
From: William Fleming
Sent: 16/06/2025 4:20:46 PM
To: Council Northernbeaches Mailbox
Subject: Submission RE; 24 Ogilvy Road, Clontarf - DA2025/0572
Attachments: 39 Cutler Road, CLONTARF - submission.pdf;

Please find attached a submission with regard to the DA lodged for 24 Ogilvy Road, Clontarf.

Kind regards,
Will

William Fleming

BBF Planners - Director



13 June 2025
The General Manager
Northern Beaches Council
Civic Centre
725 Pittwater Road
DEE WHY NSW 2099

Attention: Claire Ryan

Dear Ms. Ryan,

**DEVELOPMENT APPLICATION REFERENCE DA2025/0572
DEMOLITION WORKS AND CONSTRUCTION OF A DWELLING HOUSE INCLUDING A
SWIMMING POOL
24 OGILVY ROAD, CLONTARF**

1.0 INTRODUCTION

I have been engaged by the owners of 39 Cutler Road which is located to the rear of the subject site. I have reviewed the provided documentation, visited my clients property and have a clear understanding of the concerns associated with the proposed development.

2.0 BUILDING HEIGHT

The provided clause 4.6 request to vary the building height development standard does not provide adequate justification that strict compliance is unreasonable or unnecessary in this instance nor have sufficient environmental planning grounds to warrant a variation.

The application is for a new dwelling and that comes with a high expectation that it can be designed with the regards to the controls that apply. We do not agree with the clause 4.6 requests environmental planning grounds that the topography and site constraints with regard to easements are reason enough to propose building above the 8.5m height limit.

The building height non-compliances coupled with wall height and setback non-compliances are directly impacting on amenity impacts to my client, in particular with regard to view loss.

3.0 VIEW LOSS

One of the principal grounds of objection is based upon the loss of Harbour views which take in the heritage listed Balmoral Bathers Pavillion and Balmoral Beach. We request that height poles be erected to be able to understand the impact the proposed will have on existing view corridors.

Step 1 – Assessment of views to be affected

The judgement held that 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.

39 Cutler Road takes in whole views of the Harbour and surrounds, Balmoral Beach and the iconic heritage listed Balmoral Bathers Pavillion.

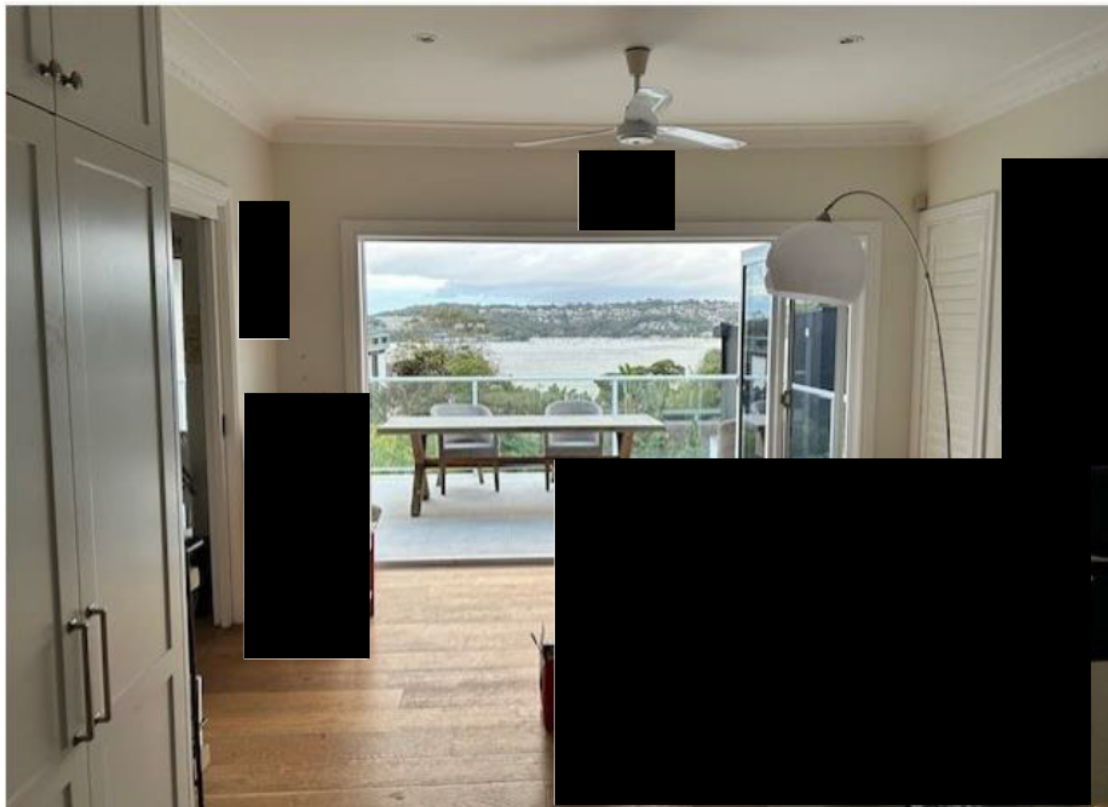
Step 2 – Consider from what part of the property the views are obtained

