



Statement of Environmental Effects

Privacy screen



296 Whale Beach Road, Palm Beach

Report prepared for
Philip Schmidt

July 2019

Table of Contents

1	Introduction	3
2	The site and locality	4
2.1	Site description and history	4
2.2	Surrounding locality	6
2.3	Site history	6
3	The proposal.....	8
4	Environmental planning assessment.....	8
4.1	Environmental Planning and Assessment Act 1979	8
4.2	State Planning Policy Controls Overview	10
4.2.1	State Environmental Planning Policy No.55 – Remediation of Land	10
4.2.2	State Environmental Planning Policy (Infrastructure).....	10
4.3	Numeric Controls Summary Table	11
4.4	Pittwater Local Environmental Plan 2014	12
4.5	Pittwater Development Control Plan 2014	14
4.5.1	Section A Introduction	14
4.5.2	Section B General Controls	15
4.5.3	Section C Design Criteria for Residential Development	15
4.5.4	Section D Locality Specific Development Controls	18
5	Conclusion	20

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1 Introduction

This Statement of Environmental Effects (SEE) has been prepared on behalf of Schmidt Property Pty Ltd to accompany a Development Application (DA) for a privacy screen at 296 Whale Beach Road, Palm Beach.

This SEE has been prepared and is submitted to Northern Beaches Council (Council) pursuant to the provisions of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This SEE describes the site, its surroundings and describes how the proposal addresses and satisfies the objectives and standards the Pittwater Local Environmental Plan 2014, the Pittwater Development Control Plan 2014 and the heads of consideration listed in Section 4.15 of the Environmental Planning and Assessment Act 1979 (as amended).

This SEE demonstrates that the proposal is generally consistent with the relevant provisions of the:

- *Pittwater Local Environment Plan 2014*
- *Pittwater 21 Development Control Plan*
- *State Environmental Planning Policy 55 (Remediation of Land)*
- *State Environmental Planning Policy (Infrastructure)*

This SEE concludes that the proposal is satisfactory when assessed against all relevant requirements. It will make a positive contribution to the streetscape and will result in improved amenity for the existing occupants, with no unreasonable environmental or amenity impacts.

We recommend that Council approve the development application subject to the content and findings outlined in this SEE.

2 The site and locality

2.1 Site description and history

The site is located within the Northern Beaches Local Government Area.

The land is legally described as Lot 302, DP 16362 and is known as 296 Whale Beach Road, Palm Beach. It has an area of 795.8m²

The site is irregular in shape and is located on the south-western side of Whale Beach Road. The site has a 20.75m street frontage to Whale Beach Road and depth of between 42.7m and 47.8m.

The location of the site is shown at Figures 1 and 2.

