

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed Demolition of Existing Front Fence &
Construction of New Front Fence with side boundary returns

57 Robertson Road Scotland Island NSW 2105
Lot 121 in DP 12749.

Owner: Mr Ricardo Russo

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Planning Documents

The subject land is zoned E3 - Environmental Management under the Pittwater LEP 2014.

The Pittwater DCP 2014 applies to the land as does State Environmental Planning Policy (Coastal Management) 2018.

The use of the land for the purpose of a dwelling house is permissible with consent. The proposed fence is ancillary to the use for the purpose of a dwelling.

The Land

The subject site is known as No.57 Robertson Road Scotland Island and is comprised by Lot 121 in DP 12749.

The land is north-facing land is located on the waterfront on the northern side of Scotland Island, to the west of Catherine Park.

The road reserve rises up to the common southern boundary to the subject site. Absent some form of screening, persons standing upon the road reserve at the boundary have significant overlooking of the land.

The roadway is not sealed and its use by vehicles generates airborne dust. The roadway also extends to the common boundary which provides no buffer between the surface and the subject land.

The land rises from the Mean High Water Mark at a steep grade to around the 4m AHD contour before easing to a grade of 15 degrees in the central area of the land around the dwelling then to approximately 10 degrees in the front setback to the street alignment with Robertson Road.

Erected upon the Land is a small dwelling of approximately 120 square metres with extensive covered verandahs which take advantage of expansive views of Pittwater. The dwelling is timber framed construction, located upon a higher more level portion of the Land, set back further from the water than nearby neighbours and consequently closer to the road reserve.

The Land has the benefit of a development consent (DA No. 2018/0893) for alterations and additions to the dwelling.

Erected within the setback to Robertson Road are two rainwater tanks to serve as the necessary water supply for the dwelling in the absence of water mains supply. The rainwater tanks stand upon a levelled portion of the land, retained by a treated pine wall between those tanks and the front boundary of the land.

The available space between the retaining wall and the front boundary to the road reserve of Robertson Road is limited and variable, approximately 1000mm.

The Application

The development application proposes the demolition of the existing slatted hardwood natural branch front fence and the reconstruction of a similar fence albeit in a location further from the front boundary and at a lower height than existing.

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The location of the proposed fence is detailed upon the architectural plans included in the development application. The fence is proposed immediately to the high side of the existing retaining wall, generally parallel to the boundary, returning 2.54 metres down the eastern boundary to screen the water tanks from view from the eastern neighbour and from the south-east upon Robertson Road.

The fence is also to step back on the western end of the site beyond the entrance pathway from Robertson Road. The fence is to include a gate which will be more dense at the existing stone path and steps to the dwelling, so that the owner's dog cannot see passers-by on the road reserve.

The front fencing serves several purposes including:

1. Mitigating the dust nuisance arising from the use of the Council's unsealed road reserve by motor vehicles, carts, and service vehicles;
2. Mitigating the actual and perceived amenity impact arising from the pedestrian use of the elevated roadway in the road reserve;
3. Screening the rainwater tanks located within the front setback.

Pittwater DCP CI D8.10 Fences:

This application proposes a side boundary fence between the dwelling and the front boundary upon the western boundary, a street fence within the front building setback near the southern boundary and a short return along the eastern boundary – also within the front building setback.

As described above, this dominant element in the setback to Robertson Road are two large metal water tanks that form part of the water catchment and storage system required for dwellings on Scotland Island. Tanks located within the front setback are not uncommon upon waterfront properties upon Scotland Island.

The proposed screening of the structures minimises the impact these structures have upon the streetscape and viewed from the public space of Robertson Road.

The existing fence is of variable height to 1.8 metres in height. The sharp fall from the elevated roadway to the property reduces the effective height of the fence relative to the location for which overlooking can take place.

The proposed fence will be no greater than 1800mm in height. It will be located approximately 400mm further away from the boundary and at a level approximately 300mm lower than where the fence presently stands. The effective height of the fence measured from the relative level of the road reserve is variable 1200mm but does not exceed 1500mm.

At the eastern boundary the fence will be set back 1400mm from the Robertson Road boundary. At the western boundary, the fence will be set back 1000mm from the Robertson Road boundary.

