

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Letter of Objection to DA2024/0774, 6 Mitchell Road, Palm Beach
Date: Friday, 12 July 2024 4:51:24 PM
Attachments: [15 Florida Rd.pdf](#)

Dear Mr England
Please confirm you have received our Letter of objection dated 12 July 2024 regarding DA2024/0774.
kind regards
Jason & Jodie Smith

Jason B. Smith & Jodie A. Smith
15 Florida Road
Palm Beach NSW 2108

12th July, 2024

Mr Nicholas England
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099
[REDACTED]

Dear Mr England,

RE: Letter of Objection to Development Application DA 2024/0774 Property: 6 Mitchell Road, Palm Beach (Lot 1 in DP 1086858) – Construction of a dwelling house including swimming pool

Thank you for the opportunity to ONCE AGAIN register our significant and ongoing concerns regarding the amended Development Application contained in DA2024/0774. **As noted previously, I would like to highlight that the applicant has made NO attempt to consult us (which we would be amiable to) on his plans to demolish, excavate, construct and redevelop extensive works and structures on his neighbouring property and that of the Council owned Bible Garden.**

As noted in our previous submissions, we reside at 15 Florida Road, Palm Beach which is the adjoining property to 6 Mitchell Road, Palm Beach. We access our property solely from Mitchell Road via a shared, narrow and very steep right-of-way private driveway to our residences garage (this is not a public ROAD). This private driveway is also regularly used by the owners, families, friends and contractors of 13 Florida Road and 7 Florida Road. Whom we understand have also expressed legitimate concerns with the extensive works being proposed at 6 Mitchell Road. As have the owners of 17 Florida Road.

Our ongoing concerns regarding DA2024/0774 rely on expert advice that we have commissioned from:

- i) **Tomasy Planning**, Planning Consultants, based locally in Mona Vale
- ii) **Taylor Consulting**, Civil & Structural Engineers, based locally at Dee Why
- iii) **McCabe Curwood Solicitors**, Martin Place, Sydney
- iv) **Piper Alderman** - Paul Vergotis, Partner, Accredited Lawyer in Planning and Environmental Matters
- v) **Martin Place Chambers** – Dr Steven Berveling, a highly respected Barrister specialising in planning, property and environmental matters.

Acting on our behalf, Tomasy Planning submitted a 14 page letter of objection to Northern Beaches Council on 11 July 2024. This document clearly outlines our legitimate concerns objecting to DA2024/0774 (and our previous objections to prior DA's dating back to 2020). Our letter of objection should be considered in conjunction with Tomasy Planning's submission.

We share a common boundary with No 6 Mitchell Road and have a lawful right of carriageway over No 6 Mitchell Road to access our home at 15 Florida Road, Palm Beach. To enable Council to understand the uniqueness of the site and the relationship between our home (and adjoining land/car park at 13 Florida Road, Palm Beach) and, Council's land (Bible Garden – Heritage item), and the land which is the the subject of the Development Application for the construction of a new dwelling, and associated works, including a new swimming pool, the plan below has been prepared by Tomasy to clearly show how our two properties will be impacted by the proposed Development Application.



Client's subject property in relation to 6 Mitchell Road, Palm Beach

Source: <https://maps.six.nsw.gov.au/>

Tomasy Planning's key conclusions were:

*A detailed assessment has been undertaken of the submitted plans, Statement of Environmental Effects and other relevant documentation supporting the application and, in this regard, **the application is not considered to be acceptable and should be refused by Council for the reasons outlined below:***

1. **The proposed erection of a dwelling house on land zoned for RE1 Public Recreation contravenes all of the relevant objectives of this zoning under Pittwater Local Environmental Plan 2014.**
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 **the proposed development is inconsistent with the Clause 1.2 Aims of the Plan of the Pittwater Local Environmental Plan 2014.**
3. **The proposal is inconsistent with Section 4.15(1)(b) of the EPA Act as:**

(a) Insufficient information has been submitted to ensure:

(i) That the earthworks will not result in unreasonable geotechnical impacts on the natural and built environment.

(ii) To confirm that the development will not have unreasonable impacts on access to private dwellings.

(iii) Owners consent has not been obtained for the work on Deposited Plan 1086858, Lot 2 above AHD 74.5. Therefore, the DA is invalid.

(b) The proposal is inconsistent with Section 4.15(1)(e) of the EPA Act as it is not in the public interest.

