

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0010
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<b>Responsible Officer:</b>	Alex Keller
<b>Land to be developed (Address):</b>	Lot 5 DP 6000, 10 Gardere Avenue CURL CURL NSW 2096
<b>Proposed Development:</b>	Demolition works and construction of dwelling house
<b>Zoning:</b>	Warringah LEP2011 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Paul Andrew Torrington Annette Torrington
<b>Applicant:</b>	Harmony Creative Pty Ltd T/A Urban Harmony

<b>Application Lodged:</b>	19/01/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	25/01/2021 to 07/04/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 1,291,083.00
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### PROPOSED DEVELOPMENT IN DETAIL

The application proposes a new dwelling house. Details of the proposed works are as follows:

- **RL16.32** Ground Floor - Garage, bedrooms (2), rumpus room, bathrooms (2) laundry, storage, entry area, stair and lift access
- **RL19.43 - 19.30** First Floor - Living / dining /kitchen room, study, bedrooms (2), bathrooms (2), balcony, storage, stair and lift access.
- **RL22.24 to RL24.11** - Roof level.

Including, demolition and site preparation works, excavation, driveway, landscaping, drainage, fencing and ancillary site works.

## 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 - B1 Wall Heights  
 Warringah Development Control Plan - B3 Side Boundary Envelope  
 Warringah Development Control Plan - B5 Side Boundary Setbacks  
 Warringah Development Control Plan - B7 Front Boundary Setbacks  
 Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting  
 Warringah Development Control Plan - D7 Views  
 Warringah Development Control Plan - D8 Privacy

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 5 DP 6000 , 10 Gardere Avenue CURL CURL NSW 2096
<b>Detailed Site Description:</b>	<p>The site has an angled street frontage of 10.06 metres (m) to Gardere Street, 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 Street with has a moderate cross fall from west to east, including some minor retaining walls along the boundary lines. The existing dwelling structures on the site consist of a weatherboard house set toward the rear of the property.</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</p>

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.

Many properties (including the subject site) along Gardere Street 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.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under 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 Matters for Consideration'	Comments
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 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&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allows Council to request additional information. Following the completion of the notification period some minor amendments were submitted by the applicant for the plans and in relation to considerations regarding clarification of photomontage details. The information is to assist with Council's assessment, including addressing submission issues and was re-notified and discussed with adjacent neighbours that made submissions in relation to the plans. The amended plans (19.3.21) were made publicly viewable online and an additional 14 days were made available for any additional submissions which have also been considered.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;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 of consent.</p> <p><u>Clause 98</u> of the EP&amp;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 of consent.</p> <p><u>Clause 98</u> of the EP&amp;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 of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on	<p><b>(i) Environmental Impact</b></p> <p>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>

Section 4.15 Matters for Consideration'	Comments
the natural and built environment and social and economic impacts in the locality	<p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development, subject to conditions. Considerations of slope, adjacent development, rock outcrops, streetscape, views, shadowing, privacy, drainage, lot shape / area and environmental factors have been considered and where appropriate conditions are recommended to be followed during construction certification management requirements.
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. Submissions are acknowledged by Council in writing and plans are viewable online via the NSW Planning Portal or Council e-services website / customer services. Minor / incidental changes to the plans may result from requirements to consider the Building Code of Australia, submission issues or conditions of consent. These matters were given consideration including various updates provided up to and including revisions dated 19.3.2021 on the plans.
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 25/01/2021 to 07/04/2021 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:
Melinda Ann Garland	12 Gardere Avenue CURL CURL NSW 2096

The following issues were raised in the submissions and each have been addressed below:



- Views
- Land value
- Built Form Controls

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

- ***Concern that the proposal will impact views toward Curl Curl beach (along Gardere Ave) and toward the southern end of Curl Curl beach area from No.10 Gardere Avenue.***

Comment:

This issue has been considered in detail within this assessment report under *Part D7 Views*. In summary, the issue deals with views across a side boundary, in the central part of the site in a south east direction toward the southern end of Curl Curl beach and southern headland area as well as views across the front setback area of the site from No.10 Gardere Avenue, north eastwards toward Curl Curl beach. Views include parts of the ocean horizon and coastal interface. In considering this issue various influencing factors have been 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*.

- ***Concern that view impacts will cause a negative economic / financial impact in terms of loss of land value (private re-sale) for No.10 Gardere Avenue.***

Comment:

A brief real estate valuation opinion / summary has been provided with regard to this issue. The NSW Land & Environment Court (LEC) has commonly had to approach issues regarding property value impacts as a matter that cannot be appropriately validated as a relevant planning consideration in terms of a local development in environmental impact assessment. (This is separate to the use of the Court pursuant to appropriate Class 3 proceedings under the *Valuation of Land Act* and whereby the NSW Valuer-General may address certain claims / valuation methods). Therefore, this issue is not a valid planning consideration for Council under the EP&A Act 1979, however view impacts are assessed pursuant to the method (Planning Principle) established by the NSW LEC in *Tenacity Consulting v Warringah Council (2004) NSW LEC 140*. Therefore, this issue does not warrant refusal of the application.

