
Sent: 12/12/2018 2:22:52 PM
Subject: Submission RE: 141 Fuller Street, Narrabeen (DA2018/1803)
Attachments: 139a Fuller Street, NARRABEEN - submission.pdf;

Attn: Renee Ezzy

Please find attached a submission in response to the development application (DA2018/1803) located at 141 Fuller Street, Narrabeen.

Kind regards,
Will

**William Fleming
Planner**



Town Planners

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7 December 2018

The General Manager
Northern Beaches Council
Village Park, 1 Park Street
Mona Vale NSW 2103

Attention: Renee Ezzy

Dear Sir,

**DEVELOPMENT APPLICATION DA (DA2018/1803)
PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING AND
CONSTRUCTION OF A NEW SWIMMING POOL**

1.0 INTRODUCTION

I write on behalf of the owners of 139a Fuller Street in response to the development application submitted for 141 Fuller Street. I have been engaged to review Development Application (DA) (Ref: DA2018/1803) proposing alterations and additions to an existing dwelling and a new swimming pool. I have reviewed the submitted documentation, visited my Client's property, and have a clear understanding of their concerns in relation to the DA.

The following sections outline my Client's concerns with the proposal in more detail.

2.0 VIEW SHARING

A view analysis was provided which depicts view corridors from surrounding neighbours. The analysis conducted by the applicant is quite simplistic and does not accurately represent the potential view loss that will result with the proposed development.

The defined principles for the analysis of view loss/view sharing in relation to the proposed development, as outlined in *Tenacity v Warringah Council (2004) NSWLEC 140* are discussed as follows:

Step 1 – Assessment of views to be affected

The judgement held that water views are valued more highly than land views. Iconic views are valued more highly than views without icons. Whole views are valued more highly than partial views.

139a Fuller Street currently obtains ocean water views looking east over the existing dwelling

Step 2 – Consider from what part of the property the views are obtained

The second step in the judgement is to consider from what part of the property the view is obtained. The affected views are obtained from the balcony, living room and master bedroom. All the views obtained are from both standing and seated views.

The water views are obtained across the side boundary looking east and sweep to the north.

Step 3 – To assess the extent of the impact

As mentioned above, the views from 139a are obtained from the balcony area, primary living space, and master bedroom.

The photo below accurately depict the existing view from my Client's balcony looking towards the ocean.



Image 1: Existing views looking over 141 Fuller Street

The proposed development will obliterate the water views currently enjoyed. These views are the only clear, unobstructed water views available to my Client with no mechanism to restore the views if the proposed development is approved. The views to the north towards Narrabeen Lakes are heavily obstructed by trees with only minor water glimpses. In that regard, the ocean views are considered to be significantly more valuable to my Client not only in market value but to the amenity of their home. The image below depicts the view north to Narrabeen Lakes.



Image 2: View to the north, towards Narrabeen Lakes, from balcony.

However, in order to accurately depict the degree of view loss to 139a Fuller Street, it is imperative that the Council require the applicants to install height poles (templates) depicting the height the proposed works so as to determine the extent of impact that would result from the proposed development.

Step 4 – To assess the reasonableness of the proposal that is causing the impact

With respect to assessing the reasonableness of the proposal, paragraph 29 of the judgement states that where:

‘A development that complies with all the 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.’

The proposal is not considered to be reasonable in relation to the principles of view sharing. The planning principal asks *‘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.’* It is considered that through a more skilful design it would reduce the view impact to 139a Fuller Street. The slope of the roof rises significantly to the south from RL 57.95 to RL 60.35. The roof

design could be improved to a flatter design to limit the view loss. It is unreasonable to have the roof continue to rise and obliterate my Client's view when there would be opportunities to have a lower pitched skillion roof or a low pitch roof.

3.0 VISUAL PRIVACY

The proposed development has significant fenestration along both the west and east elevations. The west elevation will face my Client's property and has floor to ceiling windows at each level. It is considered that the number of windows, especially being floor to ceiling, will cause an unreasonable impact to the privacy of my Client, but also to the future occupants of 141 Fuller Street.