4. **The proposal exceeds the 10m maximum height development standard, and a Clause 4.6 variation has not been submitted. Refer to drawing DA09 – Eastern Elevation.**
5. **The proposal is inconsistent with Clause 6.2 of the Pittwater LEP, and Clause B8.1 (Construction and Demolition – Excavation) of the Pittwater DCP as **insufficient information has been submitted to ensure that the earthworks will not have a detrimental impact on the amenity of adjoining properties.****
6. **The proposal is inconsistent with Clause 7.7 of the Pittwater LEP and Clause B3.1 (Landslip Hazards) of the Pittwater DCP as insufficient information has been submitted to ensure that the development has been designed, sited and managed to avoid any geotechnical risk or impact on surrounding development.**
7. **The proposal is inconsistent with Clause B6.7 (Transport and Traffic Management) and B8.6 (construction and Demolition – Traffic Management Plan) of the Pittwater DCP as insufficient information has been submitted to ensure the development will have minimal disturbance to the residential community in terms of available safe access from the shared right of carriageway to dwellings, especially during construction."**

It is essential that access to Lots 7 and 8 DP 10167 (15 and 13 Florida Road) is maintained at all times during construction (if approved) and is a matter to be taken into consideration pursuant to Section 4.15(1) (b) – the likely impacts of the development as well as Section 4.15(1) (e) the public interest. Continued unimpeded access to No 15 and No 13 Florida Road is of itself of such importance that it may well cause the DA to be refused for this reason alone.

We have reviewed the Statement of Environmental Effects prepared by the Planning Hub, the Housed architectural drawings prepared by Nanna Lesiuk together with other relevant documentation that is referred to in the Statement of Environmental Effects.

We continue to object to several components of the new DA 2024/07745 based on the following:

- i) Council's apparent conflict of interest.** Why did the Planning Hub seek to have part of the land that is zoned RE1, Public Recreation amended to permit the proposed garage, liftwell, stairwell and adjacent structures/works, when no part of the subject land will be used for public open space or recreation purposes? Why would Council support the DA when there is no protection or enhancement of the natural environment? **Why would Council support the DA when not one aspect of the proposal adheres to the spirit of RE1, Public Recreation zoned land?** Has Council consented for construction works to occur on The Bible Garden's Council owned land? If so when?
- ii) Impact on the Bible Garden and neighbouring properties.** Various design elements of the DA are also not in keeping with the heritage listed Bible Garden surrounds (natural rock excavation, size & proximity of the garage/liftwell). The proposal will involve significant excavation and the permanent removal of the scenic cliff face of the heritage listed site.
- iii) The existing right-of-way private driveway has significant compliance and safety problems** that will only be exacerbated by increased traffic loadings & materially increase liability concerns. Taylor Consulting Engineers concluded that the existing driveway is in a poor state of repair and non-compliant. The driveway needs to be widened and brought up to Australian standards at a minimum to deal with extra vehicular and pedestrian traffic.
- iv) Numerous deficiencies, conflicts and inconsistencies** between the architectural drawings and civil engineering documents are contained in the DA, in particular - various side elevations, RL conflicts, unworkable gradient transitions in the reconstructed driveway **& a truly fictional turning bay that has no architectural or engineering plans submitted.**
- v) There is a significant lack of detail pertaining to actual site works, construction and traffic management** which will make it impossible to guarantee uninterrupted access to our legally entitled right-of-way and private driveway 24 hours, 7 days a week, 365 days a year. Where is the traffic management plan, the excavation plan, site storage plan, and most critically the drainage plan? Significant erosion risk exists to properties at 15 and 17 Florida if the DA is approved? The DA makes no mention of nor addresses any of these genuine concerns.
- vi) Genuine safety issues** for the residents of 7, 13 & 15 Florida Rd as well as residents of Mitchell Rd and Bible Garden visitors, both during and post construction of the proposed dwelling. **No one will be able to see who is coming down or going up the driveway if a garage dwelling is constructed completely obstructing safe passage.**
- vii) The Development Application lodged by N Lesiuk / R K Bain once again makes NO ATTEMPT to address any of these legitimate concerns or legalities.**