- ***Concern that a number of elements of the proposed development are non-compliant with the built form controls, in particular front boundary setback, wall height, side boundary envelope and landscaped open space.***

Comment:

A detailed merit consideration of non-compliance with the built form controls is provided under the relevant heading section within this report including *Part B1 Wall Heights*, *Part B3 Side Boundary Envelope*, *Part B7 Front Boundary Setbacks* and *Part D1 Landscape Open Space*. In summary the extent of non-compliances are minor variations and do not create unreasonable impacts that warrant refusal of the application, subject to conditions.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal is for the construction of a new dwelling and associated

Internal Referral Body	Comments
	<p>works.</p> <p>The application is assessed by Landscape Referral against Warringah Development Control Plan 2011, including but not limited to the following clauses:</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting</li> <li>• E1 Preservation of Trees or Bushland Vegetation</li> </ul> <p>The existing site supports a managed landscape setting with low height perimeter garden beds and planting, and no significant trees are found within the site. Existing trees of landscape amenity value are located in the rear of adjoining properties and these are not impacted by development works.</p> <p>A Landscape Plan is provided with the application providing landscape area planting to soften the built form, and subject to conditions of consent to include a small native tree within the front setback, Landscape Referral raise no objections.</p>
NECC (Coast and Catchments)	<p>The application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Coastal Management) 2018 and has also been assessed against requirements of the Warringah LEP 2011 and Warringah DCP 2011.</p> <p><b>Coastal Management Act 2016</b> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed development is in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p><b>State Environmental Planning Policy (Coastal Management) 2018</b> The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP). Hence, Clauses 13, 14 and 15 of the CM SEPP apply for this DA.</p> <p><u>Comment:</u></p> <p>On internal assessment, the DA satisfies requirements under clauses 13, 14 and 15 of the CM SEPP. As such, it is considered that the application does comply with the requirements of the <i>State Environmental Planning Policy (Coastal Management) 2018</i>.</p> <p><b>Warringah LEP 2011 and Warringah DCP 2011</b></p>

Internal Referral Body	Comments
	No other coastal related issues identified. As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Warringah LEP 2011 and Warringah DCP 2011.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<i>Ausgrid</i> does not have any objections or special requirements for the proposed development as detailed in the referral response provided 1 February 2021.

### 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

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use. The possibility of asbestos / lead paint material present within demolition waste is appropriately managed by standard conditions to comply with National safe handling requirements.

#### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.1112475S\_03 dated 15 December 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	Achievable



<b>Thermal Comfort</b>	Pass	Achievable
<b>Energy</b>	51	Achievable

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

## SEPP (Infrastructure) 2007

### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

The proposal was referred to Ausgrid and a referral response was received on 1 February 2021 that raised no objections are raised and subject to standard advisory requirements as recommended.

### Other Service Authorities

The proposal does not require referral to Transport NSW (formerly RMS) and no other Service Infrastructure Authority referral issues are raised pursuant to the SEPP.

## SEPP (Coastal Management) 2018

The site is subject to *SEPP Coastal Management (2018)* as the boundary extends inland from Curl Curl beach to the west of the site. The site is not readily visible from the beachside / offshore area due to the development density and various buildings in the vicinity. The proposal has been considered in the context of the SEPP requirements.

### Comment:

In summary, the proposal is consistent with Clause 14 and 15 of SEPP Coastal Management (2108) including the "Coastal Use Area" and "Development in the Coastal Zone Generally" areas with no unreasonable impact with regard to SEPP coastal area considerations.

## 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
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#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.0m	N/A	Yes

#### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires consent	Yes
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

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	5.7m to 7.5m Dwelling house	4%	No*
B3 Side Boundary Envelope	45 degrees at 5m East	Encroachment Dwelling house	0.4m (Eaves permitted)	No*
	45 degrees at 5m West	Within envelope Dwelling house	N/A (Eaves permitted)	Yes
B5 Side Boundary Setbacks	0.9m East	0.95m Dwelling wall	N/A	Yes
	0.9m West	1.0m Dwelling wall	N/A	Yes
		Pergola frame	100%	No*
B7 Front Boundary Setbacks	6.5m	6.5m to 9.3m Garage wall	N/A	Yes
		7.9m to 11.0m Dwelling wall	N/A	Yes

		6.5m to 3.6m Front balcony	44%	No*
		Roof eaves 5.3m to 8.9m	18%	No*
B7 Rear Boundary Setbacks	6.0m	16m to 13m Dwelling wall	N/A	Yes
D1 Landscaped Open Space (LOS) and Bushland Setting 455.3sqm	40% 182sqm	35.7% 162.7sqm	10.6% 19sqm	No*

\*Refer to detailed merit assessment under the heading Built Form controls within this report.

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	Yes	Yes
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	No	Yes
B5 Side Boundary Setbacks	No	Yes
B7 Front Boundary Setbacks	No	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
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	Yes
D2 Private Open Space	Yes	Yes
D3 Noise	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
D13 Front Fences and Front Walls	Yes	Yes
D14 Site Facilities	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D15 Side and Rear Fences	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

#### **B1 Wall Heights**

##### Description of non-compliance

The minimum wall height for the R2 Density Zone is 7.2m. The maximum wall height to the ceiling (measured to the external eaves) is 7.2m. The DCP states that this relates to a "habitable space", but '*does not include habitable areas wholly located within a roof space*'.

##### Merit consideration:

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

- *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

##### Comment:

The rear wall and front wall of the upper kitchen, dining, living area has a northern and southern wall that reach a height of 7.2m at the apex of the eaves. In additions to this the "raked ceiling" is part of the habitable space of the living area but, due to the gable roof is wholly located within the roof space and therefore is consistent with the descriptive elements of the wall height control (which would otherwise be roof truss space above a flat ceiling).

- *To ensure development is generally beneath the existing tree canopy level*

##### Comment:

The overall height of the building is consistent with being generally lower than the existing local tree canopy of the surrounding area and is consistent with this objective.

- *To provide a reasonable sharing of views to and from public and private properties.*

##### Comment:

The wall height of the building does not adversely impact any public views (from parks, roads or

the like). Elements of the upper wall (bulk head) behind the kitchen area and also the gable hood toward the front of the site impact existing view lines from No.12 Gardere Avenue. This issue is discussed in detail under the heading *Part D7 Views* within this report.

- *To minimise the impact of development on adjoining or nearby properties.*

Comment:

The proposed wall height does not create any unreasonable impact on adjacent land in terms of overshadowing and the wall heights and setbacks are consistent with development on adjacent land. The setback to the principal dwelling wall planes along the front boundary, rear boundary and side boundaries comply with the minimum linear setback requirements. A minor non-compliance with the *side boundary envelope* for the eastern wall is address within the report under the heading *Part B3 Side Boundary Envelope*, and the pergola feature adjacent the front entry door is addressed under *Part B5 Side Boundary Setbacks*.

