

Development Application DA2020/0061 - 59 Cutler Road CLONTARF NSW 2093

61 Cutler Road response to 59 Cutler Road DA Development Application DA2020/0061

With regard to the modification to the DA application for 59 Cutler Road there are the following issues and concerns with regard to the impact of the proposed development on our neighbouring property (61 Cutler Road):

1. Non-compliance with the Height of the Building and;
2. Non-compliance with the Floor Space Ratio (FSR) development standards under the Manly Local Environmental Plan 2013 (LEP) and DCP;
3. Non-compliance with the side setback in relation to wall height;
4. Amenity impacts including bulk and scale, overshadowing, visual privacy, acoustic privacy and security;
5. Deficiencies in the supporting documentation with respect to BASIX, Landscaping plan, Cost estimate to support value of capital works, Waste Management Plan ;
6. Error in supporting documentation with respect to Statement of Environmental Effect;
7. Impact to our property of Civil works and existing sewer and retaining wall;
8. Impact to amenity and privacy of Tree removal and rain water tank location;

Development Standards

1. Height of Buildings

Building height is considered to be calculated from inside of the existing building, rather than the external ground level. Building height is measured at maximum 9.515m.

While view loss maybe an issue for 57 Cutler Road, the building height of the proposal is non compliant with MDCP which has significant impacts on our property, in terms of unreasonable bulk and scale and loss of reasonable amenity, especially where the property is built on top of the retaining wall within the property, adding to the overall height of the development when viewed from 61 Cutler Road and adding to the overlooking issue (dealt with in greater detail below).

See Table 1 below more detail of for proposed building heights and side setbacks.

Table1. – Wall heights

	GF	1F	2F
Ground RL	43.46	43.46	43.69
Proposed roof RL	47.072	50.295	53.205
Proposed Wall height	3.612m	6.835m	9.515m

This should be seen as a new development and building compliant side setback should be applied. The proposal demonstrates significant non compliance with which has significant privacy and overshadowing impacts on our property.

Responses to MDCP as below.

4.1.4.2 Side setbacks and secondary street frontages

Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.

- a) *Setbacks between any part of a building and the side boundary must not be less than one third of the height of the adjacent external wall of the proposed building.*

Refer the table below showing noncompliance with side setback on part of the building proposing alteration and addition.

Table 2. – Side setback

	GF	1F	2F
Ground RL	43.46	43.46	43.69
Proposed roof RL	47.072	50.295	53.205
Proposed Wall height	3.612m	6.835m	9.515m
Proposed side setback	1.606m	1.606m	2.676m
Compliant setback for proposed wall height	3m with windows	3m with windows	3.172m
Note	Existing bedroom on GF is also to be demolished and be replaced with a study room and porch.	New 1F addition of bedroom over GF bedroom, causing further privacy impact.	New 2F addition of bedrooms cause impact on amenity to all neighbouring properties.

4.1.4.2 Side setbacks and secondary street frontages

c) *All new windows from habitable dwellings of dwellings that face the side boundary are to be setback at least 3m from side boundaries*

- The southern facing wall is located into the minimum setback. All 3 floors have new extensive glazing facing the side boundary with less than 3m side setback. This cause extreme privacy impact on 61 Cutler Road, directly looking at all open private area, kitchen, living, 3 bedrooms and a dress room.
- This is exacerbated with no boundary fence on ground floor.

e) *Side setbacks must provide sufficient access to the side of properties to allow for property maintenance, planting of vegetation and sufficient separation from neighbouring properties. See also paragraph 4.1.4.3.b.vi. of this plan.*

- unmanaged obnoxious weed impacting neighbouring properties has been an ongoing issue due to insufficient access. Despite current 1.606m side setback, poor access to maintain the plant and property due to the retaining wall.
(See photo provided)

4.1.4.3 Variations to Side Setback in Residential Density Areas D3 to D9 (see paragraph 4.1.1 of this plan)

The property is located in D7 area.

ii) The wall protruding into the minimum setback must not provide windows facing the side boundary.

- According to Drawing No. DA05 by Action Plans, existing southern facing floor walls on GF, 1F will be demolished. In the proposal, distance to the side boundary over the length of the wall is less than required setback control. Refer table 2. above.
- Again, the proposal shows extensive demolition of existing southern walls on GF, 1F and reconfiguration of the GF, 1F with new addition of the 2F. The proposal shows extensive glazing across all floors.
- Given the southern facing wall on GF, 1F and 2F is located into the minimum setback as per Table 2 above. Therefore the walls protruding into the minimum setback must not provide windows facing the side boundary.