The second step in the judgement is to consider from what part of the property the view is obtained. The affected views are obtained over the subject site and neighbouring properties (given the slope of the land), while it is recognised that paragraph 29 of the judgement states that *'protection of views across side boundaries is more difficult than the protection of views across front and rear boundaries.'*

The views are taken directly across the rear boundary of 39 Culter Road. They are taken from their primary habitable spaces relating to their kitchen, dining room and associated private open space.



View from balcony



View from Kitchen



View From Lounge room

Step 3 – To assess the extent of the impact

As mentioned above, the views from 39 Cutler Road are obtained from the primary living areas within the property and the kitchen. Paragraph 28 of the judgement states that the *‘views from living areas is more significant than from bedrooms or services areas, although kitchens are valued more highly because people spend so much time in them.’*

The proposal is considered to have a severe impact on the existing Harbour views and views towards Balmoral Beach. It is anticipated that a significant portion of the water views will be lost and potentially the land and water interface views of Balmoral Beach and its iconic Bathers Pavillion. As previously mentioned, we request that height poles be erected to determine the exact extent of the view loss that will occur.

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

Step 4 also asks *“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”*.

The proposal is not compliant with the building height development standard, wall height and side setbacks which are directly contributing to the view loss. Views will be impacted by a non-compliant building height relating to the clerestory window included with the roof form. This design choice is unnecessary considering a flat roof design incorporating skylights would achieve the same amenity to the home and be compliant with the 8.5m

The first floor non-compliant setback to the master bedroom, measured at 1.8m, contributes to view impacts also.

The design of the dwelling where the bulk of the floor space is situated on the first floor level is considered not a skilful design. The ground floor plan provides for pool and associated paved courtyard areas which could be better served as floor space. This would reduce the scale of floor space required at the upper level. The shadow diagrams indicate that the swimming pool and courtyards along the side of the house will receive no solar access in winter and will receive no afternoon sun in summer. This is in addition to the ground floor private open space being almost entirely covered by the first floor further reducing solar access. What is the point of have private open space that is almost entirely covered and receives limited solar access, even in summer?

Furthermore, the ground floor design of the private open does not connect to the rear private open space which can only be accessed from the first floor. Again, it does not demonstrate a skilful design that both achieves a high level of amenity for the occupants and forces the bulk of floor space to the first floor level where it will severely impact on views.

The significant non-compliances that are impacting views are contrary to the view sharing principles and it is unreasonable for surrounding dwellings to lose views as a result of non-compliances.

4.0 WALL HEIGHTS & SETBACK NON-COMPLIANCES

The excessive wall height is in combination with the variation to the height control. As mentioned above, it does impact on view corridors and results in unreasonable visual impacts due to the excessive bulk and scale. The bulk and scale is further exacerbated by the majority of the floor space be located on the first floor.

The master suite from the first floor could be relocated to the ground floor which would reduce the scale of the first floor and also remove non-compliances with regard to the 8m rear setback. The first floor could be stepped in from the side boundaries further than the ground floor and achieve greater view corridors down the sides of the dwelling.

With the view impacts associated with the development, not only to my clients property but others to the rear, it is imperative that strict compliance with side and rear setbacks to the upper level is enforced.

6.0 SUMMARY

It is my Client's submission that the proposed development will have significant adverse amenity impacts to their property at 39 Culter Road and should be refused for the following reasons:

- The proposal will result in the loss of Harbour & Balmoral Beach which include the heritage listed Balmoral Bathers Pavillion from my Clients dwelling
 - The proposal is non-compliant with the 8.5m height of buildings development standard and the clause 4.6 provided is unfounded as strict compliance can be achieved.
 - The proposal is non-compliant with wall height and side and rear setbacks which are contributing to view loss and visual impacts.
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If further information is submitted by the applicant to the Council by way of amended plans to address the issues raised in this submission, my client reserves the right to be able to make further submissions to the Council with respect to the issues as raised in this letter.

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

Yours faithfully

William Fleming

BBF Town Planners

Director