1. Council's perceived conflict of interest?

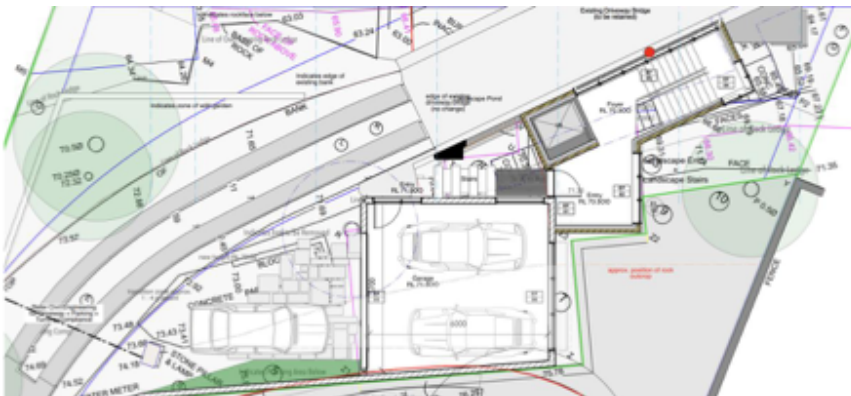
One of our main grounds of objection is the perceived conflict of interest that Northern Beaches Council and its officers have in dealing with this application.

During the past three years, we have submitted comprehensive objections to the original development application (as amended) DA2020/15906 for the erection of a dwelling house at No 6 Mitchell Road, which included, at that time, part of the dwelling being located on RE1 Public Recreation Zoned land, and a dwelling house at that time was a prohibited land use. Our objections were supported by our lawyer, Paul Vergotis, Partner, Piper Alderman, an Accredited Lawyer in Planning and Environmental Matters, together with advice from Dr Steven Berveling, Barrister, who is highly respected in Planning and Environmental Law. On our behalf, Tomasy Planning has also submitted comprehensive advice relating to the Planning Proposal submitted by The Planning Hub seeking to have that part of the land that adjoins Council's Bible Garden amended to permit a dwelling house to be erected on the land currently zoned RE1, Public Recreation.

Why did The Planning Hub support this? Why did the Council seek to change the Pittwater Local Environment Plan 2014 to permit the construction of a new dwelling as a 'permissible land use' per Clause 25 of Schedule 1 – Additional Permitted Land Uses – on land zoned RE1, Public Recreation? How does the Bible Garden or the local community benefit from that? Has the Council consented to the DA applicant carrying out work on Council owned land (which it is required to)? We refer to the architectural drawing DA15 Section 01 – Living Pavilion which has a notation adjacent to the words 'Bible Garden Terrace' and it says *"Re – New Balustrade to Bible Garden to match existing"*.

Part of the land that is zoned for RE1, Public Recreation is to accommodate the following components of the proposed dwelling, as per the architectural drawing DA02 – Entry Level. This component of the proposed dwelling includes the following:

- Double garage
- Concrete Driveway adjacent to the garage
- Passenger lift
- Entry foyer
- Staircase
- Landscaping



Source: Architectural Drawing DA02 – Entry Level

Key issues:

- 1. No part of the subject land that is zoned RE1 Public recreation will be used for the purpose of public open space or recreation purposes.** The proposal intends to use this component of the land for the erection of a double garage, entry foyer, lift and other access facilities – all integral components of a residential dwelling.
- 2. The proposal does not include a range of recreational settings and activities or compatible land uses.** A dwelling house is not a compatible land use for land that is zoned for public recreational purposes.
- 3. The proposal fails to provide protection or enhancement of the natural environment.** The proposal is a direct contradiction of protecting and enhancing the natural environment, as it involves excavation of a significant amount of cliff face rock and other vegetation that currently provides an effective scenic quality value and contributes to the landscaped values of this important heritage listed Bible Garden area. **It is important to emphasise that the land zoned for public recreation purposes is part of the heritage classification of the Bible Garden.**
- 4. The subject development is not in the public interest as it does not provide for any passive and/or active public open space** and is not deemed to be ancillary development to meet the needs of a community such as a community hall, amenities building, canteen, picnic facilities etc.

It is difficult to understand how Council could support the erection of a dwelling house on land zoned for public purposes.

2. Impact on the Bible Garden and neighbouring properties

We remain bewildered that the Bible Garden Society hasn't raised significant concerns regarding the original DA2020/1596 or the current DA2024/0774. The proposed demolition, excavation and construction of a new residence, garage, liftwell, stairwell, adjacent structures, private driveway and swimming pool will have an enormous impact on the day to day running of the heritage listed Bible Garden for at least 24-36 months. In our previous objection letters, we questioned why Bible Society Members supported DA2020/1596 when there was *"no tenable upside for Bible Garden Society Members, Bible Garden visitors or resident of Mitchell Rd and Florida Rd"*.