- *To ensure that development responds to site topography and to discourage excavation of the natural landform.*

Comment:

Excavation on the site has been minimised to provide a suitable building platform and achieve appropriate driveway gradients to the street and freeboard / clearance at the rear for the stormwater line overland flow path.

- *To provide sufficient scope for innovative roof pitch and variation in roof design.*

Comment:

The proposal is consistent with this objective of the DCP to encourage pitched roof forms and a roof design that maintains amenity for the occupants without excessive wall height or any bulky parapet extensions.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **B3 Side Boundary Envelope**

Description of non-compliance

The proposal does not comply with the side boundary envelope along the eastern elevation, along the upper side wall for the study and "guest" room. The non-compliance is up to a 0.4m breach of the envelope. Roof eaves are permitted to encroach the side boundary envelope.

Merit consideration

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



- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The proposal has a breach of the building envelope along the eastern side boundary for the upper rear element of the study / bathroom / guest room wall. The non-compliance is influenced by the cross fall of the site being approximately 1.m and a low point (depression) toward the mid rear of the site.

Therefore, the non-complying element of the wall plane with the side boundary envelope is limited to a short section of the building. At this point the side wall complies with the maximum wall height and a low pitched roof form has been used to minimise height and bulk. The proposal remains consistent with this objective.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

Comment:

The non-compliance with the building envelope does not unreasonably affect privacy or spatial separation to adjacent land. Privacy is maintained by the use of plantation shutters and translucent glass and normal sill heights for selected side windows such as bedrooms, bathrooms and the like. The proposal complies with minimum DCP requirements for solar access to adjacent land under *Part D2 Private Open Space*, and consideration of adjacent land with regard to natural light, direct solar access, privacy, bulk and the overall building design / separation are consistent with this objectives. The extent of non-compliance with the side boundary envelope does not contribute to an unreasonable loss of amenity by the variation to the side boundary envelope.

- *To ensure that development responds to the topography of the site.*

Comment:

The proposal responds to the site by minimising excavation and maintaining appropriate open space at the rear to ensure the overland flow path (velocity & depth) does not cause flooding to the rear of the dwelling. The proposal also seeks to capitalise on the coastal environment (potential view corridors). In part the wall plane has been stepped in to comply with the side boundary envelope, provide visual interest and break up building bulk.

Having regard to the above assessment, it is concluded that the proposed 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 by conditions to maintain consistency with the requirement and objectives of the side boundary envelope control.

## **B5 Side Boundary Setbacks**

### Description of non-compliance

The proposal does not comply with the minimum side setback (0.9m) for the pergola frame structure. A nil (0.0m) setback is proposed along the western boundary (entry path feature).

#### Merit consideration

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

- *To provide opportunities for deep soil landscape areas.*

#### Comment:

The proposal includes pergola entry feature within the side setback adjacent the main entry along the western side of the house. The non-compliance is a lightweight open structure (aesthetic feature) and does not have any unreasonable impact on deep soil planting as its part of the pedestrian entry definition for the building.

- *To ensure that development does not become visually dominant.*

#### Comment:

The western setback excavated to ensure level access for the cross slope of the site. The non-complying element *does not* create a visually dominant, feature to the streetscape and maintains a desired sense of openness by being a lightweight pergola style feature.

- *To ensure that the scale and bulk of buildings is minimised.*

#### Comment:

The DCP allows for small structures within the side setbacks is included as an exception to this clause which states "Screens or sunblinds, light fittings, electricity or gas meters, or other services infrastructure and structures not more than 1 metre above ground level (existing) such as unroofed terraces, balconies, landings, steps or ramps may encroach beyond the minimum side setback". In this case the non-compliance is fully within the side setback and higher than 1m but defines the primary front entry area to the street approach, as an open style lightweight aesthetic feature that does not add bulk or scale to the enclosed walls and mass of the building.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

#### Comment:

The use of nil (0.0m) setback does not affect privacy, amenity or solar access to adjacent land for the pergola entry structure abutting the side retaining wall and fence.

- *To provide reasonable sharing of views to and from public and private properties.*

#### Comment:

The encroachment does not affect the sharing of views from public or private land due the close pattern of adjacent / surrounding buildings and ground level differences.

Having regard to the above assessment, it is concluded that the proposed development is consistent

with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **B7 Front Boundary Setbacks**

### Description of non-compliance

The proposal includes a front deck partly within the 6.5m front boundary setback. The deck has a front setback of 3.61m and the roof eaves 5.7m to Gardere Avenue boundary.

### Merit consideration:

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

- *To create a sense of openness.*

#### Comment:

The proposed deck is partly within the front setback due to the angled boundary along Gardere Avenue and to capitalise on the views available toward the north east along Gardere Avenue. The front deck area is open sided with minor privacy screening on the site adjacent the front wall to provide casual privacy. As such the front deck maintains a sense of openness to the street which is consistent with this objective. The front balcony is partly covered by a gable (hipped) roof hood that provides shade and weather protection to the front wall for the north facing living room. In general terms the structures within the front boundary setback are open style. Impacts on the shared view line is discussed in detail under *Part D7 Views*.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

#### Comment:

The dominant and prevailing setback along the southern side of Gardere Street between Tangerra Avenue and Carrington Parade is variable due to the subdivision pattern. On the southern side of the street most properties have an angled boundary and as a consequence the dwellings create a "sawtooth" building alignment, where as on the northern side of Gardere Street, dwellings are aligned more evenly (square) to the front boundary. In addition to this, the slope of the street means that properties further to the west overlook those lower down the street (near Carrington Parade).