Also any wall over 3m high must comply with the setback requirements irrespective of whether the wall contains windows or not.

With our currently proposed development, we have been requested by council to have the following offsets on our southern boundary for the privacy and acoustic impacts of our neighbour (6 Castle Rock Crescent), noting we do not directly overlook any windows of their property:

	From Southern boundary to balcony	From Southern boundary to building structure
Ground	N/A	2.5/3.0m
First	2.0m	4.9m
Second	3.2m	4.9m

We request that the above setbacks (as imposed on our development) are the same. Noting that the overlooking impact is greater between 59 and 61, than 61 to 6 Castle Rock Crescent.

4. Amenity impacts including bulk and scale, overshadowing and visual and acoustic privacy Bulk and Scale

With both excessive wall height, FSR and insufficient side setbacks to southern boundary poses significant bulk and scale to our property, in particular the new addition of 1F bedroom and 2F.

As explained above, the amenity impact is a direct cause of non compliances with development standards and design seeks to gain maximum amenity for the development site with no regard for our property.

Overshadowing

The proposal is inconsistent with the sunlight and overshadowing objectives of Part 3.4.1 of MDCP.

Overshadowing of our private open space is significantly increased by the proposed development.

This also overshadows the windows of our existing and proposed dwellings. This will block solar access to our only north facing windows.

The current shadow diagrams make assessment of the impact impossible as they do not show our lot extents and property outline.

We request updated shadow diagrams providing our full lot extents and displaying our dwelling so that we can assess the impact against MDCP clause 3.4.1.1 Overshadowing Adjoining Open Space and 3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties.

Visual and Acoustic Privacy

The proposal has 19 large windows on all three levels facing directly into our living room, kitchen, 3 bedrooms, dress room and all open space area including laundry hanging area.

We request that a boundary fence be erected on top of the retaining wall of 1.8m in height with no gaps. This will reduce the impact of the ground floor windows overlooking our property.

For the first floor we request that the windows are screened to avoid looking into our garden and bedrooms directly.

Responses to MDCP as below.

3.4.2 Privacy and Security

3.4.2.1 Window Design and Orientation

a) Use narrow, translucent or obscured glass windows to maximise Privacy where necessary

- Window glazing on all southern boundary demonstrates in excess of 60% of the wall. Again no windows allowed with above setback non compliance.

b) When building close to boundaries, windows must be off-set from those in the adjacent building to restrict direct viewing and mitigate impacts on privacy.

- All southern walls are located into the minimum side set back.

