

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0722
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Responsible Officer:	Ashley Warnest
Land to be developed (Address):	Lot 302 DP 16362, 296 Whale Beach Road PALM BEACH NSW 2108
Proposed Development:	Construction of a privacy screen
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Schmidt Property Ltd
Applicant:	DM Planning

Application Lodged:	05/07/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	16/07/2019 to 30/07/2019
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 6,500.00
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PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for the installation of a 2.85m long X 2.75m high privacy screen on the south-eastern elevation of the first floor deck.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the

- development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - C1.3 View Sharing

Pittwater 21 Development Control Plan - D12.8 Building envelope

Pittwater 21 Development Control Plan - D12.10 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot 302 DP 16362 , 296 Whale Beach Road PALM BEACH NSW 2108
Detailed Site Description:	The subject site consists of one (1) allotment located on the southern side of Whale Beach Road. The site is irregular in shape with a frontage of 20.725m along Whale Beach Road and a depth of 45.4m. The site has a surveyed area of 734.9m². The site is located within the E4 Environmental Living zone and accommodates an existing two to three storey residential dwelling house. The site rear of the site contains several trees with several 2m-3m tall shrubs located within Council's road reserve. <u>Detailed Description of Adjoining/Surrounding Development</u> Adjoining and surrounding development is characterised by similar two to three storey residential dwellings.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- Modification Application - N0422/10/S96/1
Modification of Development Application N0422/10 for the alterations and additions to an existing dwelling house. Determined 17/12/2013.
- Development Application - N0422/10
Alterations and additions to an existing dwelling house. Determined 11/02/2011.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning	None applicable.

Section 4.15 Matters for Consideration'	Comments
agreement	
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report. In summary, the proposed development is found to be consistent with the desired future character for the locality and relevant locality specific controls. The proposed alterations and additions are respectful to the site and the adjoining neighbours. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact

Section 4.15 Matters for Consideration'	Comments
	The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development as the key characteristics of the site, including its location, orientation, aspect, character, size, and topography make the site suitable for residential development of the type proposed, which is consistent with the zoning of the land and predominantly complying with the DCP controls that applicable to the subject site.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest. The public interest is best served by the orderly and economic use of land for purposes which are permissible and which, in their design, configuration and operation, satisfy the intent of the relevant controls. In the subject case, the proposal is in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Bick & Steele	Level 35 Tower One International Towers 100 Barangaroo Avenue BARANGAROO NSW 2000

The following issues were raised in the submissions and each have been addressed below:

- **View loss of Barrenjoey Headland and Barrenjoey Lighthouse**

Comment

A site inspection at 109 Powderworks Road was conducted to address the view loss impact as a result of the development. A view loss assessment was conducted by utilising the four step process as outlined within Tenacity Consulting v Waringah [2004] NSWLEC 140. The extent of

impact on available views is ranked as moderate-severe. Further discussion on view sharing is located in section C1.3 of this report.

- **No balance of amenity between privacy gained and views to be lost**

Comment

A floor to ceiling privacy screen is excessive and an alternative design with a reduced height of the privacy screen would achieve a similar level of privacy sought without significantly impacting on available views. To ensure reasonable view sharing is achieved a condition of consent will be imposed for the privacy screen to have a maximum height of 1.3m above the existing floor level. A balance can be achieved as this will provide for a level of privacy to the residents of the subject site without impacting on the iconic views of Barrenjoey lighthouse.

- **Inconsistency in description of materials to be used**

Comment

A condition of consent has been imposed for the 1.3m high privacy screen to be constructed of frosted glazing or metal louvres.

- **Set a precedence for further screening and development**

Comment

Any future screening or development that requires development consent will be subject to a development application and will be assessed against the relevant planning controls.

- **Potential for screen to be constructed and managed outside approved consent**

Comment

The privacy screen is to be constructed in accordance with the consent. Any works conducted outside the consent should be reported to the Principle Certifying Authority or Council's Compliance Team.