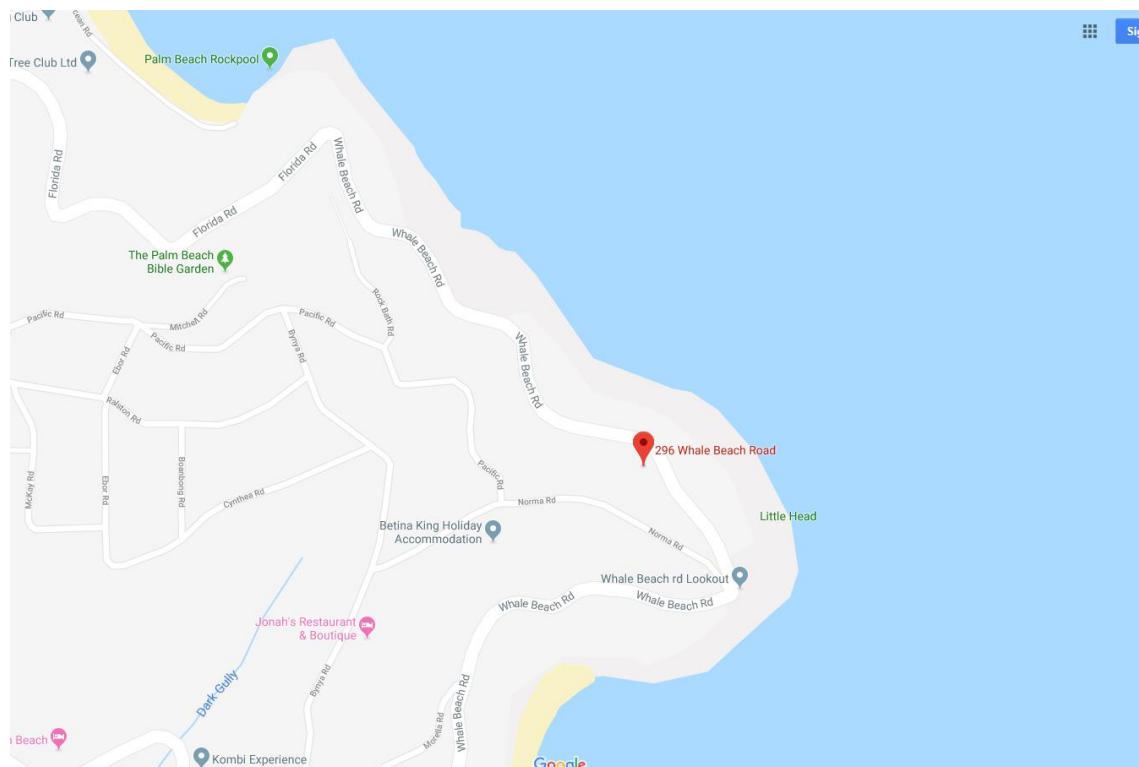


Figure 1. Location of the site (Source: Google Maps)



Due to the expansive views available to the north, the outdoor decks are orientated towards the front of the dwelling. The upper level deck leads off the kitchen, dining and living areas and is therefore the primary open space area.



Figure 3. Subject site (with 294 Whale Beach Rd shown to the left)

2.2 Surrounding locality

The locality is generally elevated with views of the ocean toward the east.

The general vicinity of the site is characterised by irregular shaped allotments within a natural setting, with a mix of low-density residential developments within landscaped settings. The design of these dwellings reflect the sloping terrain and significant ocean vistas and retains a dominance of natural features and vegetation.

2.3 Site history

On 12 April 2005, Development Application N0245/03 for alterations and additions to an existing dwelling, was approved.

On 15 June 2005, Development Application N0182/05 for a new dwelling house was approved.

On 17 October 2011, a Section 82a Review of Determination N0422/10 for the extension of the eave over the front deck was approved.

On 10 April 2014, the property was the subject of Land and Environment Court Proceedings 10034 of 2014 in relation to the extension of the eave over the first-floor deck. The Appeal was upheld.



Figure 4. Existing upper level deck of subject site looking toward 294 Whale Beach Rd



Figure 5. Eastern elevation of subject site viewed from Whale Beach Road

3 The proposal

The development application seeks consent for alterations and additions to a dwelling house comprising of the erection of a privacy screen along the part of the south-eastern edge of the first-floor deck (deck 2).

The proposed privacy screen will comprise of operable metal louvres. The screen is 2.85m in length with a height of 2.75m.

The privacy screen will provide protection from the wind as well as privacy to the adjoining property to the south (294 Whale Beach Rd).

The louvres, when open, provide a degree of transparency through them.

4 Environmental planning assessment

4.1 Environmental Planning and Assessment Act 1979

The proposal is consistent with the objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as it is considered to promote the orderly and economic use and development of land without resulting in an adverse impact on the environment.

This section of the report provides the planning assessment against the key statutory environmental planning instruments and Development Control Plan relevant to the development. The following detailed assessment of the proposal is provided, and which is based on the heads of consideration contained in section 4.15 of the EP&A Act.