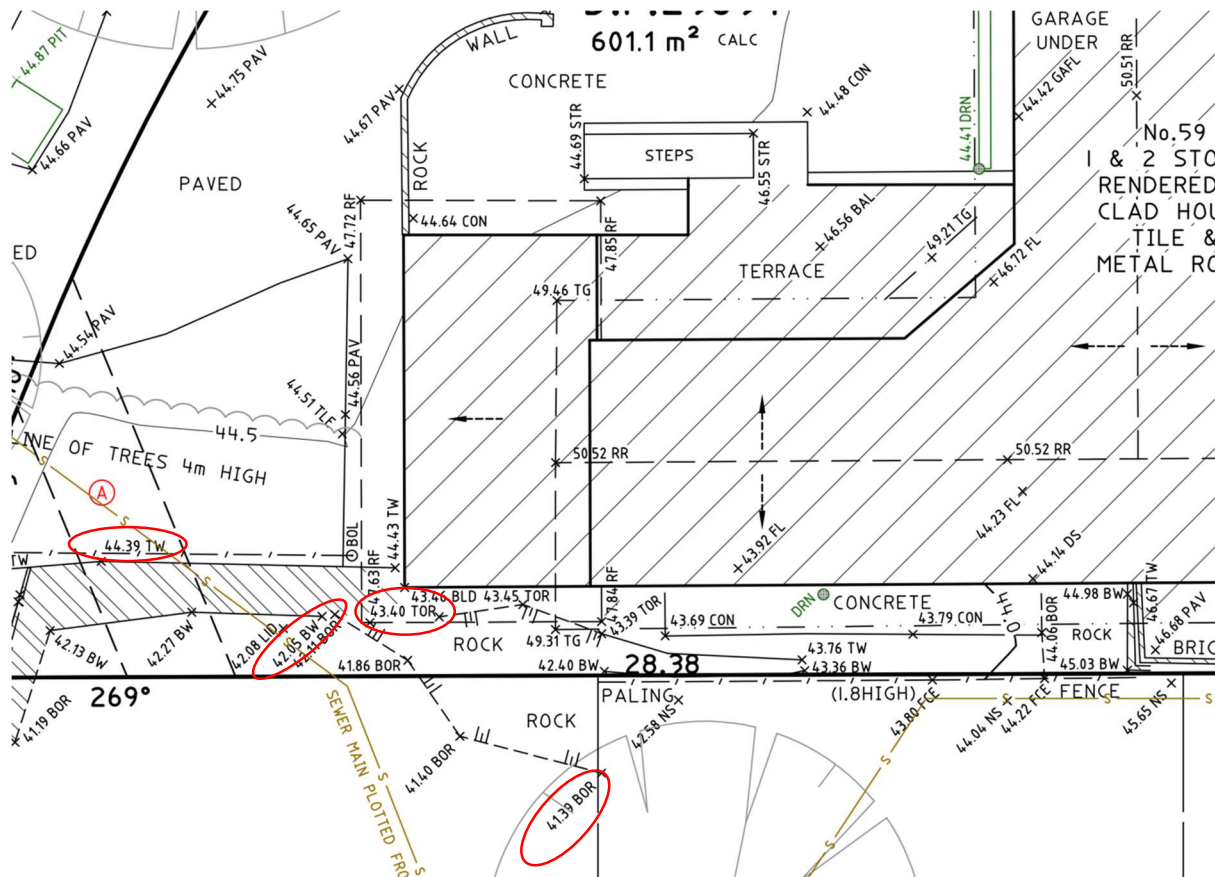


Table 3. Retaining wall height

Top of the wall/ rock	44.39/ 43.4
Bottom of the wall (retaining wall) at the side boundary between 59 and 61 Cutler Road.	42.05-42.4
Wall height within 59 Cutler	2.34m / 1.35m
Bottom of the wall in 61 Cutler Road.	41.39
Wall height viewed from 61 Cutler Road	3m/ 2.01m

The property is built on top of the retaining wall within the property, adding to the overall height of the development when viewed from 61 Cutler Road and adding to the overlooking issue.

This is exacerbated with 19 extensive glazing, causing unacceptable privacy impact to 61 Cutler Road, looking directly into living room, kitchen, 3 bedrooms and dress room and all open space area including laundry hanging area.

Please note the window schedule on Basix issued on 13/05/2019 is either incomplete or not current.

w1	3.6 sqm
w5	8.4 sqm
w6	6.96 sqm

w7	5.2 sqm
w14	2.28 sqm
w15	2.28 sqm
w16	1.62 sqm
w17	1.62 sqm
w18	1.62 sqm
w19	1.68 sqm
w20	8.16 sqm
w21	5.04 sqm
w27	Not provided
w29	Not provided
w30	Not provided
w31	Not provided
3 unlabelled windows on GF - existing	Not provided
Total	48.46sqm + area of W27-31 + 3 unlabelled windows

Security

Proposal does not provide boundary fence to mitigate the security issue to our property.

Currently there's no fence between 61 Cutler Road, and residence of 59 Cutler Road requires to seek consent to gain access or trespassing to the side of the property to maintain the garden and 4m tall hedges on top of retaining wall. This is a great security impact on 61 Cutler Road.

5. Deficiencies in the supporting documentation with respect to BASIX, Landscaping plan, Cost estimate to support value of capital works and Waste Management Plan

We note the following documents have not been provided; Landscaping plan, Cost estimate to support value of capital works and Waste Management Plan.

BASIX does not contain correct window schedule and needs to be updated to match design.

6. Error in supporting documentation with respect to Statement of Environmental Effect and BASIX

The height and FSR errors noted in section 1, are repeated in SoEE.

7. Civil works and existing sewer and retaining wall

The civil works plans ignore the existing circa 2m+ high stone retaining wall approximately 1m north of the southern boundary. Therefore the proposed stormwater pits are floating

over the wall and need to relocate further north. There is an existing sewer pit at the base of the retaining wall which cannot have stormwater assets constructed above.

Figure 1: Retaining wall in 59 Cutler Road.