REFERRALS

Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	This application has been assessed against Pittwater DCP B4.5 Landscape and flora and fauna enhancement category 3 land. The proposal is for the installation of a privacy screen along part of the south-eastern edge of the existing first-floor deck. No impacts to biodiversity values. Council's Natural Environment - Biodiversity section supports the application.
NECC (Coast and Catchments)	The application has been assessed in consideration of the Coastal Management Act 2016, State Environmental Planning Policy (Coastal Management) 2018, Pittwater LEP and DCP. The proposed development meets Clauses 14 of the Coastal Management SEPP and relevant clauses of the Manly LEP and DCP.

Internal Referral Body	Comments
	The impacts on the coastal environment have been assessed as acceptable subject to conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

13 Development on land within the coastal environment area

- (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.*

Comment

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed alterations and additions do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

- (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.*

Comment

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

14 Development on land within the coastal use area

- (1)
- (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.*

Comment

The proposal does not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space will not be adversely effected and the surrounding area consists of examples of similar developments.

The land adjacent to the subject site is mapped as having a high likelihood of containing Aboriginal heritage sites. The foreshore area is heavily modified and no sites have been identified within the vicinity of the proposed development.

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. A condition of consent has been placed to stop works and report the findings to the AHO if any Aboriginal Engravings or Relics are unearthed.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

It is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	7.5m (top of screen)	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	6.5m	N/A	N/A	Yes

Side building line	2.5m (north-west)	N/A	N/A	Yes
	1m (south-east)	1.7m	N/A	Yes
Building envelope	3.5m (north-west)	N/A	N/A	Yes
	3.5m (south-east)	Outside envelope	29.3%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.12 Palm Beach Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.5 Landscape and Flora and Fauna Enhancement Category 3 Land	Yes	Yes
B5.1 Water Management Plan	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B5.13 Development on Waterfront Land	Yes	Yes
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
B8.6 Construction and Demolition - Traffic Management Plan	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.2 Safety and Security	Yes	Yes
C1.3 View Sharing	No	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D12.1 Character as viewed from a public place	Yes	Yes
D12.3 Building colours and materials	Yes	Yes
D12.5 Front building line	Yes	Yes
D12.6 Side and rear building line	Yes	Yes
D12.8 Building envelope	No	Yes
D12.10 Landscaped Area - Environmentally Sensitive Land	No	Yes
D12.13 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D12.14 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

C1.3 View Sharing

During the assessment of this application, a submission was received from the owners of 294 Whale Beach Road, whom raised concern with the development on the grounds of view loss. The views to the north that will be effected are identified within Figure 1 below.



Figure 1: View from the second storey deck of 294 Whale Beach Road

An assessment of the views likely to be impacted upon as a result of the privacy screen is undertaken as follows:

Merit consideration

The development is considered against the underlying Objectives of the Control as follows:

- To allow for the reasonable sharing of views.

Comment

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140, are applied to the proposal.

1. Nature of the views affected

"The first step is the assessment of the views to be affected. Water views are valued more highly than land views. Iconic views (e.g. 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, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured".

Comment on Principle 1

The views from 294 Whale Beach Road that are the concern are to the north of the property and include views of Barrenjoey Lighthouse and Headland and the water and land interface of North Palm Beach, as identified within Figure 1. The views of the water and land interface are partially obstructed by the existing building. For the purposes of this assessment views of Barrenjoey Lighthouse are considered iconic.

To the north-east of 294 Whale Beach Road views include the Pacific Ocean and Bouddi National Park. The views will not be impacted by the proposal. The views to the north-east are identified within Figure 2 below.



Figure 2: View from the second storey deck to the north-east

2. What part of the affected property are the views obtained

“The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic”.

Comment on Principle 2

At the property of 294 Whale Beach Road views to the north, of Barrenjoey Lighthouse and North Palm Beach are gained from a seated position internally from the second storey living and dining area. These views are identified within Figure 3 below. Externally these views are gained from a seated and standing position from the second storey deck that adjoins the living and dining area. Partial views are gained from the first floor balcony that adjoins two bedrooms. These views are gained across a side boundary.



Figure 3: View from internal living area of 294 Whale Beach Road

Views to the north-east, of the Pacific Ocean and Bouddi National Park, are gained internally from the living, dining, and kitchen area of the second storey and externally from the adjoining deck. On the first floor the views are gained internally from two bedrooms and externally from the adjoining deck. These views are gained across a front boundary.