The amended proposal still increases genuine safety concerns for residents (Mitchell Road is already highly congested and narrow) putting our kids, family and guests at even further risk.

As we have stated in our previous objection letters, the applicant proposes that an open temporary fence will be erected up to 2 metres back from the existing Bible Garden balustrade – presumably this will remain for the duration of the construction works. Why

would anyone want to get married or hold a ceremony with a temporary fence obstructing the glorious view of Palm Beach? The proposed large crane (to be sited on land zoned RE1 Public Recreation) would also pose another blight on those intending to get married or hold a function on the Bible Garden site. It is also unclear if the ground beneath the required crane is suitable to support its weight. Why would the Bible Garden Society agree to this?

Parking is already very restricted on Mitchell Rd. Mitchell Rd is extremely narrow, so much so, that when vehicles are parked on the Palm Beach side of the road, other cars already barely make it past. Where will large, wide and long delivery trucks carrying construction materials safely park? Where will concrete trucks park during construction? Where will construction workers park their cars? Where will construction materials be safely stored, so as to not impede our right-of-way private driveway? The amended DA addresses none of these concerns.

Exiting our garage up the very steep, narrow, single lane private driveway is already very dangerous – it's a non-compliant, partially suspended concrete driveway. This will become even more hazardous with increased traffic from construction crews and construction deliveries. There is already a significant blind spot as we exit the private driveway and turn right onto Mitchell Road, this will become even more hazardous to Bible Garden visitors and Mitchell Road residents (both during construction and post construction from increased traffic generated by the new dwelling and its proposed double car garage).

It's also worth noting that the current wall of the Bible Garden already encroaches on the right of way, private driveway by approximately 500mm. Will this be addressed to increase safety for the residents of 7, 9, 11, 13 and 15 Florida Road?

3. Problems with the existing right-of-way private driveway will only be exacerbated

The amended DA still proposes to retain the **existing** suspended concrete driveway. Yet it remains unclear about its suitability for higher traffic loads, the engineering report contained in the Tomasy Planning submission from Taylor Consulting Engineers concluded:

“Analysis of the existing driveway with reference to AS2890.1 2014 Off-Street Parking, found compliance and safety issues that will be exacerbated due to increased traffic loading which would result from the proposed development. We note that the existing concrete crash barrier and galvanised steel handrails either side of the driveway are in a poor state of repair and non-compliant.

The width and grade of the existing right of access driveway are noted to be non-compliant with over 25% longitudinal fall in the steepest sections. Proposed amendments to the driveway by Northern Beaches Engineers dated October 2019 do not appear to satisfactorily resolve the transitions through the existing grades and it is the opinion of this office that the proposed turning bay, shown some 7 metres above the ground below is, as drawn, impossible to safely construct.

Due to the width and grade of drive, it is currently very difficult to safely turn a vehicle and safely pass by a parked vehicle. As this right of access also serves as pedestrian access to the 3 properties, the drive width, grade and difficult line of sight mean access by foot is currently hazardous to pedestrians.

The proposed amendments to the right of access do not satisfactorily address these safety issues.

Swept paths provided by NB Consulting on drawing number C30A show a vehicle reversing into the right of access from the proposed garage without any line of sight to traffic entering or exiting the drive from above or below the proposed development. This proposal poses a significant risk to both pedestrians and other vehicles sharing the right of access.

Longitudinal sections of the proposed driveway show the reconstructed section of the right of access being completely demolished and rebuilt. Note that this is the primary vehicular and pedestrian access for the owners of 15 & 15a (sic 13) Florida Road, and the owners of these properties will not have safe access to their homes for the duration of proposed construction. Should the concrete structure be retained, an analysis of the structure and certification by a registered Structural Engineer should be provided including allowable maximum vehicle loads.”



Source: Taylor Consulting Engineers, Private driveway – right of way on 6 Mitchell Road

The driveway on the Applicants land (which we use as a private right of way access to our garage/home) is in a state of disrepair and non-compliant to Australian standards. It needs to be widened, strengthened and brought up to code.