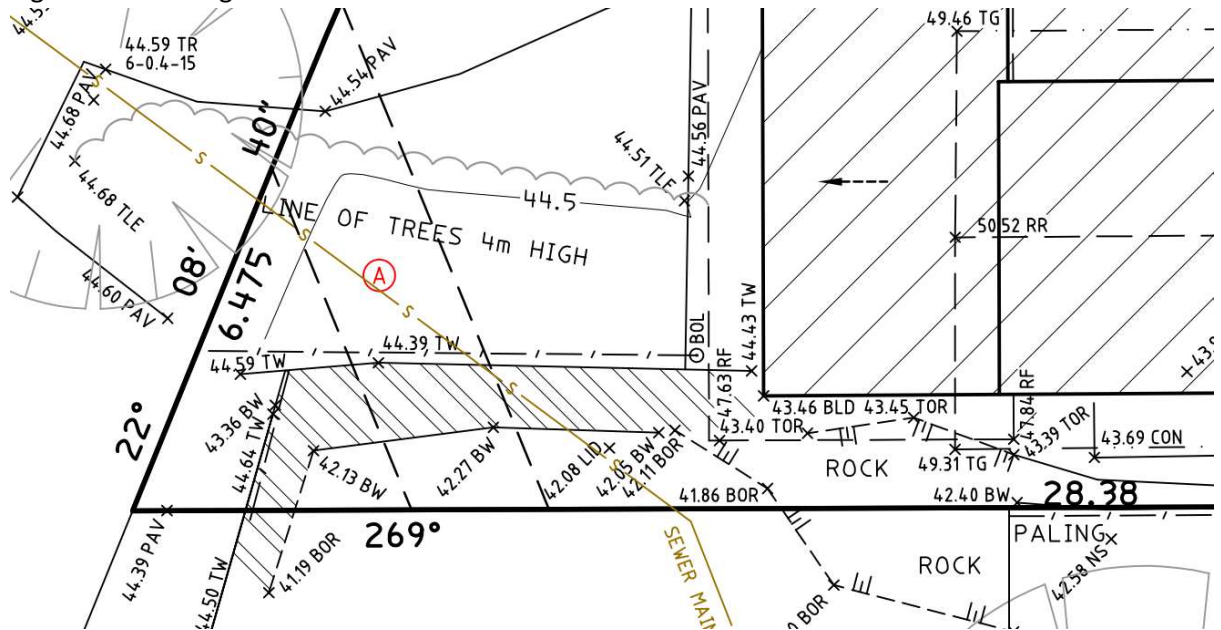
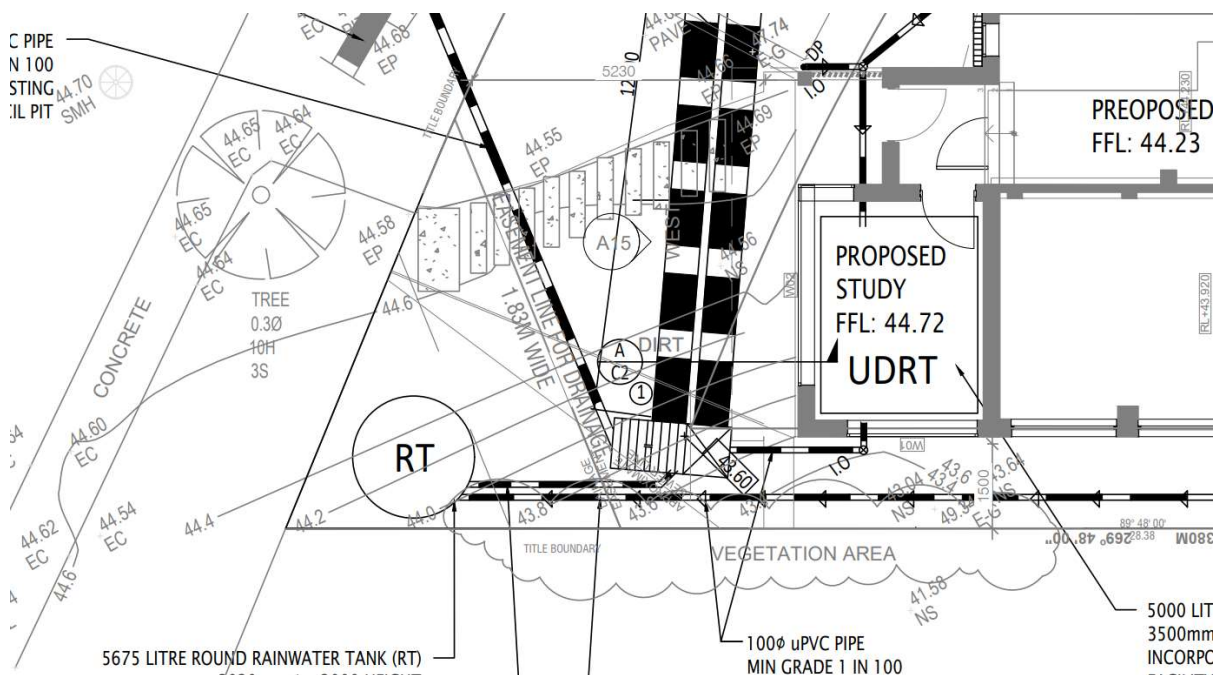