4.15(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

Relevant Provision	Comment
<i>(a) the provisions of:</i>	
<i>(i) any environmental planning instrument, and</i>	- The relevant state environmental planning instruments are addressed at Section 4.2. - The relevant provisions of Pittwater Local Environmental Plan 2014 (PLEP 2014) are addressed at Section 4.4.
<i>(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</i>	N/A



Relevant Provision	Comment
(iii) any development control plan, and	The relevant provisions of Pittwater Development Control Plan 2014 (PDCP) are addressed at Section 4.5.
(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and	N/A
(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),	The requirements of the EP&A Regulations are satisfied. Applicable regulation considerations including demolition, fire safety, compliance with the Building Code of Australia, compliance with the Home Building Act, PCA appointment, notice of commencement of works, sign on work sites, critical stage inspections and records of inspection may be addressed by appropriate consent conditions.
(v) (Repealed)	
(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater Development Control Plan 2014 section in this report. Social Impact The proposed development will not have a detrimental impact in the locality considering the character of the proposal Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the minor nature of the proposed use.
(c) the suitability of the site for the development,	The proposed development is suitable for the site as demonstrated throughout this report.
(d) any submissions made in accordance with this Act or the regulations,	Any submissions made on this subject development application will be duly considered. In addition, the Council will consider any public submissions relating to the proposal during its assessment.
(e) the public interest.	The proposal is in the public interest as it allows for appropriate and positive additions to an existing residential site.

Table 1: Section 4.15(1) assessment

4.2 State Planning Policy Controls Overview

The proposal has been designed having regard to the objectives and standards of the relevant planning instruments and policies that apply to the site. Under the provisions of the EP&A Act, the key applicable State Environmental Policies are:

- *State Environmental Planning Policy 55 (Remediation of Land)*
- *State Environmental Planning Policy (Infrastructure)*

The application of the above plans and policies is discussed in detail in the following sections of this SEE.

4.2.1 State Environmental Planning Policy No.55 – Remediation of Land

Under clause 7(1) (a) of State Environmental Planning Policy No. 55 – Remediation of Land, consideration has been given as to whether the land is contaminated. The site has been used for residential purposes and there is no history to suggest that the site is contaminated. The application does not require further consideration under clause 7(1) (b) and (c) of SEPP 55.

4.2.2 State Environmental Planning Policy (Infrastructure)

Clause 45 of SEPP Infrastructure requires the consent authority to notify the electricity supply authority of any development application (or an application for modification of consent) for any development proposal:

- Within or immediately adjacent to an easement for electricity purposes
- Immediately adjacent to the electricity substation
- Within 4m of an overhead power line
- That includes installation of a swimming pool any part of which is within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

It is understood that the proposal will be referred to the electricity supply authority in accordance with Council's usual practice.

4.3 Numeric Controls Summary Table

Pittwater Local Environmental Plan 2014 and DCP

Zone: Environmental Living			
Site Area: 795.8m²			
PLEP 2014			
	Required	Proposed	Comment
Building Height – privacy screen	8.5m	7.5m	Complies
PDCP 2014			
Front building line	6.5m	12m	Complies
Rear building line	6.5m	No change	Complies
Side building line	1m	1.8m	Complies
Building envelope (southeast)	3.5m and 45 degrees	Minor breach	Satisfies objectives
Landscaped area	60% (477.5m ²)	56.5% or 449.4m ²	No change

Table 2: PLEP 2014 and PDCP numerical compliance summary table



4.4 Pittwater Local Environmental Plan 2014

Pittwater Local Environmental Plan 2014 (PLEP) came into force in 2014 and is the primary EPI applying to the Proposal. The applicable Clauses of the PLEP 2014 are:

- Clause 2.3 – Zone objectives and landuse table
- Clause 4.3 – Height of Buildings
- Clause 7.1 – Acid sulfate soils
- Clause 7.2 – Earthworks

An assessment of the development application against the above relevant Clauses of the PLEP 2014 is provided in the following sections of the this SEE.

