

Nemani Robertson

From: DYPXCPWEB@northernbeaches.nsw.gov.au
Sent: Friday, 30 September 2022 7:34 AM
To: DA Submission Mailbox
Subject: Online Submission

30/09/2022

DR STUART Spring
46 Iluka Rd / Palm Beach ST
NSW 2108
stuspring1@gmail.com

RE: PEX2022/0003 - 6 Mitchell Road PALM BEACH NSW 2108

Hi Nemani-I am President of the Friends of the Palm Beach Bible Garden--next door neighbour to the property that relates to this application --I am having trouble working out what the application is about could you contact me please 0438260042
many thanks

Nemani Robertson

From: DYPXCPWEB@northernbeaches.nsw.gov.au
Sent: Monday, 10 October 2022 8:06 PM
To: DA Submission Mailbox
Subject: Online Submission

10/10/2022

MR Michael Dunn
18 Catalina Crescent ST
Avalon Beach NSW 2107
mjdunn@tpg.com.au

RE: PEX2022/0003 - 6 Mitchell Road PALM BEACH NSW 2108

I have carefully looked at the submissions provided online. I also regularly visit the bible garden. I actually built the garden shed. A photo taken from this garden was my screensaver whilst living overseas for over 5 years. This photo kept me motivated to return and gave me great joy. From what I have seen these gardens and it's extensive view gives many, many people the same joy. It would be a travesty if this special place was affected' in any way. Could the garage area be moved further east and lowered? From my experience with rooftop gardens they rarely become a permanent fixture on a property, due to various problems or lack of interest. That would be my concern with this being so close to the max development height. Can the vegetation height on the rooftop be at the max development height?

I would prefer if the view of hundreds was not impeded by the view of a few.

Thanks

Nemani Robertson

From: Denis Smith <denis.smith8@bigpond.com>
Sent: Tuesday, 11 October 2022 1:13 PM
To: Council Northernbeaches Mailbox; Nemani Robertson
Cc: Peter Robinson
Subject: URGENT: Planning Proposal - PEX 2022/0003 - 6 Mitchell Road, Palm Beach, NSW

Importance: High

Categories: Skye

Attention: Nemani Robertson, Planner

Good afternoon

Reference is made to Council's letter addressed to Jason Bradley Smith, 15 Florida Road, Palm Beach advising that "a Planning Proposal application has been lodged on this property to expressly seek to amend the Pittwater Local Environmental Plan 2014 for 6 Mitchell Road Palm Beach NSW".

The proposal "seeks to amend Pittwater Local Environmental Plan 2014 by adding 'dwelling houses' as an additional permissible use on that portion of the subject land zoned RE1".

Jason Smith has instructed Tomasy Planning to review the documentation submitted with the Planning Proposal. Our clients also own No 13 Florida Avenue, Palm Beach. We have undertaken a preliminary review of the documentation and are alarmed, to say the least, that an application has been lodged on part of the subject land which is zoned RE1 to permit an additional permissible land use by way of a dwelling house on this land. Our client has also agreed to instruct Mr Paul Vergotis, Partner (Accredited Specialist – Planning & Environment Law), Piper Alderman. Instructions have also been given to our clients' lawyers to engage Dr Steven Berveling, Barrister, to represent them on this matter as Dr Berveling has a sound understanding of the background relating to a Development Application for the erection of a dwelling house at No 6 Mitchell Road, which included the land the subject of the Planning Proposal. The Development Application 2020/1596 was refused by Council on 18 August 2021.

It is noted that the notification period for submissions closes on 13 October 2022 – in two days' time. A notification period of 14 days is unreasonable and quite absurd for a matter of such importance to not only our client but also the community at large. The land to which the Planning Proposal relates abuts the Bible Garden, which is a listed Heritage site. For Council to support a proposal to allow a dwelling house to be erected on land zoned RE1 would create a dangerous precedent and leave the gate open to other applications which would permit dwelling houses on Public Recreation land.

