

231216_Submission -DA2023-1678

To Northern Beaches Council

Re DA 2023-1678 - 1 Cutler Rd Clontarf Objection.

We live at 2 Barrabooka Street Clontarf. As per the notification map, we are the western side neighbours to 1 Cutler Rd. The Applicant / Architect does not seem to have considered any of the neighbours with this predominantly new build design.

This proposed development will severely impact on our privacy. This DA proposal includes a massive new balcony wrapping around the N-NW, W & S-SW sides of the proposed upper floor. This proposed balcony is also substantially further west & closer to our house than the existing house on 1 Cutler Rd (See DA01,02,04). Anyone on the proposed new upper wrap around balcony, will look directly into our On-Suite, Main Bathroom, 3 Bedrooms, Study & back yard area. They will also look down the northern side of our house onto our veranda dining area & pool area. **This invasion of privacy is not in accord with the Manly DCP requirements or planning objectives. It is unacceptable.**

Invasion of privacy and amenity is a huge issue for our family in the reasonable expectation of being able to continue enjoyment of our family home.

If you look at the floor plans for the current house at 1 Cutler Rd, the bulk of the existing upper floor consists of inside rooms, with viewing to the west, from just a few windows. The proposed upper floor is not only 1.23m higher, but this proposed balcony is a lot further west & closer to our house than their existing house. This is a massive balcony, wrapping around the complete western end of the proposed building. **This proposed balcony will also be a major feature & people will be attracted to spending a lot of time on the balcony again looking down into our rooms and rear entertainment area.**

Some of the RL's on the new DA2023-1678 drawings are inappropriate or incorrect. The architect is trying to infer that the RL of the back yard area is the natural ground level. However, the ground levels across the rear are man made in recent years with substantial concrete retaining walls and then backfilled thus increasing the height of the natural ground levels. **We now have reason to believe they were constructed without development consent and contrary to the NSW SEPP (Exempt and Complying Development). As such, these new RLs should not be accepted as either "natural ground level" or "ground levels (existing)."**

We ask Northern Beaches Council to investigate this unapproved increase in ground levels, and also the fact that the applicant is now claiming to use these "new" RLs to increase the height of the proposed pool. If a pool is to be approved in this rear yard location close to the rear boundary and to our property then it must be lowered to reflect the previous natural ground level and not built up out of the ground thus further decreasing our privacy and amenity.

According to the council web site, there is only one current development consent for 1 Cutler Rd Clontarf -

- 1st DA 1996 / 0040 4.3 x 4.3 Spa (And this spa was never built)

However substantial alterations were undertaken in 2015 by the previous owners and there is no record shown on the NBC DA Tracker web site. There was no DA for the substantial alterations made to 1 Cutler Rd in 2015. We can only assume that no approval was obtained, and no Occupation Certificate issued.

This involved extensive changes to the house (mainly inside) but also substantial changes to the land around the house. There was terracing of the land in the front yard, but the changes to the back yard are relevant to our concerns with this new DA. The new DA 2023-1678 is using RL's from the non-complying development, which was completed in 2015.

See attached photos -

- Photos 1a & 1b - Taken in Sept 2014 when the paling fences were put in between 1 Cutler Rd and both 2 & 4 Barrabooka St. This shows the ground level is at the same level on both the Cutler & Barrabooka sides of the fence. These fences were installed just prior to 1 Cutler being sold late 2014. Prior to 2014, there was no dividing fence between 1 Cutler & 2 Barrabooka.
- Photos 2a, 2b & 2c - Show the retaining walls being built in 2015, there was another capping layer on the wall in the photos. This retaining wall running parallel to the back fence varies between approx. 0.75 - 1.5m in height. You can get an indication of the height compared to the height of the paling fence. While there is now mulch / soil etc against the base of the paling fence, the natural ground level is substantially below the RL60.5 & 59.5 on the DA01 drawing.
- Photo 3 – This is the Aerial view of 1 Cutler in the sales brochure in 2016. The white line around the perimeter is the top capping of these retaining walls indicating all the change in levels of this property.