We continue to genuinely and legitimately worry that the proposed new gradients of the sections of the right-of-way private driveway to be reconstructed will make the private

driveway even more dangerous than it currently is in dry and wet conditions. In order for cars to enter the proposed new garage of the DA, a flat transition will be needed for a car to enter the proposed garage / adjacent dwelling, this will no doubt result in even steeper gradients on both sides of the driveway past the new level transition. **We still worry our cars will have an increased risk of 'bottoming out' and or worse, result in cars rolling back into the driveway balustrade. Given the increased pedestrian and vehicular use, the existing suspended driveway will need to be widened, the balustrades raised from ~350mm to 600mm and a separate pedestrian corridor constructed with a 1100mm handrail to enable safe passage for increased usage.**



Source: Rendered East elevation – Architecture

Proposed adjacent stairwell/liftwell/garage structure will create even larger blindspot as we exit our garage and drive up the narrow private driveway to Mitchell Road. Currently, we can see if someone is either walking or driving down the private driveway to some extent (about 30-40% line of sight), this limited line of sight vision will totally disappear with the proposed new structure completely hiding the driveway. The very sharp bend at the beginning of the suspended private driveway means it is impossible to safely reverse back down once you have turned onto it. **This will increase the liability of all the owners and users of the right-of-way and unnecessarily increase the risk to both pedestrian and vehicular traffic.**

As noted in the Tomasy submission dated 10 July 2024, we have a legal right of carriageway that traverses from Mitchell Road through No 6 Mitchell Road and continues through our garage/home and No. 7 Florida Road. We require this carriageway for unrestricted access 7 days a week 24 hours a day for both pedestrian and vehicular access to our home. The plans that have been submitted with the development application involves the reconstruction of the driveway along the right of way between Mitchell Road and the elevated part of the driveway and suggests that access will not be possible to lots 7 and 8 DP10167 (No 15 and 13 Florida Road, Palm Beach).

The reconstruction of the upper part of carriageway would result in a serious interference with the right of way and be contrary to the terms of the right of way.

It is imperative that access to Lots 7 and 8 DP 10167 (15 and 13 Florida Road) are maintained at all times during construction (if approved) and is a matter to be taken into consideration pursuant to Section 4.15(1) (b) – the likely impacts of the development as well as Section 4.15(1) (e) the public interest. **Continued unimpeded access to No 15 and No 13 Florida Road is of itself such importance that it may well cause the DA to be refused for this reason alone.**