It is respectfully requested that an extension of time of 14 days from 13 October (10 additional working days) to enable our clients' lawyers and other relevant consultants to further review all documentation and prepare a comprehensive submission to Council. Our clients' lawyers are prepared to contact Mr Peter Robinson, Council's Executive Manager, Planning and Assessment, in an attempt to emphasise the need for an extension of time for a submission to be prepared and lodged on a matter that is of such importance, particularly from a precedent perspective and having due regard to the heritage and conservation values that relate to the adjoining land, being the Bible Garden.

Your early response to this matter would be appreciated.

Regards
Denis Smith

Denis Smith

Director, Planning and Property



Suite 1/41-49 Darley Street East m: 0400 777 115
Mona Vale, NSW 2103 e: denis.smith8@bigpond.com

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Please think before you print

Nemani Robertson

From: DYPXCPWEB@northernbeaches.nsw.gov.au
Sent: Wednesday, 12 October 2022 1:25 AM
To: DA Submission Mailbox
Subject: Online Submission

12/10/2022

MRS Christine Lanceley
96 Pacific RD
Palm Beach NSW 2108
Clnclly@icloud.com

RE: PEX2022/0003 - 6 Mitchell Road PALM BEACH NSW 2108

Dear Sir,

I am concerned that the proposed development of a garage for 6 Mitchell Rd will obscure part of the view of the beach that is currently visible from

The Bible Garden as indicated by the height poles and diagrams. In my opinion any new structure should not be allowed to obscure any part of the current existing view as the near view of the beach is as important as the distant view. I am also concerned that with the owner being responsible for the upkeep of the proposed roof garden it will revert to a weedy mess and plants growing up to further obscure the view from the Bible Garden due to it being out of sight and concern to the owner and upkeep not being enforced. Consent for this garage plan should be refused or height significantly reduced.

I have been enjoying regular visits to the Bible garden from the time of its establishment in the 1960s and often take visitors and friends there as does my daughter and other members of my family. It would be very sad to see any loss of the view

Regards,

Christine Lanceley

Our Ref: PNV.437936
Your Ref:

21 October 2022

By Email: Nemani.Robertson@northernbeaches.nsw.gov.au

Nemani Robertson
Northern Beaches Council
PO Box 82
Manly NSW 1655

Dear Ms Robertson

PEX2022/0003 at 6 Mitchell Road, Palm Beach NSW 2108

1. We act for Jason and Jodie Smith at 13 & 15 Florida Road, Palm Beach, and have been instructed to prepare a submission in relation to Planning Proposal PEX2022/003.

Summary of Opinion

2. For reasons set out below, it is our opinion that:
 - 2.1 The Planning Proposal relates only to 6 Mitchell Road Palm Beach, being Lot 1 DP 108658 (**Lot 1**).
 - 2.2 The making of the Planning Proposal without a connected development application is contrary to s. 3.38 of the *Environmental Planning and Assessment Act 1979 (Act)*.
 - 2.3 The notification of the Planning Proposal is contrary to 3.40(1) of the Act.
 - 2.4 Those breaches would lead to invalidity of any amendment made pursuant to the LEP as a result of the Planning Proposal.
 - 2.5 Further, separate from and in addition to the above, the proposed amendment to the LEP is unclear and instead a proper description of the Planning Proposal would be:

Use of certain land at 6 Mitchell Road, Palm Beach

- (1) This clause applies to land at 6 Mitchell Road, Palm Beach, being [Lot 1, DP 108658](#) and identified as "area [#number#]" on the Additional Permitted Uses Map.
- (2) Development for the purposes of a dwelling house [not exceeding 74.5AHD in height](#), is permitted with development consent.
- (3) ~~The dwelling house must not exceed 74.5AHD.~~

Lawyers

**Adelaide . Brisbane
Melbourne . Perth . Sydney**

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Governor Macquarie Tower
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**Partner (Accredited Specialist -
Planning & Environment Law):**

Paul Vergotis
t +61 2 9253 3880
PVergotis@piperalderman.com.au

Basis of Planning Proposal.