3. Extent of impact

“The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but

in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating”.

Comment on Principle 3

All views to the north of of Barrenjoey Lighthouse and North Palm Beach will be affected by the proposal. Given the proposal is to impact iconic views the extent of impact on available views is ranked as moderate-severe.

4. Reasonableness of the proposal that is causing the impact

“The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. 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.”

Comment to Principle 4

The proposed privacy screen does not comply with the relevant building envelope requirements. A floor to ceiling privacy screen is excessive and an alternative design with a reduced height of the privacy screen would achieve a similar level of privacy sought without significantly impacting on available views. A reduction in the height of the privacy screen would also minimise the extent of the building envelope breach. Having regard to this and the resultant impact of the proposal on available views, the proposal is considered unreasonable in its current form.

- *To encourage innovative design solutions to improve the urban environment.*

Comment

As identified above, a floor to ceiling privacy screen is excessive and an alternative design with a reduced height of the privacy screen would achieve a similar level of privacy sought without significantly impacting on available views. To ensure reasonable view sharing is achieved a condition of consent will be imposed for the privacy screen to have a maximum height of 1.3m above the existing floor level. A portion of the water and land interface of North Palm Beach may be partially obstructed when viewed internally within the living room at a seated position. A reasonable outcome can be achieved as this will provide for a level of privacy to the residents of the subject site without impacting on the iconic views of Barrenjoey lighthouse.

- *To ensure existing canopy trees have priority over views.*

Comment

Not vegetation is impacted or proposed for removal as part of the proposed works.

Having regard to the above assessment and recommended conditions of consent, it is concluded that the proposed development is consistent with the relevant objectives of C1.3 of P21 DCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.8 Building envelope

The proposed privacy screen does not comply with the building envelope requirements along the

southern elevation. Council may consider a variation where it can be demonstrated that the objectives of the clause can be achieved. The objectives are achieved in the following ways:

- *To achieve the desired future character of the Locality.*

Comment

The desired future character of the Palm Beach Locality is maintained.

- *To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment.*

Comment

The proposed privacy screen will not adversely affect the existing streetscape and is consistent with the existing built form.

- *To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment.*

Comment

The proposed privacy screen does not adversely affect the existing natural environment features.

- *The bulk and scale of the built form is minimised.*

Comment

A floor to ceiling privacy screen is excessive, a screen with a reduced height will minimise the bulk of the proposal whilst achieving a reasonable privacy outcome. To ensure the bulk and scale of the proposal is minimised a condition will be imposed for the maximum height of the privacy screen to be reduced to 1.3m above the existing floor level.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment

The imposed condition for the reduction of the privacy screen will ensure view sharing is achieved. This is discussed further within section C1.3 of this report.

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

Comment

The proposal has been designed to maximise amenity for the occupants of the dwelling whilst maintaining a reasonable level of privacy, amenity and solar access to the adjoining properties.

- *Vegetation is retained and enhanced to visually reduce the built form.*

Comment

No vegetation is proposed for removal as part of this application.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of P21 DCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

D12.10 Landscaped Area - Environmentally Sensitive Land

The shortfall in landscaped area on the site is as existing. The proposed privacy screen does not change the portion of landscaped area. The existing arrangement is therefore considered reasonable in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0722 for Construction of a privacy screen on land at Lot 302 DP 16362, 296 Whale Beach Road, PALM BEACH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan DWG 0519 - 1/3	May 2019	Shimdesign
Floor Plan DWG 0519 - 2/3	03/07/2019	Shimdesign
Elevation DWG 0519 - 3/3	0307/2019	Shimdesign

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (c) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (d) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
 - 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. Reduced Height and Materials of the Privacy Screen

The privacy screen is to be amended as follows:

- a) The screen is to have a maximum height of 1.3m above the finished floor level.
- b) The screen is to be constructed of either frosted glazing or metal louvres to complement the finishes and colours of the building.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure the protection of neighbouring views and that the screen complements the building.

6. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Ashley Warnest, Planner

The application is determined on 31/10/2019, under the delegated authority of:



Steven Findlay, Manager Development Assessments