As such the eastern side of the front of the dwelling wall has a setback of 6.5m and the western side a setback of 3.6m. Therefore, the visual pattern and continuity along the southern side of the street mean it is common for one corner of the dwelling / garage or a deck to partly encroach into the front setback. The existing house on No.10 Gardere Avenue was constructed toward the rear of the site and over a stormwater drainage area, and this area should remain clear for the free flow of water and access to the pipe infrastructure. A narrower rear setback is not acceptable due to the stormwater easement and overland flow path at the rear of the site. The forward location of the dwelling complies with front building setback for the front walls of the garage and living room.

The proposed balcony is considered to be consistent with adjoining and surrounding balconies within Gardere Avenue. The following examples are noted as setback distances in the order of:  
No. 2 Gardere Avenue - 3.59m

No. 6 Gardere Avenue - 5.09m

No. 8 Gardere Avenue - 1.2m

No.12 Gardere Avenue - 3.1m

The average setback of the above balconies / terraces would equate to a setback of 3.24m at the closest corner (noting that other elements are setback behind the front setback line).

Therefore, it is considered that the proposed setback of the balcony of 3.6m (at the closest point) and being fully compliant at the opposite front corner (6.7m) is considered to be consistent with this merit consideration with the corner of roof eave (gable) non-compliance addressed by condition. The balcony includes a glass balustrade and no fixtures such as planter boxes that assist in maintaining a sense of openness with the garage wall underneath setback 6.5m to 9.3m.

Front decks are a common feature of the streetscape and the proposal has maintained landscape elements at ground level on either side of the driveway area. Therefore, proposal is consistent with this objective, subject to condition for the roof eave.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The current site is gently sloping toward the east and has landscaping elements on either side of the new driveway area with suitable native and mixed plant species that is consistent with the local streetscape. The garage wall has a setback of 6.5m to 9.3m due to the angled boundary line, the living room wall setback 7.9m to 11m from the front boundary. An area of the front terrace that is partly within the front setback, however this is consistent with the pattern of development in the street where open style decks and balconies are partly forward of the 6.5m front setback.

- *To achieve reasonable view sharing.*

Comment:

The forward location of the garage does not impact any coastal or district views across the front setback area. However, the front deck and roof eaves partially impacts on the existing view line from the front living area within No.12 Gardere. This includes to roof eaves (gable) that overhangs the 6.5m front setback at the western side by up to 1.2m for minor elements of the front of the building that encroach within the front boundary setback control, and the roof eave encroachment is addressed by condition. The deck is open style with minimal structures / part glass balustrades and is acceptable in terms of view sharing encroachment being much in a low position to adjacent land overlooking the site. A details merit assessment of view sharing is provided under *Part D7 Views* of this report.

However, in summary after the site constraints, design changes, surrounding pattern of development and various view lines the proposal does not cause unreasonable views impact. The majority of the roof setback for the forward element is fully compliant with the front setback and tapering or alternative design changes have been considered. However on balance, in order to comply with NW corner of the front eave, by condition, and assist to share the view, given the angled boundary and forward position of No.12 Gardere Avenue a condition is recommended to address the eaves. In this regard the existing development along Gardere Avenue also defines the shared NE view corridor due to the position and scale of other dwellings eastward such as No.8 Gardere Avenue.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance, subject to condition to adjust the front roof gable to improve view sharing considerations over the front setback area.

## **D1 Landscaped Open Space and Bushland Setting**

### Description of non-compliance

The site has 35.7% (162.7sqm) total landscape area and therefore the proposal has a non-compliance of 6.5% or 19 sqm (whereby landscape open space is required to be 2.0m wide, deep soil and at ground level)

### Merit consideration

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

- *To enable planting to maintain and enhance the streetscape.*

#### Comment:

The proposal includes areas of landscaping in the front setback along either side of the driveway to maintain a landscapes setting at for the front setback. Planting in the front setback is generally limited to low dense plantings which is appropriate to the coastal environment and to assist in view sharing. Minor narrow landscape soil zones have been along part of the side setback areas of the house which is consistent with the pattern of development in the street due to the narrow lot widths which is typical of the original subdivision pattern in the vicinity.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

#### Comment:

Details are provided on the concept landscape plan, dated 19.3.2021 (from previous revisions), prepared by *Urban Harmony* which demonstrates a mix of plants, including mostly low to medium height to minimise view impacts across the rear yard and also enable the free movement of water across the overland flow path in the rear yard.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

#### Comment:

Landscape planting is shown in concept details around the site which consists of a mix of shrubs and low plantings to enhance the setting of the building and the streetscape.

- *To enhance privacy between buildings.*

#### Comment:

Landscaping plantings along along the side setbacks is shown in unison with some landscape



pathway / ground level steps and screening provided by new "lapped and capped" paling fencing along the side boundary where it due for replacement. Routine side boundary fencing arrangements are managed by property owners between affected neighbours and administered under the *Dividing Fences Act 1991* (not by Council) which may also involve boundary issues with site levels / ground runoff variations and the like. At the upper levels privacy is maintained by internal shutters, window placement and use of translucent glazing for selected windows.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The proposal includes 'rear' yard areas that are appropriate dimensions and area to meet the needs of the occupants. These areas are accessible to the rumpus room at the rear and serve to provide extended areas to the house for living / dining and the like. The front terrace provides an outdoor open space (balcony) that serves as an extension to the principal kitchen / dining / living room on the upper storey.

- *To provide space for service functions, including clothes drying.*

Comment:

The landscape area provided has adequate space in the 'rear' yard on the northern side of the house for service functions, including domestic uses and clothes drying.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Generally the site has very shallow soils and sandstone bedrock very close to the surface and therefore stormwater infiltration is limited. The site has a stormwater pipeline across the rear of the site and a overland flow path which therefore requires open areas and minimal planting to allow the free movement of water downslope to be managed as detailed on the stormwater management plan (including *Engineering Studio* (Report No.20503-001-r).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

## **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 potentially affected include the coastal fringe toward Curl Curl beach ocean horizon beyond, 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 with distant coastal views of Manly Headland. At the front setback area, the views are shared and principally from properties overlooking each adjacent property with view line being wider closer to Gardere Avenue and becomes a diagonal side view past the front setback 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 view corridor to the south east includes other dwellings, apartment buildings, trees, power line structure, balcony elements and the like that create a shared view line. The general focal interest is toward the ocean Curl Curl beach north-east and also, with the coastal interface toward the south-east (see Figure 1 and 2 below).