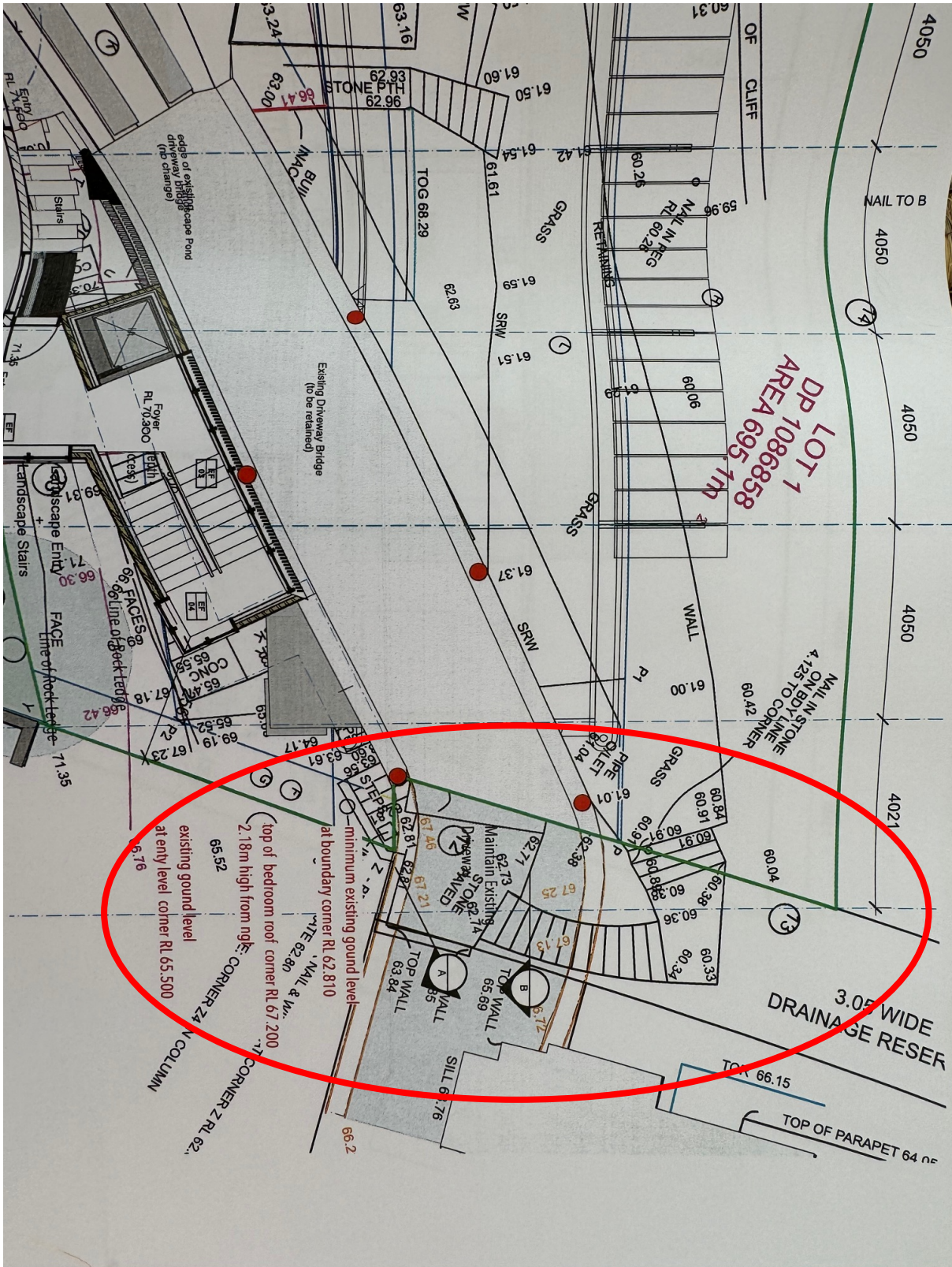
One of our three children **has a life-long, incurable, chronic medical condition that requires 24 hour 7 days a week access for an ambulance to be able to attend our home during any medical episode.** This matter is critical to our objection of the DA and cannot be taken lightly by Council in determining this application as it is not in the public interest to approve a development that could result in vehicular access being denied as a result of the reconstruction of the upper driveway within the right of carriage way.

It should also be noted that access to our right of way carriage way to the south our property on 13 Florida Road has been illegally closed for almost 2 years with the consent of Council. At no time have we been consulted on this occurring, the rationale or the duration. We have received no updates on when it will be completed in almost 2 years. This closure has been at the request of the owners of 7 Florida Road, during construction of their new dwelling. Note:CLOSURE OF SHARED DRIVEWAY, 8 August 2022 (2022/482602)