3. The Planning Proposal arises from the following:
 - 3.1 The south-eastern portion of Lot 1 is limited in height to 74.5AHD, above which part of the Lot 2 the Bible Garden is located – see Figure 2 of DP 108658, copy **attached**.
 - 3.2 Lot 2 DP 108658 (the Bible Garden) is appropriately zoned RE1 Public Recreation zone pursuant to Pittwater Local Environmental Plan 2014 (**the LEP**).
 - 3.3 Most of Lot 1 is within the C4 Environmental Living Zone except its south-eastern part (below the north-eastern part of Lot 2), which is within the RE1 Public Recreation zone.
 - 3.4 Land zoning does not recognise strata units of land, and accordingly all that land in the south-eastern corner of Lot 1 is zoned RE1 Public Recreation pursuant to the LEP.
 - 3.5 Development for the purpose of a dwelling house is permissible on land within the C4 Environmental Living Zone but is prohibited on land within the RE1 Public Recreation zone. Most of the locality is within the C4 Environmental Living Zone.
 - 3.6 Accordingly, development for the purpose of a dwelling house is prohibited on the south-eastern part of Lot 1.

Public Exhibition of Planning Proposal is unlawful.

4. Part 3 of the Act, provides relevantly for the making and amendment of local environmental plans.
5. A planning proposal is required to be prepared for any amendment to a local environmental plan.
6. Division 3.4 of the Act (sections 3.31 – 3.37) provides for a “plan-making authority” (i.e. a local council) to prepare a planning proposal. This has not occurred in the present case. Accordingly Division 3.4 of the Act does not apply.
7. Division 3.5 (sections 3.38 – 3.40) of the Act is another mechanism for amendment to a local environmental plan. Its section 3.38 provides that this Division applies if a development application is made to a consent authority for consent to carry out development that may only be carried out if an environmental planning instrument applying to the land on which the development is proposed to be carried out is appropriately amended.
8. In the present case, no development application has been made. Only the Planning Proposal has been lodged with Council. Whilst the Planning Proposal refers to Concept

Plans for a development application, that does not equate to a development application having been made.

9. Accordingly Division 3.5 of the Act does not apply in the present case.
10. Division 3.5 could apply only if a development application had been lodged which required amendment to the LEP. In that event, then, s. 3.40(1) of the Act provides (*our emphasis underlined*):
 - (1) Public notice that is required to be given under this Act *in connection with* the making of a proposed environmental planning instrument and notice that is required to be given under this Act *of a development application* in circumstances where this Division applies are to be given by the same notice if that is practicable or, if that is not practicable, as closely together as is practicable
11. In the present case:
 - 11.1 the making of the Planning Proposal without a connected development application is contrary to s. 3.38 of the Act.
 - 11.2 The notification of the Planning Proposal is contrary to 3.40(1) of the Act.
 - 11.3 The reference in the Planning Proposal to Concept Plans does not overcome this breach – it is wrong to ask the public to assume that a development application in accordance with those Concept Plans might be lodged in the future.
12. Those breaches would lead to invalidity of any amendment made pursuant to the LEP as a result of the Planning Proposal.

Further - proposed amendment unclear.

13. If we were to leave aside for the moment the invalidity of any amendment made pursuant to the Planning Proposal as set out above (which are maintained), and refer to any actual amendment to the LEP being clear and unambiguous.
14. Ultimately, it appears that the proposed amendment to the LEP is:
 - 14.1 Insert for the purposes of cl. 2.5 of the LEP, an additional clause into Schedule 1 of the LEP;
 - 14.2 Amend the Additional Permitted Uses Map to designate Lot 1 as an area to which that additional clause in Schedule 1 applies.
15. Any additional clause into Schedule 1 of the LEP should be clear and unambiguous. Whereas the letter from Shaw Reynolds to Council dated 6 September 2022 describes this to some extent, a more appropriate description of the proposed amendment would

To: Nemani Robertson
Date: 20 October 2022
Our Ref: PNV.437936
Page: 4



be as follows (using track change mode to indicate changes to the description in paragraph 3 of the letter from Shaw Reynolds):