Other properties adjacent the site and in the vicinity have either more confined view (ground level) or broader views, especially from the first floor level where the subdivision and pattern of local development has created particular view corridors. Views include focal points such as the ocean horizon, beach surf zone and land / water interface.





Figure 1: Indication of NE view (from 12 Gardere Ave).  
view (from 12 Gardere Ave).

Figure 2: Indication of SE

## 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:

Views are obtained from the upper level whereby the higher topography and side windows assist views lines from No.12 Gardere Avenue. These are across the side boundary as shown below in Figure 2 and 3 (green lines). Views from a sitting and standing position are currently possible from the front and central rooms within the dwelling No.12 Gardere Avenue and from external balcony areas. In general, views are not significantly obscured from the front balcony (north facing) however this balcony has a side area (eastern side) that will be affected by the proposed dwelling at No.10 Gardere Avenue.

The applicant has provided some detailed assessment information that indicates the views gained from the upper storey with some views at an oblique angle and how the building height is seeking to prevent any unreasonable impacts. Site photos were taken during inspection of the site surrounds to consider the general views from surrounding land. A principal difficulty in retaining this side view is that the roof level is influenced by the variation between natural site levels that results in the roof gutter line being approximately at eye level to No.12 Gardere for the upper storey of No.10 Gardere. This includes limitations that either a flat roof, skillion pitch, gable or hipped style each imposes similar impacts at a similar setback or height position. An added difficulty to protecting the view line across the side boundary and corner, toward the front of the site (for living room views from within No.12 Gardere Avenue) is influenced by the stormwater easement clearance required at the rear of No.10 Gardere Avenue which effectively requires the proposed dwelling to be in a forward position away from the overland flow path and maintain freeboard clearance. Therefore, it is unrealistic to be able to retain all side views and sitting views within the particular surrounding environment. Other circumstances of development in the vicinity of the site have been considered in terms of views, however each has particular elements or building arrangements that are unique to those sites.

Views across the centre rear are able to be maintained from a standing position only by the use of a low pitched roof over the bedroom areas with minimal floor to ceiling heights being used. This view is across a view corridor that crosses other side setbacks and rear setbacks (as indicated in Figure 2). This however creates design issues for services such as air conditioning that require adequate roof space for ducting. Additional wall space at the rear of the gable roof space has been considered and the principal standing views are retained.

Toward the front of the site sitting and standing views are blocked along a narrow corridor across the side boundary. This is partly due to the variation in site levels, requirement for the building to be in a forward position due to the stormwater / overland flow path at the rear and desire to also access the same view line along Gardere Street. 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.

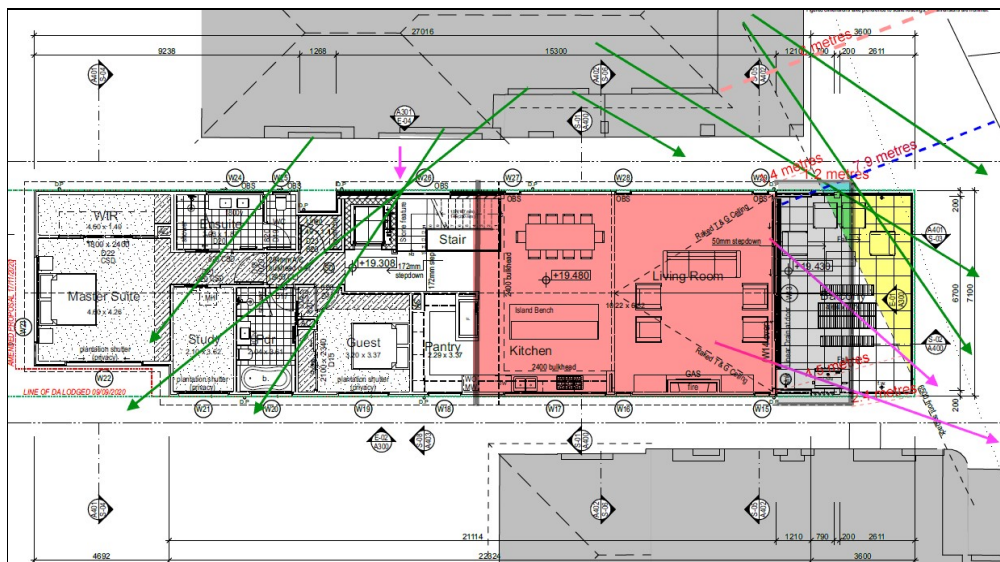


Figure 3: Upper storey comparison and front setback line comparison for the proposal.