4. Deficiencies, conflicts and inconsistencies

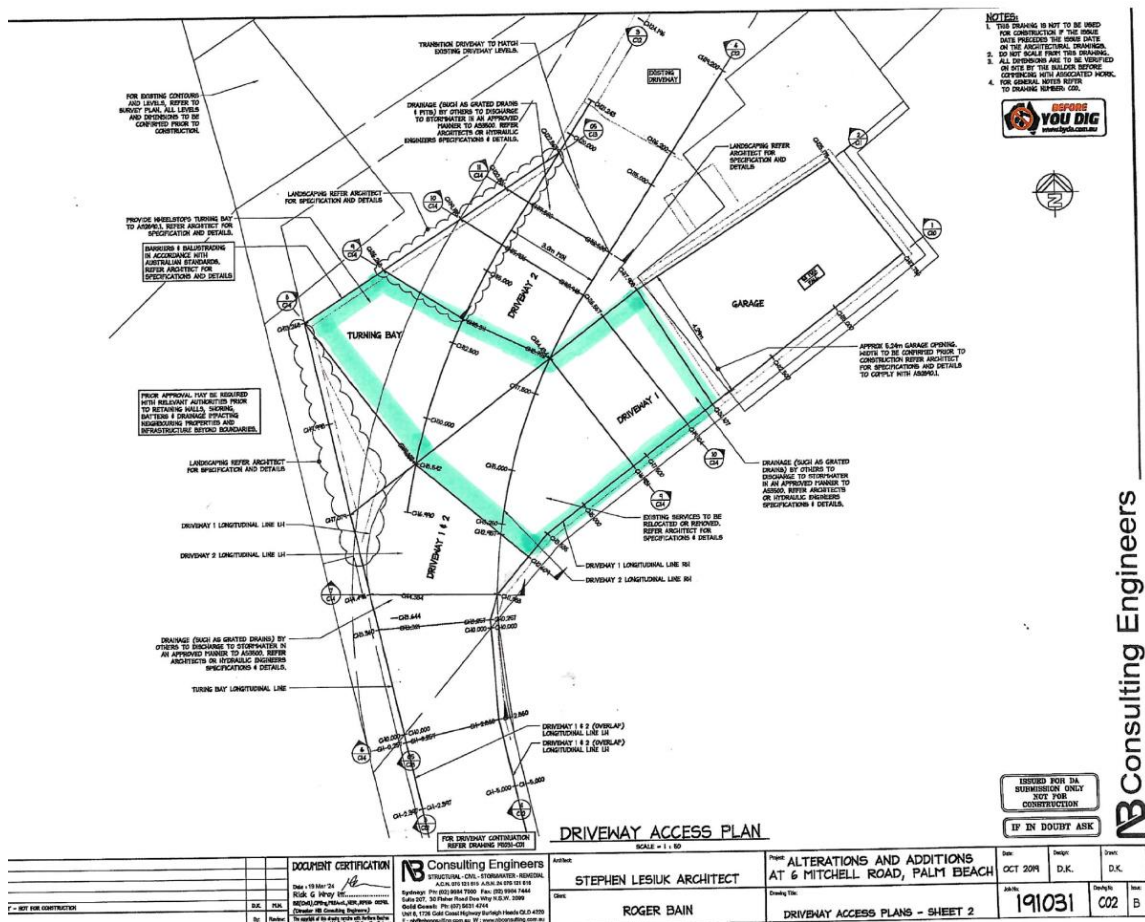
- **The new DA still contains no site works, construction, traffic management or drainage plan. We are seriously concerned by how much more drainage water will be directed to our property and that of 17 Florida Road, as a consequence of the demolition works, construction and the new swimming pool structure.**
- **The new DA contains no structural integrity report of the design, suitability or strength of the existing suspended driveway** or its 5 pylons to support the increased traffic. Nor does it address how deep the 5 pylons currently go beneath the ground, or how secure they will be during excavation of the site to build the proposed dwelling. The existing driveway is also non-compliant and in a state of disrepair – what is the state of the 5 pylons to be retained?
- **Page 62 of the original DA depicts how a car will enter the proposed garage** (on zoned RE1 land), yet other elevation depicts it entering from other angles (page 72) – this will be implausible based on the existing and/or proposed gradient incline. The architectural drawings don't accurately show the garage door or how access to it will safely function for vehicles to enter and exit. The amended DA addresses none of these real world concerns.
- **In the earlier 'Plans-Engineering' submission, the proposed contour and spot levels will be still be unworkable in reality under the new DA.** The RLs and gradients of the two planes merging into the left flat corner will likely result in cars bottoming out (if it ever got built). RLs shown in same document also seem to be pushing the limits and will be unworkable in reality.
- Taylor Consulting concluded that: ***"Proposed amendments to the driveway by Northern Beaches Engineers dated October 2019 do not appear to satisfactorily resolve the transitions through the existing grades and it is the opinion of this office that the proposed turning bay, shown some 7 metres above the ground below is, as drawn, impossible to safely construct."***
- **Indeed, the proposed turning bay doesn't even feature in the architectural drawings of the DA.** Where and how will this 7 metre turning bay be constructed? It doesn't appear in any of the colour renderings of the proposed dwelling. Will it be suspended by magic, we believe not?
- **How can you guarantee access to the right-of-way to Mitchell Rd, when the DA clearly states that the stretch between the existing elevated driveway and the concrete part adjacent to the Bible Garden will be reconstructed with new transitions and gradients? The applicant CAN'T.**
- **According to the HOUSED plan drawing DA02 Entry Level (see below)** the stairs currently on the drainage reserve remain. These need to be demolished so that a structurally suitable fence between 6A Mitchell Road and 15 Florida Road can be built for privacy and safety reasons (with or without an approval of the DA). This drainage land doesn't belong to the applicant.



These stairs need to be removed and the drainage reserved restored. No mention of this is made in the DA.