It is acknowledged that there is a significant setback to the proposed addition but that would be negated by the excessive use of floor to ceiling windows, at each level, which does little to maintain privacy to neighbouring dwellings.

It is unclear as to the intent of the west facing windows considering the number of windows located to the east to capture the view. The western sun, particularly in summer, would be intense. There are no views to capture either from these west facing windows.

The west elevations windows are excessive and increase the risk to the privacy of surrounding neighbours and is considered to be inconsistent with the objectives of clause D8 in the DCP.

4.0 GLARE AND REFLECTION

The significant number of windows associated with the proposed development increases the risk of sun reflection and is inconsistent with DCP control D12. A requirement of the control states:

Selecting windows and openings that have a vertical emphasis and are significantly less in proportion to solid massing in walls.

The proportion of windows to solid walls is not consistent with the requirement above. The number of windows is significantly more than solid walls with the proposed works.

The applicant has provided a report regarding the solar panel roof and its reflectivity but has provided little insight as to the reflectivity of the glass windows. The external materials schedule also provides little insight also as to whether they will be windows that will have a low level of reflectivity.

This clause has not been addressed in the statement of environmental effects.

5.0 EXCAVATION

The development requires significant excavation at the garage level which is considered to be unreasonable in this instance. Buildings on sloping sites should be designed to step down the slope to minimise the amount of excavation.

The geotechnical report identifies 2 potential hazards of moderate risk that may arise as a result of the excavation. There are recommendations provided to limit the risk, however it is still considered that limiting the amount of excavation required would be significantly less risky for neighbours in terms of potential landslip, vibrations and rock falls.

6.0 BUILDING BULK

It is considered that the proposed development is inconsistent with clause D9 in regard to building bulk. In particular, requirement 3 states:

3. On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular:

The amount of fill is not to exceed one metre in depth.

Fill is not to spread beyond the footprint of the building.

Excavation of the landform is to be minimised.

The proposal requires significant excavation and does not respond to the slope of the site. The level of excavation has not been minimised and creates a 3 storey dwelling which will be of considerable bulk and scale and create an unreasonable visual impact for my Client.

The proposal will create a wall of glass which is 3 stories high to the west elevation. This will create an unreasonable visual impact for my Client's. It is also relying on a considerable amount of excavation to be compliant with the DCP B1, wall height, as it is measured from existing ground level. Measured from garage level, the proposal will create a wall of glass with a max wall height of 8.7m. This wall height is unreasonable and reflective of its bulk and scale.

The proposed development is inconsistent with the objectives of the D9 building bulk clause in relation to good design and does little to minimise the visual impact when view from my client's property.

7.0 SHADOW DIAGRAMS

We seek confirmation over the accuracy of the shadow diagrams. My Client's are concerned that the proposed development will cause the loss of solar access in the mornings and its impact to the amenity of their dwelling.

8.0 SUMMARY

It is my clients' submission that the proposed works at 141 Fuller Street are unreasonable, particularly in relation to the impact to the existing water views and to the amenity of their dwelling. Furthermore, the development fails to provide for a reasonable sharing of views pursuant to the New South Wales Land and Environment Court defined principles for the assessment of view loss/view sharing (*Tenacity consulting v Warringah* [2004] NSWLEC 140). On this basis, the application should be refused.

It is submitted that the applicants should be required to install surveyed height poles, accurately depicting the height and profile of the proposed addition, that accurately demonstrate the view loss arising to their primary living area and deck.

Once the height poles are installed and/or if further information is submitted by the applicant to the Council by way of views analysis or amended plans, my client reserves the right to be able to make further submissions to the Council with respect to the issues raised in this letter.

Please don't hesitate to contact me should you have any questions.

Yours sincerely



William Fleming
BOSTON BLYTH FLEMING
BS, MPLAN