There are also aspects to our privacy concerns that may not be obvious unless you live here. Currently there are relatively tall leafy palm type trees, on the 1 Cutler side of the paling fence of both 2 & 4 Barrabooka, these trees were planted between the 2015 retaining wall & the paling fence. There are also a couple of tall older trees on the 2 Barrabooka side of the paling fence. There are rock shelves outcrops at the fence line & into the 2 Barrabooka side, so the existing tree roots run between the rock shelves & there is limited opportunity to planting more trees on the 2 Barrabooka side. These rock shelves are typical over the total headland area.

These existing trees, provide some screening between 1 Cutler Rd & 2 Barrabooka. Photos of these trees may show up in the DA application. **However, just about all the trees on the Cutler side, will not be there if they progress with this DA, as the excavations for the new retaining wall & pool will take out these trees.**

Site Plan DA01

1. They are showing the existing boundary planting with some random tree type lines. As above these existing trees, will not exist if this DA goes ahead.
2. They are also showing a new retaining wall closer to the paling fence. There is also a line to show the northern section of the existing (2015) retaining wall, remaining at the northern end. With no other ref to this older retaining wall or the RL's.

3. On DA01, the RL's at the western fence are incorrect & misleading. From the drawing you could think that the land is basically level from the house to the back fence. The back yard is only level because the retaining walls were installed in 2015 (without a DA). Running parallel to the back fence this retaining wall varies between approx. 0.75 - 1.5m in height. While there is now mulch / soil etc against the base of the paling fence, the natural ground level is substantially below the RL60.5 & 59.5 on the drawing.

These retaining walls were constructed by the owners of 1 Cutler prior to the current owners. See attached photo ref.

This DA architect is trying to paint a false picture re these substantial differences in height on the drawings the RL of the natural land. They have used the GF ~RL60.5 as the design height over the total back area. They have then increased the height of the proposed new pool deck to RL61.13 & the proposed upper level by 1.23m to RL64.55. It also looks like they have used these artificial land RL to achieve the 8.5m height dotted line on the drawings.

The proposed new pool is part of DA2023-1678. However,

- **There is very little detail regarding this proposed pool, other than just an outline of the pool a pencil line wide.** It is probably a concrete pool structure, however there are no specific details. As an engineer I am aware of what occurs with pool construction.
- The new pool wall construction will be significantly closer to the Paling fence, as well as above the height of the old retaining wall. We note that one of council documents has mentioned they will need to provide capture & pumping of water back to Cutler Rd, but there are also likely to be substantial changes to the underground flow of water with the new pool installation. Where is this pump and equipment to be located? What are the noise levels?
- With the proposed new pool deck RL61.13, people standing on the pool deck, will also be able to look into, the rooms mentioned above, on the eastern side of our house.

A few years back a flood light was installed on the back fascia board of 1 Cutler, this was like a search light, into all our back rooms mentioned above. When we mentioned this at the time the owners changed the direction downwards not lighting up our room. **With this proposed closer & extra high balcony there is a high probability of lighting especially down towards their proposed pool, will once again resemble a search light into our bathrooms & bedrooms.**

We ask Northern Beaches Council to:

- 1. Investigate** the apparent unauthorised construction of retaining walls and placement of fill to increase the levels of the rear yard.
- 2. Not allow the unauthorised raised RLs of the rear yard to be accepted** as the appropriate RLs to measure from for any proposed consent including the proposed pool.
- 3. Refuse this DA2023-1678. proposal in its current form. OR**
- 4. At the very least, Defer the application and council require –**
 - **Significant design modifications to the DA drawings to resolve each of our objections, particularly invasion of privacy and loss of amenity to our home and its occupants.**
 - **The proposed pool be relocated elsewhere on the site.**

Yours faithfully,

Sya & Rob Wilson









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