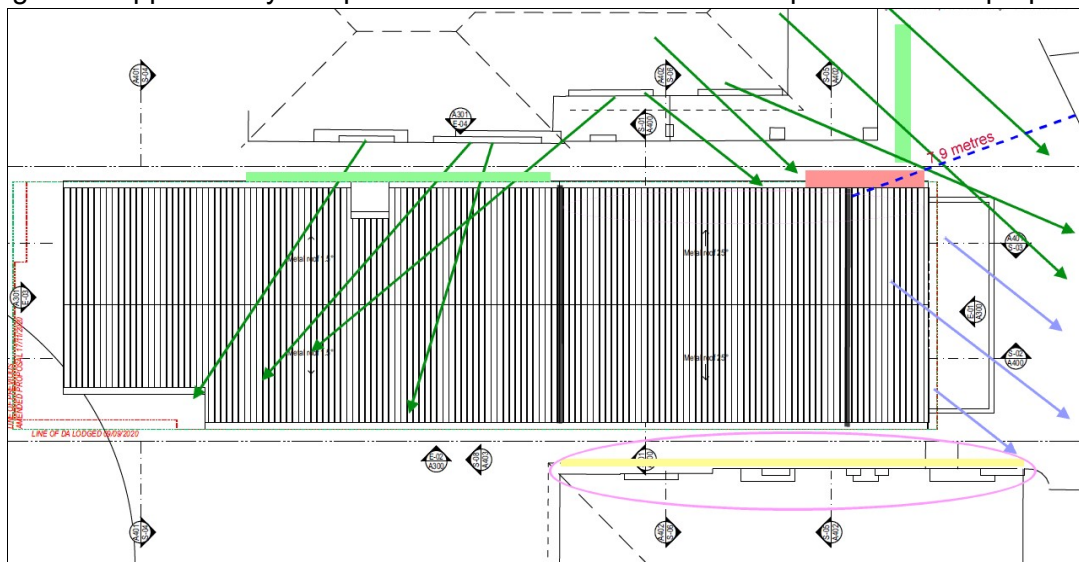


Figure 4: Roof area shows view sharing impacts at rear (standing) and front (standing and sitting) partly obscured by the roof.

### 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 existing views are available from from both standing and sitting positions for upper storey level and are available from the front balcony areas, front living room, kitchen area and minor windows along the eastern side of No.12 Gardere Avenue. The view can change with respect to a particular standing position, such as toward the middle of the site, including from a particular room or open space area looking over the site. Views are also obtained at ground level at the front where front setbacks between various properties permits the view line along the street corridor. The subdivision pattern along the southern side of Gardere Avenue is angled and site levels vary between properties as the land rises toward the west. Therefore, No.12 Gardere by virtue of the original single storey home and rearward position of the existing dwelling on No.12 Gardere has two principal view corridors to the north-east (street outlook) and south-east across various properties toward South Curl Curl (rear side boundary outlook).

On balance the views retained include a south-eastern view across the centre rear of the site (side boundary) which includes water views and the land / water interface which are views from a kitchen area (standing position). This includes standing views from the kitchen and minor rear windows. The impact on living room views is greater due to the depth of the viewing angle across the side boundary and both standing and sitting views are severely impacted by the front roof elements of the proposed dwelling but with only a minor impact at the centre of the front balcony (street setback area). With regard to other non-complying elements the front balcony proposed for No.10 Gardere Avenue is substantially lower and can therefore be viewed across from the higher upper floor level No.12 Gardere Avenue. This is also due to the open style of the balcony as demonstrated in "Perspective 01" drawn by *Urban Harmony Architects* and plans provided (including amendment / supplementary details. Principally the NW corner of the pitched roof / hood. Overall the extent of the view impact is considered to be moderate (subject to conditions discussed below) in the context of the whole of the view (NE and SE views) that is retained on balance with the elements of the NE and SE view impacted.





Figure 5: Indication of standing view retained across central side boundary for kitchen area within No.12 Gardere Avenue

#### 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.”*



Figure 6: Indication of living room view impact angle across front corner of the site. Figure 7: Living room view standing position.

#### Comment to Principle 4:

Generally the proposed dwelling at No.10 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 moderates the view impact in a balanced manner that shares the view and responds to the planning controls. In demonstrating consistency with this fourth step for the centre rear view corridor, the floor to ceiling levels and low pitched roof has enabled the standing view from the

kitchen area and other minor windows to be retained (as indicated in "Section 4, DA2 drawn by *Urban Harmony Architects* "). The features of the Curl Curl headland and view to the south east horizon is substantially retained at standing level toward the centre rear. In consideration of the design limitations the proposed dwelling footprint is restricted from being extended to the rear due to the stormwater overland flow path and clearance to a pipe line required. This includes minimum freeboard (ground floor level) to protect the dwelling from stormwater flooding.

For the view corridor across the front corner of the site from No.12 Gardere Avenue the element of the proposal most in the view angle is the corner roof section (hood) that covers part of the front balcony. The setback for this roof overhang is proposed to be 5.5m to 8.8m, with the apex at 7.1m and height of RL24.11. Therefore, with the gutter being at RL22.18 and the gable style of roof, this places the roof element directly in the view corridor from within the living room of No.12 Gardere, particularly from through the front eastern side windows, due to the corresponding height differences between the adjacent properties / floor levels.

The garage is fully compliant with the front setback setback 6.5m to 9.3m and the front wall of the living room is 7.9m to 11.0m with a narrow privacy screen forward of this wall, and the front balcony extending forward to a setback of 3.61m to 6.7m and FFL 19.4m. Despite the reduced setback of the front balcony, it is 1.51m lower than the living area / upper balcony for No.12 Gardere and the open style (glass top balustrades) assist to minimise view impact. The view from No.12 Gardere Avenue is a diagonal view across the front setback and a side boundary which is also influenced by the angled alignment houses along the street. Therefore, in achieving a shared view properties closer to the beach inevitably impact on the view line with each property seeking to achieve similar development potential to access the view.

In summary, the proposed front balcony is not considered to contribute to a substantive view impact due to the lower level of the balcony area and open form design. However, the wider roof eaves forward of the 6.5m setback line (and partly over the balcony) impact views from the side balcony and living room within No.12 Gardere Avenue. Various design alternatives have considered tapering the roof hood back to 6.5m from the apex, use of flat roof design, skillion design and hipped roof form. In making these considerations the provision of the "*same development potential and amenity*" forms part of balancing various design options for the view impact assessment and whether strict compliance with the front setback necessarily provides a similar or better sharing of the view. In this regard, it is considered that compliance with the front setback for the roof eaves is an influencing factor on the views from No.12 Gardere for a new dwelling on No.10 Gardere Avenue, due to eaves being in the standing eye line. However, in order to substantially retain the view the setback for No.10 Gardere Avenue would need to be in the order of 10 metres back, but this would substantially deny access to views of Curl Curl beach and the ocean to No.10 Gardere Avenue due to the forward position of No.8 Gardere Avenue. A flat or skillion design does not achieve the same development potential in terms of internal amenity (shade / light / ventilation / rain protection) for No.12 Gardere Avenue and would require a substantive design amendment to the plans. Compliance with the 6.5m setback for the front edge (eave corner) would achieve a material improvement to the impact across the whole of the front balcony for No.12 Gardere Street.