Mythical Turning Bay: Set out below is a copy of the plan prepared by the applicant's engineering consultants which demonstrates by way of the green edging that the proposal is to reconstruct part of driveway 1, which includes the right of carriageway and the creation of a turning bay. It is very important for Council to acknowledge that on the architectural drawings there is no reference to the turning bay that is shown on the engineering drawings prepared by Northern Beaches Consulting Engineers.

6 Mitchell Rd is a very difficult, sloping site to build upon. **The single lane right-of-way private driveway from Mitchell Rd to our home's garage is only barely wide enough for one car to use it** (part of this could be resolved if the 500mm encroachment was alleviated). There is not enough width for a car and a pedestrian(s) to use the private driveway simultaneously. How will this right-of-way be maintained with all the additional traffic being generated by demolition crews, construction crews, material deliveries, excavators and so forth? There is no room for a vehicle to traverse down this private driveway, turnaround or safely reverse back up it. There is no mention of how construction materials will be carried to site or subsequently stored on site. This proposes legitimate safety and liability concerns.



In respect to the 'mythical' turning bay, which is shown on the engineering drawing above (top left part in green), there is a notation comprising the following text:

"Prior approval may be required with relevant authorities prior to retaining walls, shoring, batters & drainage impacting neighbouring properties and infrastructure beyond boundaries".

There are no details at all showing how this magic ‘floating in the air’ turning bay will be built and this is confirmed by the text on the engineers drawing. Why would Council not require detailed plans as part of the DA documentation so that members of the public have a clear understanding of the possible impacts the construction of the turning bay could have on their property, as the notation states, no approval has been sought for such an important component of the building works. The architectural drawings for the ground floor layout, which includes the garage, driveway and other infrastructure make no reference to the turning bay.

5. No credible site /management plans

There is a significant lack of detail pertaining to actual site works, construction and traffic management which will make it impossible to guarantee uninterrupted access to our legally entitled right-of-way and private driveway 24 hours, 7 days a week, 365 days a year. Where is the traffic management plan, the excavation plan, site storage plan, and most critically the drainage plan? Significant erosion risk exists to properties at 15 and 17 Florida if the DA is approved. The DA makes no mention of, nor addresses any of these genuine concerns.

It should also be noted that no stormwater management plan was submitted with the current DA and the civil plans have the following notation on page C02: *“drainage (such as grated drains and pits) by others to discharge to stormwater in an approved manner to AS3500. Refer to architects or hydraulic specifications and details”*. Relevant reports are, obviously missing, how can this be? This needs to be addressed by the Applicant.

6. Genuine safety issues, increased liability risks

- **It remains unclear if the existing suspended concrete driveway is structurally sound enough to take increased traffic** as noted by Taylor Consulting Engineers. It certainly can’t take the weight of concrete trucks or heavy construction delivery trucks – none of which should be permitted to use the right-of-way private driveway – under any circumstances.
- **The existing suspended private driveway will need to be widened and made compliant with Australian standards to take the extra traffic** (pedestrian & vehicle) arising from the proposed DA. Neither of which are addressed in the original or amended DA. Page 51 of ‘Plans – Master Set with Statement of Environmental Effects’ shows three cars parked at the proposed new garage. The current private driveway simply was never designed to cope with this level of pedestrian or vehicle usage.
- **The new blindspot created by the proposed dwelling exiting our garage enroute to Mitchell Road is extremely dangerous, unworkable and untenable.** It will significantly raise the prospect of increased liability issues for all legally entitled users of the right-of-way (especially residents of 7, 13 & 15 Florida Rd).

- **Exiting the upper private driveway into Mitchell Road (turning right) will become even more hazardous with increased traffic flow** supporting the demolition, excavation and construction of the proposed dwelling and adjacent garage, stairwell, lift well and other structures/works.
- **How can the developer/Applicant guarantee access to our right-of-way 24 hours/ 7 days a week/ 365 days a year from our garage to Mitchell Rd – they can't it remains IMPOSSIBLE**, especially given how steep, narrow and risky it already is.

Thank you once again for considering our real and legitimate concerns pertaining to the amended DA. We look forward to the DA being rejected for all the legal and safety reasons that our Planning, Legal and Engineering Consultants have submitted. The amended DA only exacerbates the safety issues we originally outlined and it doesn't change anything pertaining to the credibility of the proposed structure on land zoned RE1, Public Recreation.

Yours sincerely

Jason B. Smith & Jodie A. Smith