Use of certain land at 6 Mitchell Road, Palm Beach

- (1) This clause applies to land at 6 Mitchell Road, Palm Beach, being Lot 1, DP 108658 and identified as “area [#number#]” on the Additional Permitted Uses Map.
- (2) Development for the purposes of a dwelling house not exceeding 74.5AHD in height, is permitted with development consent.
- (3) ~~The dwelling house much not exceed 74.5AHD.~~

16. The change to paragraph 2 makes clear that the additional use is limited to Lot 1 DP 108658, avoiding any uncertainty as to the extent of land which might be described as “6 Mitchell Road, Palm Beach” (i.e. not including any part of Lot 2 the Bible Garden).
17. The change to paragraph 3 makes clear that the height limitation of 74.5AHD circumscribes the additional development made permissible pursuant to the amendment, rather than possibly be considered as a development standard amenable to cl. 4.6 of the LEP.
18. On this point, we refer to the decisions of *Agostino v Penrith City Council* [2010] NSWCA 20; (2010) 172 LGERA 380 where the Court of Appeal held that the permissibility of a fruit and vegetable store on the relevant land was limited to such a store as described in cl. 41(3) of that LEP, namely a “fruit and vegetable store with a maximum floor area of 150 sq. m”. The floor area limitation was a specific component of the description of the permissible development, and not a development standard.
19. Should you have any questions in relation to our comments above, please do not hesitate to contact me.

Yours faithfully
Piper Alderman

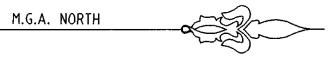
Per:

A handwritten signature in blue ink, appearing to read 'Paul Vergotis'.

Paul Vergotis

Partner (Accredited Specialist - Planning & Environment Law)