Clause 2.3 – Land Use Zoning and Permissibility

The site is zoned E4 Environmental Living pursuant to the PLEP, as shown in the zoning map excerpt at Figure 6. The provisions of the zone are stated below:

Zone E4 Environmental Living

1 Objectives of zone

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.
- To provide for residential development of a low density and scale integrated with the landform and landscape.
- To encourage development that retains and enhances riparian and foreshore vegetation and wildlife corridors.

2 Permitted without consent

Home businesses; Home occupations

3 Permitted with consent

Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; **Dwelling houses**; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home industries; Jetties; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Water recreation structures

4 Prohibited

Industries; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Table 3: Provisions of the PLEP 2014 E4 Environmental Living Zone

The proposed privacy screen is an ancillary use to the existing dwelling house and is therefore permissible with consent in the E4 zone. The proposal is consistent with the objectives of the zone.

Clause 4.3 – Building Height

Clause 4.3 of the PLEP establishes a maximum building height for the site of 8.5m, as shown in PLEP building heights map.



The height of the proposed privacy screen is a maximum of 7.5m (as shown in Figure 8 below) and therefore complies with the maximum building height.

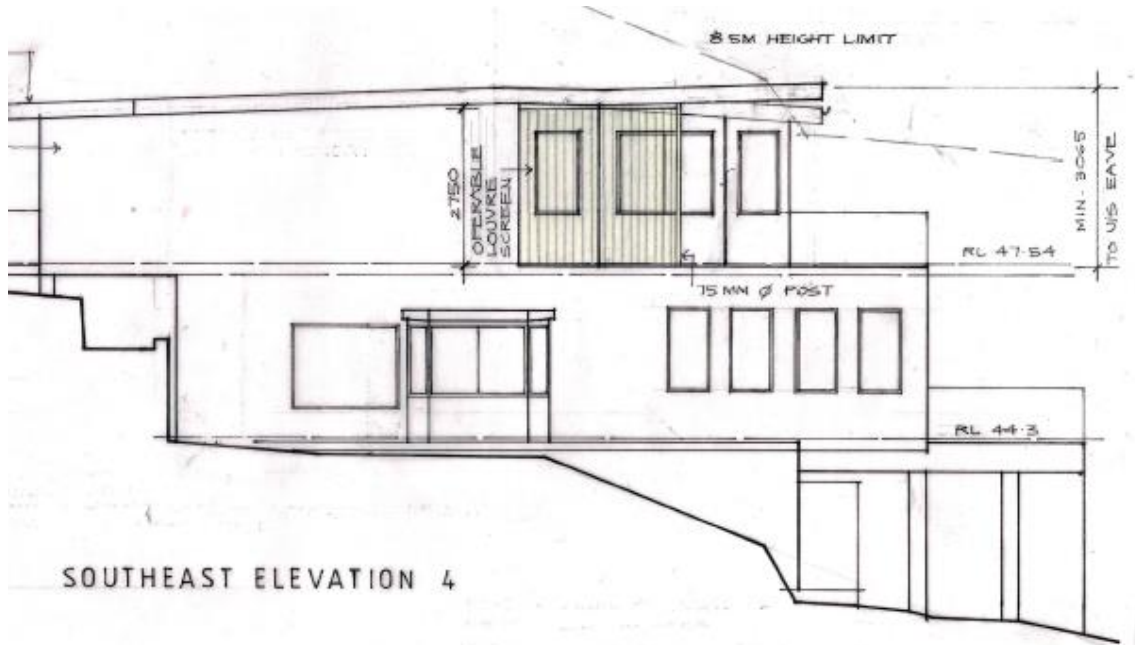


Figure 6. Plan extract southeast elevation (source: Shimdesign)

- **Clause 7.1 – Acid sulfate soils**

The site is identified as being within an area affected by Acid Sulfate soils (Class 5). The proposed privacy screen is within the existing building footprint and will therefore not require any new excavation, as such, it is not anticipated that acid sulfate soils will be disturbed.