Native screen plants already exist along the road frontage upon the subject land. Further planting is proposed but outside the scope of this development application.

As depicted upon the architectural plans, the lowering of the relative level of the fence

enables views from the roadway to the roofline of the existing dwelling and the that provides expansive water views to the east and west of the dwelling.

The land is proposed to be fully enclosed by fencing so fauna can traverse the site. If smaller ground dwelling marsupials exist on Scotland Island, they may traverse beneath the fence.

The proposed fence will also enable the applicant to restrain his dog within the property.

Fence Construction Materials

The proposed fencing shall be hardwood posts and irregular Rose Gum vertical slats in a hardwood frame. The proposed gate will be more dense timber material to avoid the applicant's dog from having visibility of passers-by from the pathway within the site.

The form, materials and colouring of the proposed fencing shall complement the existing fencing.

View sharing

Views from neighbouring properties are unaffected by the proposed fencing.

The views to the water around the existing roof lines of the dwelling are improved by the proposed development over the existing fencing.

Visual privacy

The proposed fence shall enhance the actual and perceived impacts in terms of visual privacy for the subject land and its immediate neighbours.

Land Vegetation

No trees are to be removed for this fence proposal.

Bushfire Risk

The fence materials meet the BAL 12.5 requirements of AS 3959-2009 plus addendum to Appendix 3 of the Planning for Bushfire Protection.

Proposed fence construction

Timber frame in hardwood per AS3959-2009 Appendix E Table E2, or timber treated with fire-retardant paint.

Timber slats – in *Eucalyptus grandis* Rose Gum

The whole of the land is required to be managed as an Asset Protection Zone.

SEPP COASTAL MANAGEMENT 2018

The State Environmental Planning Policy (Coastal Management) 2018 applies to the land. Clause 13 of the SEPP deals with coastal environment areas and is relevant. It states:

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
 - (b) *coastal environmental values and natural coastal processes,*
 - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
 - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
 - (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
 - (f) *Aboriginal cultural heritage, practices and places,*
 - (g) *the use of the surf zone.*
- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) *the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or*
 - (b) *if that impact cannot be reasonably avoided--the development is designed, sited and will be managed to minimise that impact, or*
 - (c) *if that impact cannot be minimised--the development will be managed to mitigate that impact.*

As to the considerations under Clause 13, the Council can be satisfied that the proposed fences will have no adverse impact on the integrity and resilience of the biophysical, hydrological and ecological environment of Scotland Island and the proposed fence is consistent with other similar fences in the locality.

Clause 14 of the SEPP deals with coastal environment areas and is relevant. It states:

- (1) *Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:*
 - (a) *has considered whether the proposed development is likely to cause an adverse impact on the following:*
 - (i) *existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*

- (ii) *overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) *the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) *Aboriginal cultural heritage, practices and places,*
- (v) *cultural and built environment heritage, and*
- (b) *is satisfied that:*
 - (i) *the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
 - (ii) *if that impact cannot be reasonably avoided--the development is designed, sited and will be managed to minimise that impact, or*
 - (iii) *if that impact cannot be minimised--the development will be managed to mitigate that impact, and*
- (c) *has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

As to the considerations under Clause 14, the Council can be satisfied that the matters relevant to consideration do not arise in respect to the proposed fences.

Pittwater DCP 2014

Clause D8.5 of the DCP sets out the building line controls.

Amongst others, the following objectives are relevant to the proposal:

- Achieve the desired future character of the Locality
- Equitable preservation of views and vistas to and/or from public/private places
- Vegetation is retained and enhanced to visually reduce the built form
- To preserve and enhance the rural and bushland character of the locality
- to encourage attractive frontages and to improve pedestrian amenity

In the E3 Environment or Management zone, the building line is 6.5 m or established building line, whichever is the greater.

The “established building line” is not defined.

Under the Controls, the DCP seeks to prohibit front fences. It states:

“Built structures, other than driveways (on Scotland Island), fences and retaining walls are not permitted within the front building setback.”

It is not the role of a DCP to prohibit development. That rests in the Local Environmental Plan.

