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**From:** Lance Doyle  
**Sent:** 12/07/2024 10:50:15 PM  
**To:** Council Northernbeaches Mailbox  
**Subject:** TRIMMED: DA 2024/0774 - CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL Address: 6 MITCHELL ROAD PALM BEACH  
**Attachments:** SUBMISSION TO COUNCIL RE 6 MITCHELL ROAD.pdf;

Please see attached submission in response to the exhibition of the above DA for referral to Mr Nick Englund.

Kind regards

**LANCE DOYLE**

B.AppSc (UWS), M.Plan (UTS), RPIA, EPLA

**REGISTERED PLANNER**



**DOYLE CONSULTING GROUP**



# Doyle Consulting Group

Planning and Development Services



12<sup>th</sup> July 2024

The General Manager  
Northern Beaches Council  
By email [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)  
ATTN; Nick Englund

**Re DA 2024/0774 - CONSTRUCTION OF A DWELLING HOUSE INCLUDING SWIMMING POOL**

**Address: 6 MITCHELL ROAD PALM BEACH**

Dear Mr Englund ,

I am writing to you on behalf of the owner of 17 Florida Rd Palm Beach in response to the lodgement and notification of the above development application and the potential impact upon the safety and amenity of the occupants and structural soundness of the existing dwelling and private open space of my clients site at 17 Florida Road.

**SITE STABILITY**

The most concerning and immediate issue is the fact that the subject site contains an area of unstable and potentially dangerous material that is located on the upper portion of a rock shelf that is shared by the subject site at 6 Mitchell Rd and the rearmost portion of 17 Florida Rd.

During the preparation of this submission to Council, I have viewed the subject site from the rear portion of 17 Florida Rd and I have examined the submitted documentation including the Statement Of Environmental Effects,

plans, Engineering plans, Geotechnical report and a Flora And Fauna Assessment.

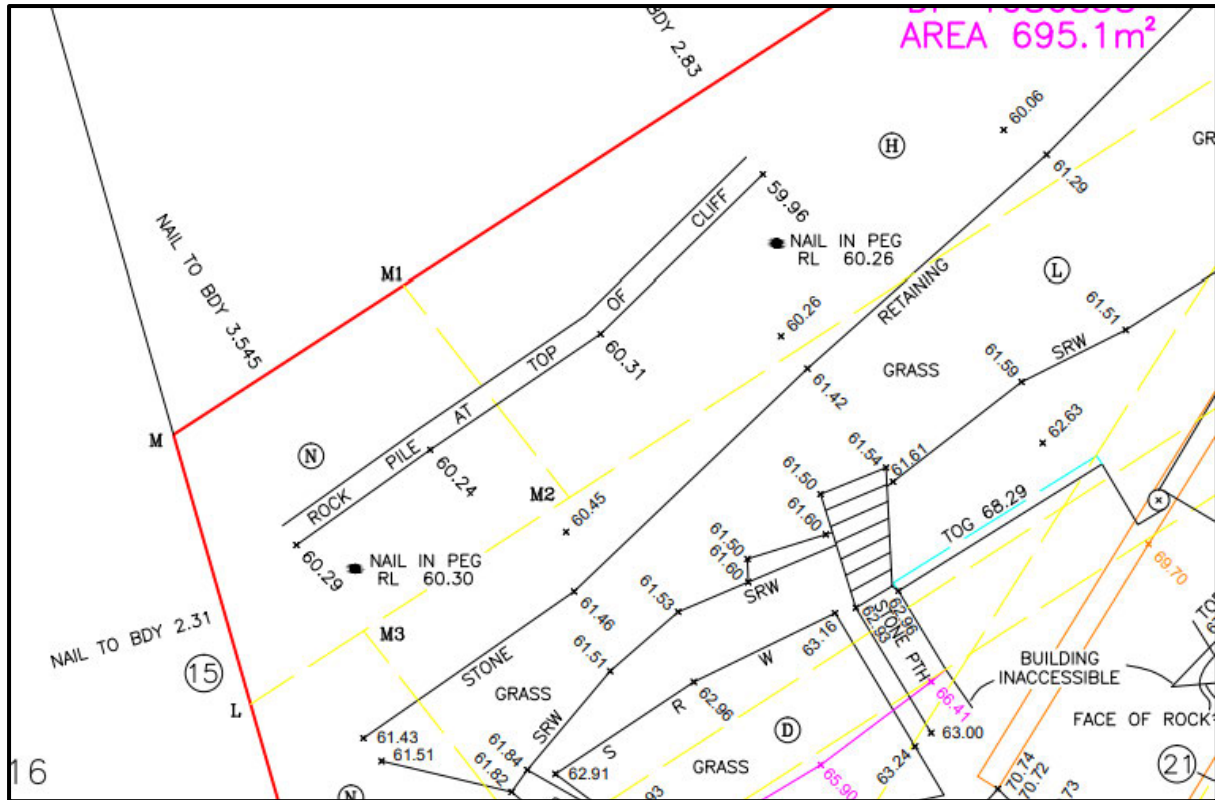
Firstly, and the most important issue for my client is the potential damage to property or persons located within 17 Florida Rd as a consequence of the unstable rocks and other material migrating off site and on to my client's site.