It is noted that setbacks are normally measured to the vertical elements of the building (wall, windows, pillars) which allows for standard width eaves being acceptable encroachments. Currently the front post further forward and does not comply in the NW corner with compliance requiring in the order of 0.75m change to align with the 6.5m building line (and considering a regular 0.225 overhang from the corner post). In this regard, it is possible to moderate the impact by conditions to ensure the hood overhang complies with the front setback. In doing so, the amenity and design appearance can be maintained 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.

In summary, 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 Street. The broader view from the front part of the living room and adjacent the balcony sliding door is substantially retained if the roof eave is marginally altered to be along the 6.5m setback line due to the lower NE corner of the front balcony gable roof. Toward the front (northern side) of the balcony for No.12 Gardere Avenue the view line is substantially retained as indicated in Figure 8 below.

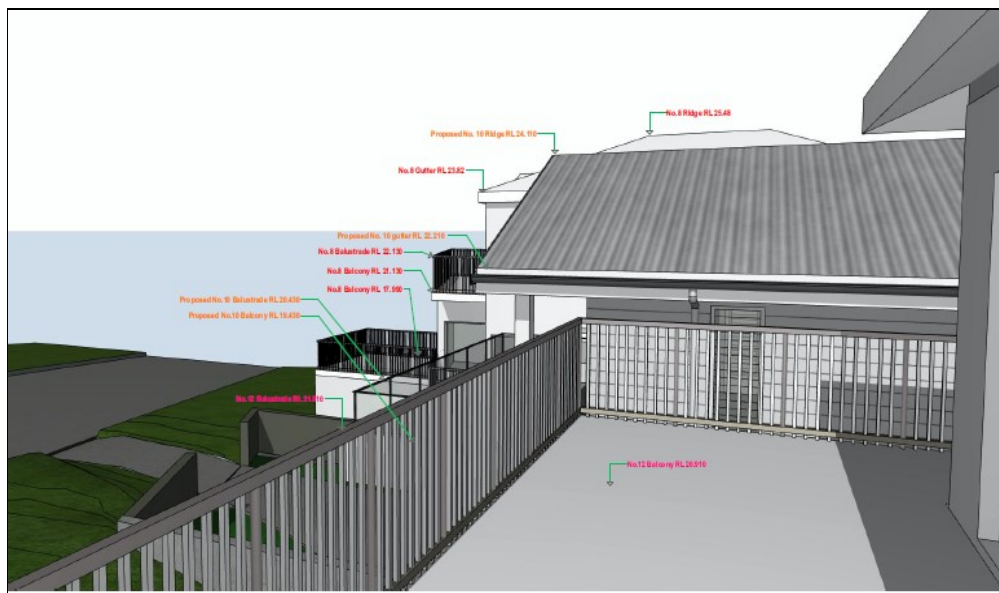


Figure 8: View from front balcony of No.12 Gardere Avenue with survey / RL's overlaid.

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

Comment:

The proposed dwelling maintains a suitable streetscape impact that is consistent with the requirements of *Part D11 Roofs* of the WDCP. A number of design options have been considered for the roof elements in order to address view impacts. Principally the rear section has been designed to a low pitched roof so views over the ridgeline are maintained (standing position) toward south Curl Curl. In addition to this, the floor to ceiling levels and changes to the roof elements (such as front setback) have been designed to assist in view sharing, and ensure consistency with other considerations of amenity, streetscape, alternate access to views (such as from front balconies) and limitations on the building footprint due to the overland stormwater flow / floodable area at the rear. Conditions are recommended to "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 and 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 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.

## D8 Privacy

### Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To ensure the siting and design of buildings provides a high level of visual and acoustic privacy for occupants and neighbours.*

#### Comment:

In addition to selected window placement to minimise overlooking the proposal has utilised privacy measures for windows including the use of translucent glass (identified as "OBS" on the plans) and internal plantation shutters for the upper storey side windows. The front balcony area includes integrated privacy screens that assist to maintain privacy without creating unreasonable view sharing impacts. At ground level the side boundary fencing and minor landscape planting assist to maintain screening and a buffer to adjacent land. The living areas are oriented toward the front and rear yards to assist in maintaining acoustic and visual privacy for the occupants and neighbours which is consistent with this objective and the pattern of surrounding development.

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

#### Comment:

The proposal maintains reasonable privacy to adjacent land from bedrooms (being low use rooms compared to living areas) and orienting private open space toward the public street outlook or the rear yard. The arrangement of living areas is consistent with the pattern of surrounding development whereby newer / renovated dwellings seek to capitalise on coastal views lines and maintain secondary living spaces (such as rumpus) at the rear. Reasonable privacy at ground level is assisted by the use of landscaping planting as a buffer and replacement side boundary fencing where warranted.

- *To provide personal and property security for occupants and visitors.*

#### Comment:

The proposal maintains security of access to the dwelling with a clearly defined entry area and passive viewing of public space (street frontage).

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in s1.3 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 2019**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$12,911 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,291,083.