Clause D 8.5 also allows for Variations. The DCP provides:

“Where the outcomes of this control are achieved, Council may accept a variation to the building lines in the following circumstances:

- *Considering established building line;*
- *degree of cut and fill;*
- *retention of trees and vegetation;*
- *where it is difficult to achieve acceptable levels for building;*
- *for narrow or irregular shaped blocks;*
- *whether topographic features of the site need to be preserved;*
- *where the depth of the property is less than 20 metres.*

...

... rainwater tanks are permitted within the front building setback provided they do not exceed 1 metre in height above ground level (existing).”

Scotland Island has a number of properties with rainwater tanks within the front setback which are greater than 1 metre in height.

Scotland Island also has a number of properties which are fenced to a height of up to 1.8 metres forward of the building alignment upon the side boundaries and front boundary. In respect of these properties, they include a number which are located on the low side of Florence Terrace - being properties with waterfront access.

In respect of the subject proposal, the site is steep, the Council has graded its road carriageway up to the common boundary with the subject land such that the roadway surfaces higher than the subject land, and there is a risk of pedestrians falling from the elevated road level into the applicant's land and potentially, over the retaining wall within the land. The proposed fence also serves the purpose of a protective barrier.

Clause D8.6 of the DCP provide similar controls for the side and rear building line. The Outcomes are similar to those in clause D8 .5 but include the following:

To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties

Substantial landscaping, a mature tree canopy and attractive streetscape

Vegetation is retained and enhanced to visually reduce the built form

Variations are provided for in clause D8.6 *“where it is shown that the outcomes of this clause are achieved.”*

The proposed front fencing achieves the outcomes of clause D8.6 by providing a reasonable level of privacy, amenity and solar access to the subject land in the adjoining parcel, particularly addressing the privacy issues arising from the existing elevated pathway of the subject land. Existing vegetation is proposed to be retained and that

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vegetation within the setback between the fence and the front boundary is proposed to be complemented with appropriate planting.

Clause D8.10 of the DCP sets out the controls in respect to fences upon the Scotland Island Locality.

The Outcomes of clause D8.10 are relevantly as follows:

To achieve the desired future character of the Locality
To discourage the use of fencing
To provide fencing only where necessary and to ensure that such fencing is sympathetic to the bushland setting of the locality
To ensure fences compliment (SIC) and conserve the visual character of the street and neighbourhood
Fences, where provided, are suitably screened from view from a public place
To ensure an open view to and from the waterway is maintained

The proposed fencing satisfies each of these Outcomes. Whilst the control expressly discourages the use of fencing, the unsealed nature of the Council's roadway and its elevated proximity to the front boundary, along with the local topography and risk to the general public using that roadway, and having regard to each of the amenity considerations put forward on behalf of the applicant in support of the need for the fencing, the proposal is warranted in the circumstances of the case.

The design of the fence is complimentary to the natural landscape and includes use of naturally occurring materials. Views of the waterway are preserved by the design of the proposed fence.

There are relevant Controls under clause D8.10:

(a) Front fences and side fences (within the front building setback)

Front fences and side fences (within the front building setback) shall not be permitted other than for blocks with a water frontage.

For blocks with a water frontage, front fences and side fences (within the front building setback) shall have a maximum height of 1 metre above the existing ground level, and shall be set back 1.5 metres from the property boundary. Landscaping as to screen the fence on the foreshore side.

These Controls appear to be anomalous because the DCP elsewhere expressly refers to a foreshore building line. The question arises as to what is the "front building setback". The subject property has a frontage at the Mean High Water Mark to Pittwater, and a frontage to Robertson Road. Where a foreshore building line is identified, the "front building setback" is taken to be the setback to Robertson Road.

The proposed fence is largely setback from the Robertson Road boundary to its greatest extent against an existing retaining wall located approximately 1.0-1.2 metres from the front boundary. A 1.5 metre setback cannot reasonably be achieved.

The proposed height is greater than the 1 metre height. For reasons expressed elsewhere

in this Statement, a front fence having a height of 1.0 metre in the locations proposed will have an effective height above the finished level of the roadway as low as 600mm and will not serve the purpose for which it was intended, including the screening of the rainwater tanks within the front setback.

Mr Steve Crosby