The following photograph taken from the rear of 17 Florida Road illustrates the height of the "cliff" and the location of the rock pile at the upper part of the rock face.



**ROCK FACE AT REAR OF 17 FLORIDA ROAD SHOWING  
ROCK PILE AT TOP OF THE CLIFF**

The submitted survey report also identifies the area of concern as “ROCK PILE AT TOP OF CLIFF”. The location at the top of the cliff confirms the potential magnitude of any movement of the rock pile.



**EXTRACT FROM SURVEY SHOWING ROCK PILE**

This matter is correctly highlighted in the submitted Geotechnical report by Crozier Geotechnical Consultants who have performed an assessment of the site and its suitability for the proposal and concluded that **several geotechnical hazards were identified.**

The Geotechnical Report (on page 19 and 20) recognises the level of risk and flags that several hazards were assessed to have “unacceptable” risk levels at present but that is due to lack of information.

A previous DA for the subject site (2020/1596) was refused for several reasons, including –

*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.*

The current report recommends further inspection and installation of support systems as determined necessary to enable the site to *achieve the Acceptable risk management criteria of councils policy for the design life of the new development, taken as 100 years.*

It is therefore requested that Council direct the applicant to further engage the services of the Geotechnical engineer responsible for identifying the geotechnical hazards and recommend a scope of works to render the entire site able to be deemed "acceptable" and if this is not achievable, the DA be refused and the site rendered safe in terms of unstable components.

## **LANDSCAPE PLAN**

The submitted landscape plan, both in plan view and section, does not provide adequate details of any landscaping between the northern elevated edge of the pool and the common boundary with 17 Florida Rd.

This aspect of the proposal is concerning for two reasons, firstly likely overlooking into the rear living areas of 17 Florida Rd and secondly the necessity to screen the undercroft area in accordance with Section D12.13 of the DCP which states -

*Undercroft areas shall be limited to a maximum height of 3.5 metres.*

*Adequate landscaping shall be provided to screen undercroft areas.*

It is therefore requested that an amended landscape plan be provided to satisfy the concerns of my client and also the necessity for compliance with the above provisions of the DCP.

