property and life, and</i></li> <li>(b) <i>the development will not cause significant detrimental impacts because of stormwater discharge from the development site, and</i></li> </ul>

## Section 4.55(1A) Application

DA2021/0010 – 10 Gardere Avenue, Curl Curl

Table 1. WLEP2011 Development Standards and Provisions	
WLEP2011 Clause	Standard/Provision and Assessment
	<p><i>(c) the development will not impact on or affect the existing subsurface flow conditions.</i></p> <p>The proposed modification would not cause additional landslip risk.</p>
Coastline Hazard	The site is not identified as being affected by coastal hazards.

### 4.4 Draft Environmental Planning Instruments

No Draft Environmental Planning Instruments apply to the proposed development.

### 4.5 Warringah Development Control Plan 2011

WDCP2011 contains more detailed provisions to guide development. The approved development was largely in compliance with the WDCP2011 provisions and the proposed amendments will not change any compliance or impacts of the proposed development against these provisions. Given the minor nature of the modification, it is not considered further assessment against the WDCP2011 is required.

## 5. LIKELY IMPACTS OF DEVELOPMENT

The key planning matters for consideration, as they relate to the modified proposal are addressed in the ensuing subsections.

### 5.1 Context and Setting

The proposed modification would not alter the context and setting of the residential development. The proposal is highly compatible with the local context and setting and being of high-quality architectural design.

### 5.2 Design and Appearance

The proposed modification includes minor alterations to the design and built form. These modifications will not add additional bulk or scale to the development and are compatible with the architectural style of the approved dwelling house.

Overall, the design and appearance is consistent with that approved under **DA2021/0010** and in compliance with all applicable Statutory Planning Framework outlined in **Section 4** above.

### 5.3 Traffic and Transport

The proposed modification would not alter traffic, parking and access requirements previously assessed and approved under **DA2021/0010**.

### 5.4 Noise

The proposed modification is not considered to increase noise impacts on neighbouring properties.

### 5.5 Amenity

The proposed modification is not considered to impact on the neighbouring amenity or views.

## **Section 4.55(1A) Application**

DA2021/0010 – 10 Gardere Avenue, Curl Curl

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### **5.6 Cumulative Impacts**

As identified under **DA2021/0010**, no foreseeable cumulative impacts would be anticipated as a result of the proposed modification sought. Rather, the proposed modification would remain substantially the same development with respect to what was previously approved under **DA2021/0010** within an area zoned R2.

### **5.7 Suitability of the Site for Development**

As identified under **DA2021/0010**, the proposed development is considered minor in nature and thus remain compliant with the relevant standards and controls listed under the WLEP0211 and WDCP2011. Furthermore, the outcomes of the proposed modification would remain generally consistent with the original approval and be in keeping with the objectives of the EP&A Act and WLEP2011.

### **5.8 Any Submissions made in accordance with the Act**

No submissions have been received in relation to the proposed modification; however, the applicant is willing to address any submissions, should they be received by Council.

### **5.9 The Public Interest**

The proposed modification would have no adverse impact on the public interest.

## **6. CONCLUSION**

The proposal has been prepared taking into consideration the following key matters:

- The development history of the Site;
- Previously approved development in relation to **DA2021/0010**;
- The context of the Site and locality;
- The relevant heads of consideration under Section 4.55(1A) of the EP&A Act; and
- The aims, objectives and provisions of the relevant statutory and non-statutory planning instruments.

The proposed modification to Development Consent **DA2021/0010** is considered to be of minor environmental impact, given the extent of changes proposed to the approved development. The development as modified is substantially the same as the original approval, and it is therefore considered that the proposal should be supported on the basis that:

- There are no undue amenity impacts associated with the proposed amendments; and
- The proposed modifications will not impact on the overall design and appearance of the dwelling house.

Furthermore, the proposed modification would have no undue impact on the public interest; therefore, based on the above stipulations, the modification proposed to Development Consent **DA2021/0010** are considered worthy of support by Northern Beaches Council.

Should you require additional information, please do not hesitate to contact the undersigned.

Yours Faithfully,

Paul Torrington and Annette Torrington

**Section 4.55(1A) Application**

DA2021/0010 – 10 Gardere Avenue, Curl Curl

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Joint owners of 10 Gardere Avenue Curl Curl

**Appendix 5 – letter of Consent from neighbour**

25 October 2021

8 Gardere Ave

Curl Curl

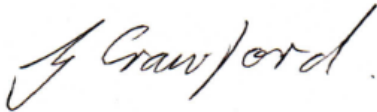
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To Whom It May Concern

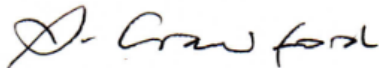
We, the undersigned, have discussed with Paul Andrew Torrington and Annette Torrington, the owners of 10 Gardere Ave Curl Curl, a proposed retaining wall between our property, 8 Gardere Ave Curl Curl and 10 Gardere Ave Curl Curl.

We have no objections to the proposed retaining wall being constructed on the understanding that we bear no financial cost.

Regards



Gregory Crawford



Suzanne Crawford