Clause 7.2 – Earthworks

The proposal will not require any new excavation of the site.

4.5 Pittwater Development Control Plan 2014

The table below summarises the key built form controls relevant to the proposed privacy screen.

The proposal is compliant with the relevant numerical controls (see table 2 above) and satisfies the objectives.

The proposal is also generally in compliance with the relevant aims, objectives and key provisions of the DCP. An assessment of the proposal against the relevant provisions of the DCP is provided below:

4.5.1 Section A Introduction

- **A4.12 Palm Beach Locality**

Desired Character

The Palm Beach locality will remain primarily a low-density residential area with dwelling houses in maximum of two storeys in any one place in a landscaped setting, integrated with the landform and landscape. Secondary dwellings can be established in conjunction with another dwelling to encourage additional opportunities for more compact and affordable housing with minimal environmental impact in appropriate locations. Any dual occupancy dwellings will be located on the lowlands and lower slopes that have less tree canopy coverage, species and habitat diversity and fewer other constraints to development. Any medium density housing will be located within and around commercial centres, public transport and community facilities. Retail, community and recreational facilities will serve the community.

Future development is to be located so as to be supported by adequate infrastructure, including roads, water and sewerage facilities, and public transport.

Future development will maintain a building height limit below the tree canopy and minimise bulk and scale whilst ensuring that future development respects the horizontal massing of the existing built form. Existing and new native vegetation, including canopy trees, will be integrated with the development. Contemporary buildings will utilise facade modulation and/or incorporate shade elements, such as pergolas, verandahs and the like. Building colours and materials will harmonise with the natural environment. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape, and minimise site disturbance. Development will be designed to be safe from hazards.

The design, scale and treatment of future development within the commercial centres will reflect a 'seaside-village' character through building design, signage and landscaping, and will reflect principles of good urban design. Landscaping will be incorporated into building design. Outdoor cafe

seating will be encouraged. A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into the natural environment, to provide feed trees and undergrowth for koalas and other animals and to enhance wildlife corridors.

Heritage items and conservation areas indicative of the Guringai Aboriginal people and of early settlement in the locality will be conserved.

Vehicular, pedestrian and cycle access within and through the locality will be maintained and upgraded. The design and construction of roads will manage local traffic needs, minimise harm to people and fauna, and facilitate co-location of services and utilities.

Palm Beach will remain an important link to the offshore communities.

The proposed privacy screen is consistent with the desired character of the locality. The proposal is within the existing envelope and maintains the existing building's height, setbacks and bulk.

The screen will be transparent most of the time and, even when opaque, will not be visually prominent within the Whale Beach locality.

The proposal will not require the removal of any significant trees, and the existing available area of soft landscaping will remain unchanged.

4.5.2 Section B General Controls

The relevant General Controls applicable to the proposed addition of a privacy screen are addressed below:

4.5.3 Section C Design Criteria for Residential Development

C1.3 View Sharing

The controls seek to achieve the outcomes:

A reasonable sharing of views from public places and living areas. (S) Views and vistas from roads and public places to water, headland, beach and/or bush views are to be protected, maintained and where possible, enhanced. (S) Canopy trees take priority over views (En, S)

The required controls to achieve the outcomes are to ensure that building sight lines and building positioning and height maintain reasonable view sharing for neighbouring properties.

The site and the adjacent dwellings enjoy expansive views to the north and north-east toward the ocean and Barrenjoey Headland. The use of operable louvres for part of the balcony length only, will ensure that the current views from the adjoining property at 294

Whale Beach Road (to the east of the awning) are fully maintained. When the louvres are closed, it is anticipated that there will be a negligible impact on views from this property.

Given that;

- there are expansive views available from 294 Whale Beach Road,
- that the affected views are across a side boundary and
- the complying nature of the proposal,

it is assessed that the proposal will achieve a reasonable sharing of views from surrounding properties.

