



northern  
beaches  
council

# MEMORANDUM

**DATE:** 17 October 2023

**TO:** Northern Beaches Local Planning Panel (NBLPP)

**CC:** Peter Robinson, Executive Manager Development Assessment

**FROM:** Nick Keeler, Planner

**SUBJECT:** Item No. 5.3 - DA2023/0322 - 109 Florence Terrace, Scotland Island

**TRIM REFERENCE:** 2023/674802

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The purpose of this memo is to advise the Panel on the receipt of additional information after the publishing of the meeting agenda.

The applicant has submitted additional information in relation to the request to vary the Limited Development on Foreshore Area Development Standard of Clause 7.8 pursuant to clause 4.6 of PLEP 2014.

The applicant's amended clause 4.6 variation request is supported by an amended site plan that indicates the location of the foreshore building line. The additional information seeks to amend Council's recommendation to delete the upper deck, retaining walls and garden beds adjacent to the existing cabana as these structures were not originally identified as being subject to the clause 4.6 variation request but are located within the foreshore area.

## **Applicant's amended Clause 4.6 request**

The applicant has provided the following environmental planning grounds to sufficiently warrant variation to clause 7.8:

- *The topography of the site rises steeply from the water to the dwelling. Adequate and safe access to the dwelling from the water is important for the functioning and amenity of the dwelling. The topography also justifies the works proposed to retaining walls, which are required to support/retain the slope of the land.*
- *The retaining walls are considered necessary to ensure the stability of the site in this steep location. The walls will help minimised erosion and sedimentation entering the waterway.*
- *With regard to the upper level deck (RL 10.95) adjacent to the cabana, this deck is created from the proposed retaining wall which is deemed necessary works to ensure a high level of site stability and minimise erosion and runoff into the waterway. The deck is to be constructed*

*Envirowalk Micromesh to allow for soft landscaping below and limit impacts to the natural environment.*

- The upper level deck is associated with the existing cabana which does not include any private open space that takes advantage of the waterfront location. The cabana deck is setback significantly from the waterfront and will not result in unreasonable visual or amenity impacts. Existing significant trees in the foreshore area will provide additional softening and screening of the deck and retaining walls. Providing a modest area of decking associated with the Cabana is not unreasonable in this instance.*
- The foreshore works would not be seen as jarring or offensive within the landscape considering the scale of existing structures within the foreshore area on adjoining sites. The landscape character and canopy trees will continue to be the primary character of the area.*
- The area identified as a 'deck' is confined to the northern corner of the foreshore area. The area to the south provides a connection between the waterway access stairs and considered an exception within the FBL. The existing sandstone retaining wall provides a level terraced platform in any case and, as such, proposing a slightly elevated micromesh platform is not considered unreasonable. It will provide a level surface and include handrails to ensure safety.*
- The improvements to waterway access will increase the amenity of the site for the occupants while having no adverse impacts on the surrounding natural environment nor the amenity of the adjoining dwellings. The terrace created by the existing sandstone retaining wall is akin to a viewing platform rather than used for entertaining. The size of the terrace does not lend itself to be used for entertaining. As such, this terrace does not give rise to unreasonable amenity impacts to neighbours with regard to privacy.*
- The terrace will use Envirowalk Micromesh and be elevated above the ground. The aperture of the mesh ensures it is permeable and will allow for soft landscaping beneath. The impact to the local environment is to be minimised with the use of this material.*
- The proposed timber sleeper retaining walls within the FBL are of a reasonable scale (approximately 1m) and utilise natural materials which will complement the foreshore area. The significant trees located along the foreshore will provide further screening of the retaining walls and is consistent with the Zone and the desired future character of the Scotland Island locality.*
- The extent of the breach is considered minor and will not have any unreasonable impacts on neighbours, local environment or the scenic value of the foreshore area when viewed from the water. The existing trees along the foreshore area will be retained and will provide softening and screening of the proposed works. The trees will continue to be the dominant character when viewed from the water.*

## **Council Response**

In response to the applicant's variation request, consideration of the proposal in light of the objectives of the clause 7.8 is provided below:

(1) The objectives of this clause are as follows:

*(a) to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area,*

### Comment:

The proposed works within the foreshore area are generally well integrated with landscape features and are not of a scale that would have an unreasonable impact on foreshore processes.

However, despite the applicant's justification, it is considered that the proposed upper deck does not adequately achieve the requirement to not impact upon the significant and amenity of the foreshore area. The existing cabana structure is located within the foreshore area and the provision of a new deck will reduce the ability of the naturally landscaped, despite the

deck being constructed using Envirowalk Micromesh. As such, the upper deck is not supported.

The retaining walls and garden beds associated with the upper deck are acceptable as the retaining walls provide greater land stability and the garden beds provide vegetated areas within the foreshore area.

As such, the proposal, subject to deletion of the upper deck, will not have an unreasonable impact upon the significance and amenity of the foreshore area.

The proposal satisfies this objective.

*(b) to ensure continuous public access along the foreshore area and to the waterway.*

Comment:

The proposed works are entirely on private property would not impact upon public access along the foreshore area and to the waterway. The proposed works are also well separated from the waterway area.

The proposal satisfies this objective.

As a result of the recommended reinstatement of the upper retaining walls, the "Required Screen Planting" condition recommended by Council's Landscape Officer is to be added to the recommended conditions of consent as the retaining walls subject to this condition are now supported.

**Recommendation**

**A.** The Panel note the additional information.

**B.** The following condition is recommended to replace condition 9 in the recommendation in the assessment report:

**Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The deck at RL 10.95 is not approved and must be deleted. The area is to be retained as soft landscaping.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the works minimise unreasonable impacts upon the foreshore area.

**C.** The following condition is recommended to added in the recommendation in the assessment report:

**Required Screen Planting**

Screen planting shall be installed in accordance with the following:

- a) in the new garden bed to the east of the new deck at RL 10.95 for the full width of the garden bed; selected species shall be locally native and capable of attaining a mature height of at least 1500mm at maturity,
- b) at the base of the retaining wall supporting the aforementioned new garden bed (approximately RL 8.40) for the full width of the retaining wall; selected species shall be locally native and capable of attaining a mature height of at least 1000mm at maturity,

- c) at minimum three (3) shrubs are to be installed at each location and be of a minimum container size of 200mm at planting, in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- d) where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the screen planting has been installed in accordance with any conditions of consent.

Reason: To maintain environmental amenity.