
Sent: 9/03/2021 8:31:13 AM
Subject: RE: DA2021/0010 – Lot 5 DP 6000 10 Gardere Avenue CURL CURL
Attachments: 2021 03 09 DA2020 1121 GARLAND.pdf; 12 Gardere Ave Curl Curl.pdf;
Garland March 2021 - ZERK Townplanner.docx;

Dear Alex,

Please see our attached response together with the response from our Town planner.

Regards

Melinda and Cameron Garland

9 March 2021

Northern Beaches Council
PO Box 82
MANLY NSW 1655
Att: Alex Keller

RE: DA2020/1121 – Lot 5 DP 6000 10 Gardere Avenue CURL CURL

Dear Alex,

I refer to the letter from our Town Planner dated 4 March 2021.

While we don't have objection to what the Town Planner states, following further legal advice, we wish to put further submissions to Council as follows :

1 Clearly from the images submitted by the Town Planner it is patently evident how far the neighbour's property will come forward of our property and take the majority of our views.

2 All of the houses in Gardere Ave have a "resolved building line "which exists precisely to afford views to all residents. In this case the applicants feel there is no need to abide by this.

3 There have been in the last 5 years, two court cases involving residents who wished to flaunt council guidelines as follows:

A : In respect of number 4 Gardere Ave the owners attempted to "square off "their building thereby not complying with the setback requirements which in turn adversely affected the views from number 6 Gardere Ave .

This resulted in Supreme Court litigation the outcome of which was that the owners of No 4 were required to partially demolish the front of their dwelling to accommodate the " view corridor" ... as required by council ordinances.

This was a very expensive issue and was a result of a private Certifier taking incorrect measurements from a property at No 2 Gardere Ave.

B In respect of 2 Gardere Ave which our Town Planner refers to, there was recently a case decided in the Land and Environment court which found, inter alia, in addition to our Town Planners submissions, that the loss of views was "severe " and of a "significant " view .

C. In accordance with the Tenacity case we have "significant " views which we will lose. Our view will be completely lost from our lounge room, currently we see the ocean and the waves breaking. We have a point-blank view of the ocean and this is precisely why we recently bought this property for \$2 500 000.

Our Real Estate agent estimate of our loss is \$500 000 if this work proceeds.

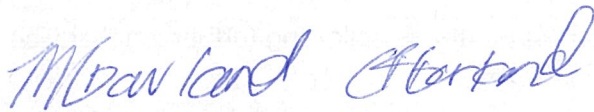
On that basis alone and in accordance with the precedent set by the case of Der Sarkassian vs Northern Beaches Council in the Land and Environment court together with the Supreme Court decision in the case of number 4 and 6 Gardere Avenue. We would submit that if Council approved this DA we would have an excellent chance of reversing the decision with costs , in the Land and Environment Court .

The development next door is unwarranted, excessive, and will flaunt Councils own guidelines .

We now intend to instruct Wilshire Webb Lawyers to act for us.

This proposed DA is outrageous, and we will fight to retain our view In the interim request Council order the applicants to erect site poles as soon as possible and then have an onsite meeting with all parties.

Yours Sincerely



Cameron and Melinda Garland

1 March 2021

Cameron & Melinda Garland
12 Gardere Avenue
CURL CURL NSW 2096

Dear Cameron & Melinda,

RE: 12 GARDERE AVENUE, CURL CURL

As requested, I have inspected your property as above as at today's date and estimate its current value to be approximately \$3,000,000.

I have also been appraised of the proposed development of 10 Gardere Avenue, Curl Curl and have viewed the site.

Should the property in front of you be developed with such significant loss of your easterly and northern views I estimate the value of your property would be \$2,500,000.

If I could be of any further assistance, please feel free to contact me.

Warm Regards,



Cranston Schwarz
Principal
Schwarz Real Estate

**REBECCA ZERK
11A/ 40 BOWMAN ST
RICHMOND NSW 2753
(02) 4578 8844**

4 March 2021

Northern Beaches Council
PO Box 82
MANLY NSW 1655
Att: Alex Keller

RE: DA2021/0010 – Lot 5 DP 6000 10 Gardere Avenue CURL CURL

Dear Alex

Following from our meeting of 19 February 2021, the Owners of No. 12 Gardere Ave, Curl Curl, we have further considered the application and we are still of the opinion that additional amendments to the design would assist in maintaining current views.

We note as the proposal currently stands, all views (obtained from both a sitting and standing position) will be lost from the main living area. The owners have discussed this view loss and are of the opinion that this is an unacceptable and extremely impacting.

In order to reduce these impacts, the Owners seek to have the verandah roof and the fin wall/privacy wall removed. This would allow for the retention of some water views from the lounge area. Further, deletion of the verandah roof would be more in keeping with the existing streetscape character. We ask that the applicant remove the above elements and provide further perspectives to allow consideration of the resulting affect. We would also appreciate if a perspective were provided from the northeast corner of the deck and the area in front of the opening within the front façade of the upper deck. This space is utilised consistently by the Owners and an assessment as to the impact of view loss from this position would be extremely beneficial.

As I note in the judgement of *Der Sarkissian v Northern Beaches Council* [2021] NSWLEC 1041 (25 January 2021), Commissioner Walsh noted:

“It is the case that if one stands at the very northern edge of the deck, the high quality view to the ocean remains available. But the enjoyment of views from the more general use of the deck would be severely impacted by the proposal. The internal living areas would also be severely impacted.”

The Owners have also had a local real estate agent provide a comparison of the value of their home both with the current views and should those views be lost. The variation is \$500,000 and whilst this is not a planning consideration, should not be discounted.

Should you have any queries in relation to the above, please do not hesitate to contact me on 4578 8844.

Yours faithfully

A handwritten signature in blue ink, reading "R Zerk". The "R" is large and stylized, and "Zerk" is written in a cursive script.

Rebecca Zerk
Town Planner