In line with the **View Loss Planning Principle** outlined in the Land and Environment Court case; *Tenacity Consulting Pty Ltd v Warringah Council* (2004) the following points are made with respect to view impacts from 294 Whale Beach Road:

Nature of views affected: Based on photographs supplied by the owner, the views likely to be affected comprise a small section of water and possibly a section of land/water interface at the base of Barrenjoey Headland. The more iconic view of Barrenjoey Lighthouse and the Headland will be maintained.

Part of the property that the view is affected: The Planning Principle acknowledges that views across side boundaries, such is the case here, are more difficult to protect.

Extent of the impact: Given the substantial, expansive views available from this property, any view impact from the proposed privacy screen will be minor and this will only occur when the screen is closed.

Reasonableness of the Proposal: The proposed privacy screen complies with building height, building envelope and side setback controls and is therefore a reasonable development. The use of operable louvres represents 'skilful design' as it will allow views through the screen for the majority of the time. The use of an equally compliant solid privacy screen would have a greater impact on views. The use of the louvres represents a considered response by the owner of 296 Whale Beach Road to their neighbour's amenity.

C1.4 Solar Access

The controls seek to achieve the outcomes:

Residential development is sited and designed to maximise solar access during mid-winter. (En) A reasonable level of solar access is maintained to existing residential properties, unhindered by adjoining development. (En) Reduce usage and/dependence for artificial lighting. (En)

The required controls to achieve the outcomes are to ensure that private open spaces of the subject and adjoining dwellings maintain a minimum of 3 hours of solar access in mid-winter.

The proposed privacy screen is below the existing roof height and therefore will not result in any additional shadowing when not in use. When in use, a degree of solar penetration, through the glazing, will be maintained. The subject and neighbouring dwellings will

continue to enjoy excellent solar access to their north-east facing living areas during the day.

C1.5 Visual Privacy

The controls seek to achieve the outcomes:

Habitable rooms and outdoor living areas of dwellings shall achieve and maintain visual privacy through good design. (S) A sense of territory and safety is provided for residents. (S)

The required controls to achieve the outcomes are to ensure that the private open space, recreation areas and living rooms within 9m of a development are suitable protected to limit the effects of direct overlooking.

The proposed privacy screen will provide privacy between the front balconies of the subject site and those of 294 Whale Beach Road. As shown in Figure 4, these balconies overlook each other. The proposed privacy screen will provide privacy between these two dwellings whilst minimising view impacts.

C1.6 Acoustic Privacy

The controls seek to achieve the outcomes:

Noise is substantially contained within each dwelling and noise from any communal or private open space areas are limited. (S) Noise is not to be offensive as defined by the Protection of the Environment Operations Act 1997, including noise from plant, equipment and communal or private open space areas (S)

The required controls to achieve the outcomes are to ensure that noise sensitive living areas and bedrooms are located away from major noise sources.

The proposed privacy will play a small role in mitigating noise impacts from the outdoor entertaining area.

C1.7 Private Open Space

The controls seek to achieve the outcomes:

Dwellings are provided with a private, usable and well-located area of private open space for the use and enjoyment of the occupants. (S) Private open space is integrated with, and directly accessible from, the living areas of dwellings. (S) Private open space receives sufficient solar access and privacy (En, S).

The required controls to achieve the outcomes are to ensure that dwellings are provided suitable private open space with an area and at a grade which will facilitate outdoor private recreation.

The existing outdoor recreation areas, comprising of soft landscaping will remain unchanged. The proposed privacy screen seeks to provide some much-needed privacy to the principal open space area of the subject site.

4.5.4 Section D Locality Specific Development Controls

The D12 Palm Beach Locality Statement contains a number of outcomes for development. The proposal has been assessed in regard to the Locality Statement and is summarised in the following table.

