



Our Ref: CHS:KA:210019

6 September 2022

Ray Brownlee
Chief Executive Orders
Northern Beaches Council
725 Pittwater Road
Dee Why NSW 2099

By email: council@northernbeaches.gov.au; nemani.robertson@northernbeaches.nsw.gov.au

Attention: Mr Nemani Robertson

Dear Brownlee,

Re: Planning Proposal with respect to additional permitted use at 6 Mitchell Road, Palm Beach

1. As you are aware we act for the Applicant, Mr Roger Bain, in relation to the enclosed Planning Proposal which seeks an additional permitted use at 6 Mitchell Road, Palm Beach (the **Site**) for the purposes of a dwelling house permitted with development consent (the **Planning Proposal**).
2. By way of brief background, during Council's assessment of the original Development Application reference number DA2020/1496 (the **Development Application**), Council was concerned that the zoning of small sections of the Site footprint was inconsistent with the proposed development of a dwelling house. As such, the Planning Proposal became necessary in order to enable the proposed development.
3. The Planning Proposal proposes the amendment of the *Pittwater Local Environmental Plan 2014* for an additional permitted use in the following form:

Use of certain land at 6 Mitchell Road, Palm Beach

(1) This clause applies to land at 6 Mitchell Road, Palm Beach and identified as "Area [#number#]" on the Additional Permitted Uses Map.

(2) Development for the purposes of a dwelling house is permitted with development consent.

(3) The dwelling house must not exceed 74.5AHD.

4. We write to you to both:
 - a. outline pre-lodgment discussions with Northern Beaches Council (**Council**) in relation to the Planning Proposal; and
 - b. to highlight the responsiveness of the Planning Proposal to those discussions with Council.

Pre-lodgement meetings

5. We are grateful to Council for the consultation and helpful guidance they have provided in relation to the Planning Proposal. We previously met with Mr Nemani Robertson (Planner at Council) on two occasions by way of pre-lodgement meetings, on:
 - a. 19 August 2021; and
 - b. 14 December 2021.
6. By way of summary, the advice received at those meetings in relation the Planning Proposal is as follows:
 - a. At the 19 August 2021 meeting, Mr Robertson advised:
 - i. There is an existing Plan of Management (**POM**) on the Site. That POM is the “Bible Gardens Palm Beach Plan of Management and Management Plan” (the **Bible Garden POM**) with the relevant signatories being Pittwater Council, the Friends of the Bible Garden and the then owner of the existing residential property on the Site, Cooe Properties Pty Ltd. We were advised that the Bible Garden POM would suffice, and no further POM would be necessary, should the proposed development the Planning Proposal seeks to enable be not above 74.5 meters AHD.
 - ii. A Heritage Report would need to be provided to Council addressing the heritage listing of the Bible Garden and the potential impacts from a Planning Proposal. That Heritage Report, and the Planning Proposal it accompanies, would also be required to address the Section 9.1 Ministerial Direction for Planning Proposals – 2.3 Heritage Conservation.
 - iii. The Applicant should engage with the Friends of the Bible Garden prior to lodging the Planning Proposal.
 - b. At the 14 December 2021 meeting, Mr Robertson further advised:
 - i. Amendments to certain reports lodged with the Development Application, would be required so as to reflect the Planning Proposal and the proposed additional permitted use of the currently RE1 Public Recreation zoned land. The relevant reports requiring amendment were advised to be, the:
 1. Heritage Impact Statement;
 2. Flora and Fauna Report;
 3. Arboricultural Impact Assessment; and
 4. Geotechnical Report.
7. The Applicant is grateful for this feedback from Council and has sought to meaningfully respond to the advice of Council, as outlined above.

Responsiveness of the Planning Proposal

8. With respect to the responsiveness of the Planning Proposal, we wish to note that:

- a. A further POM has not been prepared. This is because the proposed development will not exceed 74.5 metres AHD.
- b. A revised Heritage Impact Statement (**HIS**) has been provided with the Planning Proposal. This HIS addresses the heritage listing of the Bible Garden, any potential impacts of the Planning Proposal on the same, and the Section 9.1 Ministerial Direction for Planning Proposals – 2.3 Heritage Conservation. The HIS also reflects the Planning Proposal and the additional permitted use.
- c. A further Flora and Fauna Report has been prepared that reflects the Planning Proposal and the proposed additional permitted use for the currently RE1 Public Recreation zoned land.
- d. An addendum letter to the Arboricultural Impact Assessment provided with the Development Application has been prepared that reflects the Planning Proposal and the proposed additional permitted use of the currently RE1 Public Recreation zoned land.
- e. An addendum letter to the Geotechnical Report accompanying the Development Application has been provided with the Planning Proposal that reflects the Planning Proposal and the proposed additional permitted use of the currently RE1 Public Recreation zoned land.
- f. The Planning Proposal has been amended to both address the Section 9.1 Ministerial Direction for Planning Proposals – 2.3 Heritage Conservation and to annex the documents referred to above at paragraphs 8(a) to 8(e).

Next steps

9. We again thank Council for its engagement to date regarding the Planning Proposal and respectfully request that Council contact us should any further information be required. We welcome the opportunity to discuss the Planning Proposal further with Council should the need arise.
10. Please contact the writer if you have any questions about this letter, or require further information in relation to the same.

Yours faithfully,

Karen Arthur

Chris Shaw
Principal
for **SHAW REYNOLDS LAWYERS**

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