## **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 Development Consent to 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:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
580.A100 Ground Floor	19.3.2021	Urban Harmony
580.A101 First Floor	19.3.2021	Urban Harmony
580.A102 Roof Plan	19.3.2021	Urban Harmony
580.A300 Elevations 1	19.3.2021	Urban Harmony
580.A301 Elevations 2	19.3.2021	Urban Harmony
580.A400 Sections 1	19.3.2021	Urban Harmony
580.A401 Sections 2	19.3.2021	Urban Harmony
580.A402 Sections 3	19.3.2021	Urban Harmony
580.A403 Sections 4	19.3.2021	Urban Harmony
580.A600 Window Schedule	19.3.2021	Urban Harmony
580.A602 Colours and Materials	19.3.2021	Urban Harmony

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
C00.01 General Notes	22.12.2020	Engineering Studio
C01.01 Sediment and Erosion Control Plan	22.12.2020	Engineering Studio
C01.02 Sediment and Erosion Control details	22.12.2020	Engineering Studio
C02.01 Stormwater Drainage Plan	22.12.2020	Engineering Studio
C02.02 Stormwater Details Sheet 1	22.12.2020	Engineering Studio
C02.03 Stormwater Details Sheet 2	22.12.2020	Engineering Studio
C11.01 External Catchment	22.12.2020	Engineering Studio
C11.01 Pre Development Flood Extents Plan	22.12.2020	Engineering Studio
C11.02 Post Development Flood Extents Plan	22.12.2020	Engineering Studio

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
Basix Certificate 1112475S_03	15.12.2020	Thermal Performance
Preliminary Geotechnical Assessment J2894	3.9.2020	White Geotechnical Group

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:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
580.A700 Landscape Concept Plan	19.3.2021	Urban Harmony

<b>Waste Management Plan</b>		
<b>Drawing No. Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan - 10 Gardere Avenue	Rec. 7.1.2021	Urban Harmony

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail. *"prior to the issue of any interim / final Occupation Certificate"* permits the Certifying Authority to select or decide the appropriate timing / phase to complete relevant conditions and practicable requirements.

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

## 2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not

be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
  - A. the name and licence number of the principal contractor, and
  - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
  - A. the name of the owner-builder, and
  - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00 am to 5.00 pm inclusive Monday to Friday,
  - 8.00 am to 1.00 pm inclusive on Saturday,
  - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of

jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant

shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Where applicable requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
 

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

    - (i) Swimming Pools Act 1992
    - (ii) Swimming Pools Amendment Act 2009
    - (iii) Swimming Pools Regulation 2018
    - (iv) Australian Standard AS1926 Swimming Pool Safety
    - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
    - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
  - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Policy Controls**

#### Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$12,910.83 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,291,083.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash

contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

#### **5. Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

#### **6. Construction, Excavation and Associated Works Bond (Drainage works)**

The applicant is to lodge a bond of \$12,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

### **CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

#### **7. Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings,



paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Gardere Avenue and Council's pipeline within the property.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

8. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management For Development Policy. Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure

9. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The gable roof (Ref:RL22.18 to 24.11) over the front balcony is to be amended to achieve strict compliance with the 6.5m front setback line to Gardere Avenue. This may be achieved by a suitable reduction / adjustment in the roof overhang and increased (rearward) setback to the front glazed wall of the living / kitchen / dining room. No part of the resultant roof form shall be located within 6.5m from the front boundary, as measured perpendicular to the boundary.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimise view line impacts upon adjacent land.

10. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. **Pre-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a pre-construction / demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's

Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available on our website.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

**12. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

**13. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

## **CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT**

**14. Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below where relevant, both internally and externally, including walls, ceilings, roof, retaining walls, footings, structural members and other similar items.

- No.12 Gardere Avenue
- No.8 Gardere Avenue

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

**15. Installation and Maintenance of Sediment and Erosion Control**

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**16. Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
  - i) all trees and vegetation within the site not impacted by development, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - viii) any temporary access to or location of scaffolding within the tree protection

zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,

- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

**Note:** All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

**Reason:** Tree and vegetation protection.

#### 17. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- o Work Health and Safety Act;
- o Work Health and Safety Regulation;
- o Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- o Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- o Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- o The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

**Reason:** For the protection of the environment and human health.

#### 18. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

- (a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

**19. Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

**20. Landscape Completion**

Landscaping is to be implemented in accordance with the approved Landscape Plan, inclusive of the following conditions:

- i) one (1) small native tree shall be planted within the front setback, selected from Council's Native Plant Species Guide - Curl Curl Ward, including but not limited to the following suggestions: *Banksia serrata*, *Melaleuca linariifolia* or *Melaleuca ericifolia*,
- ii) tree planting shall be installed at a minimum 75 litre container size, and shall be located within a 9m<sup>2</sup> deep soil area wholly within the site and be located a minimum of 3 metres from existing and proposed buildings, and other trees,
- iii) tree planting shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained by watering and fertilising.

Prior to the issue of any Occupation Certificate details shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

**21. Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.



22. **Certification of Structures Located Adjacent to Council Pipeline or Council Easement**

All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Water Management For Development Policy. Any proposed landscaping within a Council easement or over a drainage system is to consist of ground cover or turf only (no trees are permitted) - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure

23. **Post-Construction Stormwater Assets Dilapidation Report**

The Applicant is to submit a post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available on our website.

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Protection of Council's infrastructure.

24. **Restriction as the user**

A restriction as to user shall be created on the title over the area affected within the property by the 1% AEP stormwater overland flow indicated by the report, prepared by Engineering Studio, reference number 20503-001-r and dated Nov 2020, in order to:

- 1) All habitable floor level must be above the Flood Planning Level at the above report.
- 2) Prohibit the erection of any additional structure with the overland flow path without the written permission of Northern Beaches Council.

The terms of the restriction are to be prepared at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the restriction as to user is to be submitted to the Principle Certifying Authority prior to the Occupation Certificate.

Reason: To ensure no modification of the stormwater overland flow path and the building without Council's approval.

25. **House / Building Number**

House/building number is to be affixed to the fence / building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

### 26. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: To maintain local environmental amenity.


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 04/05/2021, under the delegated authority of:



**Rebecca Englund, Manager Development Assessments**