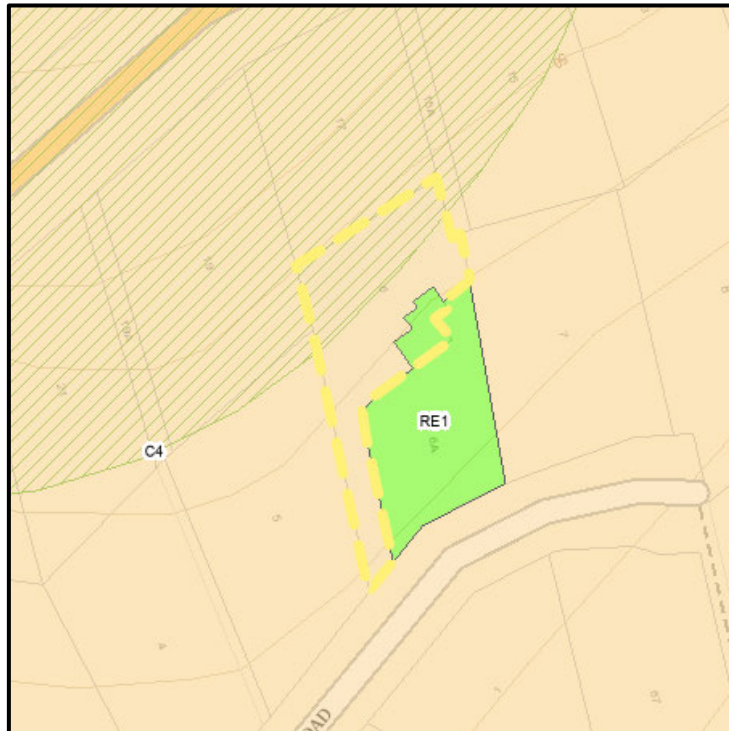
## **INADEQUATE SITE INVESTIGATION**

The following extract from the publicly available NSW Planning Portal Spatial Viewer clearly indicates that the subject site is within the buffer zone for



Littoral Rainforest and is subject to Chapter 2 of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

The submitted Statement of Environmental Effects and Flora and Fauna Assessment are silent on this fundamental aspect of assessment.



**SUBJECT SITE AND BUFFER AS SHOWN ON NSW PLANNING SPATIAL VIEWER**

My review of the Flora and Fauna Assessment found no reference to this critical component of the assessment as the Flora and Fauna Assessment (Page 3) is limited to the subject site and adjacent Bible Garden site and makes no reference to the following fundamentals (in bold) of any site assessment from the relevant component of the SEPP.

*CHAPTER 2*

*2.8 Development on land in proximity to coastal wetlands or littoral rainforest*

*Note—*

The Coastal Wetlands and Littoral Rainforests Area Map identifies certain land that is inside the coastal wetlands and littoral rainforests area as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” or both.

(1) Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on—

**(a) the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or**

**(b) the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.**

(2) This section does not apply to land that is identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map.

The proposal requires an adequate assessment of the above fundamentals by carrying out an assessment that examines these components and addresses applicable legislation.

I also note that Councils Natural Environment Response refers to incorrect legislation although noting the site is within the littoral rainforest buffer.

### **OWNERS CONSENT FOR VEHICULAR ACCESSWAY**

Although the issue of owners consent is not a matter of concern to my clients, I note that it appears that no owners consents from owners of sites served by the right of way have been submitted.

The right of carriageway provides access to a number of properties including the subject site and No. 15, No. 13 and No. 11 Mitchell Road. The subject site is burdened with easements and covenants on title.

Case law confirms that works to a common area such as the accessway would not require consent from all owners if no intensification is proposed.

The proposal however, seeks an intensification of the use of the right of carriageway by the construction of a significantly larger dwelling and the provision of parking on site for three vehicles as opposed to the existing provision of one car space and the provision of a passenger lift.

This matter requires further consideration from Council as to whether the proposal invokes the provisions of Clause 1.9A of the PLEP or not.

To summarise, a more thorough investigation by the geotechnical engineer (as recommended in his report) and a landscape plan providing for deep soil landscaping between the pool undercroft and the common boundary with 17 Florida Rd will alleviate the majority of concerns raised by the owners of 17 Florida Rd.

Thank you for the opportunity to provide this submission on behalf of my clients. Please contact me should you wish to visit my clients site.

**LANCE DOYLE**  
**M.Plan (UTS), B.AppSc (UWS),RPIA**