D12.1 Character as Viewed From A Public Place

The control seeks to achieve the outcomes:

To achieve the desired future character of the Locality. To ensure new development responds to, reinforces and sensitively relates to the spatial characteristics of the existing built and natural environment. (En, S, Ec) To enhance the existing streetscapes and promote a scale and density that is in scale with the height of the natural environment. The visual impact of the built form is secondary to landscaping and vegetation, or in commercial areas and the like, is softened by landscaping and vegetation. (En, S, Ec) High quality buildings designed and built for the natural context and any natural hazards. (En, S) Buildings do not dominate the streetscape and are at 'human scale'. To preserve and enhance district and local views which reinforce and protect the Pittwater's natural context. To enhance the bushland vista of Pittwater as the predominant feature of the landscape with built form, including parking structures, being a secondary component. To ensure that development adjacent to public domain elements such as waterways, streets, parks, bushland reserves and other public open spaces, compliments the landscape character, public use and enjoyment of that land. (En, S)

The required controls to achieve the outcomes are to ensure that the building maintains a compatibility with the locality through appropriate design relief including roof forms textures, materials, the arrangement of windows modulation, spatial separation, landscaping etc.

Due to its minimal size and partly transparent material, the proposed privacy screen will have a negligible impact on the existing character of the dwelling when viewed in the streetscape.

D12.3 Building colours and materials

The controls seek to achieve the outcomes:

Achieve the desired future character of the Locality.

The development enhances the visual quality and identity of the streetscape. (S)

To provide attractive building facades which establish identity and contribute to the streetscape. To ensure building colours and materials compliments and enhances the visual character its location with the natural landscapes of Pittwater. The colours and materials of the development harmonise with the natural environment. (En, S)

The visual prominence of the development is minimised. (S)

Damage to existing native vegetation and habitat is minimised. (En)

The material of the privacy screen has been chosen for its minimal visual impact and the length has been minimised to maintain the neighbours views.

D12.6 Side and rear building line

The controls seek to achieve the outcomes:

To achieve the desired future character of the Locality. (S) The bulk and scale of the built form is minimised. (En, S) Equitable preservation of views and vistas to and/or from public/private places. (S) To encourage view sharing through complimentary siting of buildings, responsive design and well-positioned landscaping. To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to residential properties. (En, S) Substantial landscaping, a mature tree canopy and an attractive streetscape. (En, S) Flexibility in the siting of buildings and access. (En, S) Vegetation is retained and enhanced to visually reduce the built form. (En) To ensure a landscaped buffer between commercial and residential zones is achieved.

The relevant controls to achieve this outcome are to maintain a minimum setback of 2.5m for the western side and minimum 1.0m setback for the eastern side. The proposed privacy screen is setback 1.82m from the eastern side boundary and therefore complies.

D12.8 Building Envelope

The controls seek to achieve the outcomes (over):

To achieve the desired future character of the Locality. (S) To enhance the existing streetscapes and promote a building scale and density that is below the height of the trees of the natural environment. To ensure new development responds to, reinforces and sensitively relates to spatial characteristics of the existing natural environment. The bulk and scale of the built form is minimised. (En, S) Equitable preservation of views and vistas to and/or from public/private places. (S) To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties. (En, S) Vegetation is retained and enhanced to visually reduce the built form. (En)

The required controls to achieve the outcomes are to maintain the development within a height envelope which provides for a height of 3.5m with an angle projected at 45°.

The proposed privacy screen largely complies with the building envelope control with a minor breach presented by the top 0.5m of the screen.

The minor breach of the building envelope control does not result in any significant bulk issues or reduced amenity for neighbouring properties.

5 Conclusion

This SEE supports a development application for erection of a privacy screen at 296 Whale Beach Road, Palm Beach.

The merits of this application have been identified in this assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan 2014.

The proposed development improves privacy levels between dwellings, provides wind protection, is consistent with the character of the locality and will have a positive contribution to the streetscape. There will be no unreasonable impacts on surrounding properties

The proposal achieves the objectives of Council's development controls and strategic aims and consequently is suitable for approval on town planning grounds.