Figure 2: Stormwater and Rainwater assets 'floating' over retaining wall



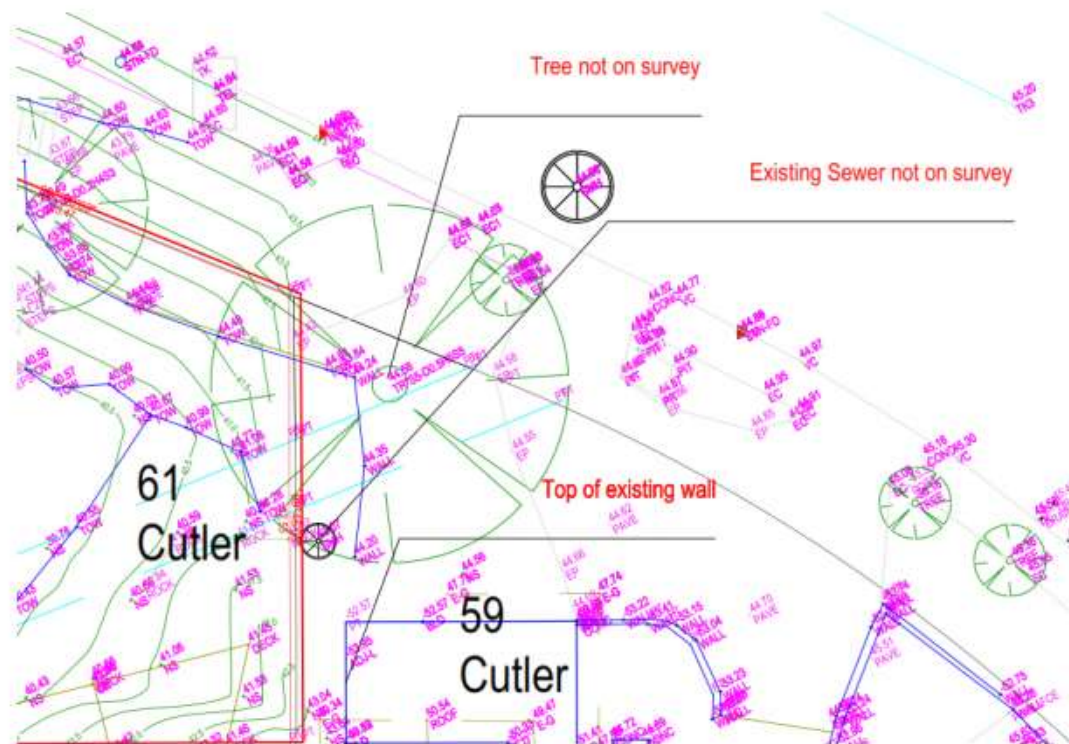
Sewer manhole is believed to be in 59 Cutler Road not 61 Cutler Road as shown on 18624 Detail drawing by CMS surveyors.

Existing retaining wall should be assessed for condition and ability to support the new larger structure and remediated during construction if required.

8. Tree removal and rain water tank location

The current Civil plans propose to remove an existing tree which acts as a visual screening between our properties and replaces it with a 2m tall rainwater tank. The rainwater tank is also placed over the retaining wall which will not be possible. This will be very unsightly from the street front and our property and we request any rainwater tank be hidden below decking or similar.

The location on top of the existing stone wall retaining structure is unlikely to be adequate for this additional loading of c. 5.5t. The tree is not noted to be removed on the plans and does not appear in their survey. See below extract of survey that shows the existing tree, retaining wall and sewer pit in the subject property close to the southern boundary.



Retaining wall on the southern boundary in excess of 2m not noted in DA.



Condition of existing retaining wall



Lack of access for maintenance due to lack of side setback



Conclusion

As raised above, the proposal will have significant amenity impacts on our property in terms of excessive bulk, scale and overbearing, overshadowing, privacy and security. The proposal fails to minimise the impact of the new development and does not represent careful design in contravention of objective 1 and control a) of clause 3.4 of the DCP.

An appropriate development, based on a good site analysis, would locate the bulk of the dwelling away from the southern boundary and utilise the void area for 2F for example, and provide reasonable opportunities for gaining views without such major amenity impacts on adjoining properties.