
Sent: 8/02/2021 2:38:23 PM
Subject: DA2020/1121 - Lot 5 DP 6000 10 Gardere Avenue CURL CURL
Attachments: Garland 04 01 2021.docx;

Please find attached submission regarding development application DA2020/1121.

Kind regards
Rebecca Zerk

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4 February 2021

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

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

Dear Alex

We thank you for your previous support in assisting to achieving a positive outcome for both the Owners of 10 Gardere Ave and 12 Gardere Ave, Curl Curl in relation to the previous development application (.DA2020/1121). We are aware that a subsequent application has been lodged (DA2021/0010), and again reiterate our concerns regarding the significant loss of views which will result from the proposed development.

Whilst we acknowledge that some design techniques have been employed to reduce the impact the development will have on the view loss from 12 Gardere Ave, we note that there remains a significant impact, with the total loss of views from within the dwelling, and the retention of limited views from the elevated deck. Whilst the Owners of No. 12 have attempted to discuss their concerns with the Owners of No. 10, no resolution has been able to be achieved.

We further note that the proposal fails to achieve compliance with a number of DCP requirements, particularly with regard to wall height, building height, landscape areas and, of major concern, the front setback. These non-compliances, coupled with the overall significant impact the proposal would have on oceanic and headland views currently enjoyed by No.12 Gardere results in an overall substantial negative effect to the amenity of the neighbouring occupants. The attached photos are indicative of the extent of view loss resulting from the proposal.

We note from the resubmission that the perspectives provided depict the retention of minimal water views at No. 12 from a standing position from the far northern corner of the front elevated verandah only. All other water views are obscured by the proposal. Further, the privacy screen on the front verandah has been retained which is contradictory to the accompanying Statement of Environmental Effects.

Given the current proposal is a new application, an assessment against the principles of view sharing as established by *Tenacity Consulting v Warringah Council* (2004) NSWLEC 140 ("*Tenacity*"), is again provided:

1. **Step One – Assessment of the views to be affected.** *“Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.”*

As is evidenced from the attached photographs, the current views include vistas to Curl Curl Beach towards the northeast. These views are available from both the front elevated verandah as well as the main living area. Water views are available towards the east from the bedroom and dining room, and views to the Manly Headland towards the southeast from the elevated verandah, lounge room and the bedroom.

The views currently available from the dwelling when considered in the first part of the assessment are considered to be “highly valuable” towards the northeast and southeast and “valuable” towards the east.

2. **Step Two – Consideration 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.”*

Views experienced from the dwelling are available from both a sitting and standing position. Whilst it is understood that some loss will result from the proposal, should the proposed dwelling on No. 10 be sited with a greater setback than that currently proposed, the loss of views resulting from the proposal would be mitigated. We note there is the ability to relocate the dwelling further south given the previous application had a larger footprint which encroached towards this elevation.

In addition, the proposed privacy screen noted on the plans along the northwest elevation further results in view loss and we therefore seek that it be removed from the proposal, and a condition imposed restricting any form of permanent or temporary screening to this area.

3. **Step Three – Assessment of 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.”*

Given the extent of loss, which includes excessive loss of water views and Headland views and extensive loss of views to Curl Curl Beach at the northeast, we assess the extent of the impact to be severe.

4. **Step Four – Assessment of the reasonableness of the proposal that is causing the impact.** *“A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable”*

A number of elements of the proposal are non-compliant with Council's Development Control. These non-compliances relate to B1 Wall Heights, B3 Side Boundary Envelope, B7 Front setback, D1 Landscaping and D7 Views.

In light of the numerous non-compliances and in some instances the extent of those non-compliances, the proposal could be regarded as being an overdevelopment of the 455.3m² site.

We also raise concerns in relation to the inclusion of the roof over the elevated balcony within the frontal elevation. Whilst the inclusion of this element further exacerbates impacts on views to Curl Curl beach, no other properties on the southern side of Gardere Ave are provided with covered balconies. All elevated balconies are presented as open forms, therefore the inclusion of the covering to this balcony is not considered to be in keeping with the current streetscape and built form character.

We seek to discuss the negative impacts the proposal would have on the views enjoyed by the Owners of No. 12 Gardere and ask that a meeting between the relevant parties, including Council, the Owners of No. 10 Gardere and their consultants as well as the Owners of No. 12, their consultants, as well as legal representation be facilitated. We are also of the opinion that an independent view impact assessment may be of benefit to all parties, and seek Council's assistance in this matter.

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

Yours faithfully



Rebecca Zerk
Town Planner



Photo 1



Photo 2



Photo 3



Photo