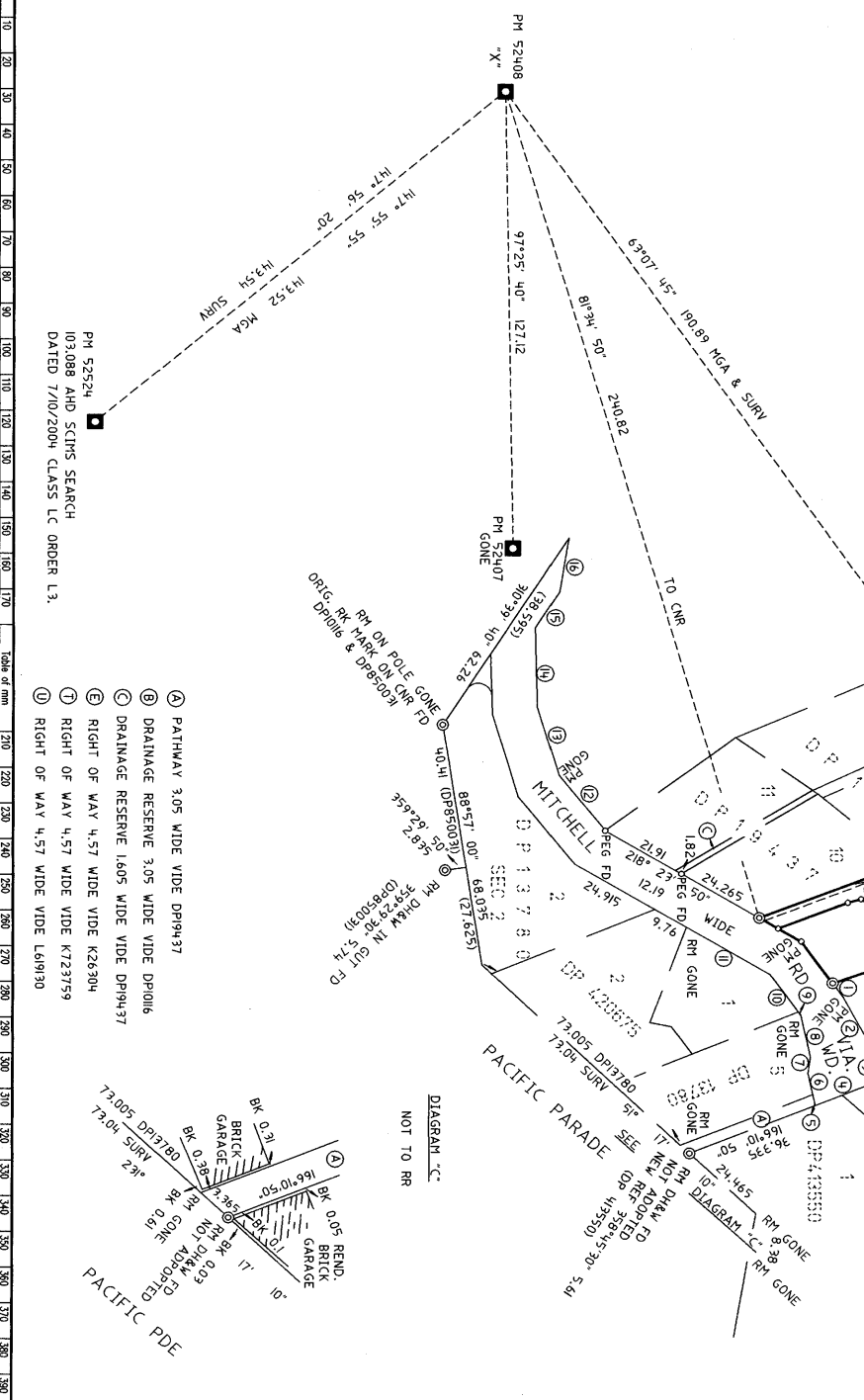
InfoTrack
David Robinson

SHORT LINES	
1	62°02' 50"
2	69°30' 50"
3	85°39' 50"
4	166°10' 50"
5	265°40' 50"
6	265°40' 50"
7	285°46' 50"
8	265°40' 50"
9	242°02' 50"
10	242°02' 50"
11	218°22' 50"
12	239°13' 50"
13	261°04' 50"
14	276°08' 50"
15	310°40' 10"
16	287°06' 10"

SURVEYING REGULATION, 2001: CLAUSE 32(2)			
M G A	CO-ORDINATES	ZONE	56
MARK	EASTING	NORTHING	CLASS ORDER
PM 52408	344 554.701	6 280 609.899	B 2
PM 52524	344 630.899	6 280 488.279	B 2
SSM 38196	344 724.979	6 280 696.177	B 2

SOURCE: SCIMS 7/10/2004 Combined scale factor 0.999895



Department of Lands Approval
(Authorised Officer) in approving this plan certifies that all necessary approvals in respect to the detection of the land shown hereon have been given

Signature: _____
Date: _____
Firm Number: _____
Office: _____

Subdivision Certificate
I hereby certify that the provisions of s.108 of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the subdivision of the land shown hereon.

Subdivision (insert subdivision or lot number) set out herein

Consent Authority: **PITTWATER COUNCIL**
* Authorised Person (General Manager/Assistant General Manager)
Date of endorsement: **14/10/05**

Accreditation no.: **P46105**
Subdivision Certificate no.: **P46105**
File no.: **N0824104**

Note: When the plan is to be lodged electronically in the Land Titles Office it should include a signature in an electronic or digital format approved by the Registrar-General.

Dated wherever is appropriate

SURVEYOR'S REFERENCE: 04_202 CHECKLIST

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FOR USE ONLY for statements of intention to dedicate public roads, to create public reserves (drainage reserves, easements, restrictions on the use of land or positive covenants). PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1999 AS AMENDED, IT IS INTENDED TO CREATE:

- EASEMENT FOR DRAINAGE
- EASEMENT FOR DRAINAGE OF SEWAGE | WIDE
- RESTRICTION AS TO USER
- POSITIVE COVENANT
- RESTRICTION AT TO USER
- POSITIVE COVENANT
- EASEMENT TO PERMIT ENCROACHING STRUCTURE TO REMAIN 0.3 WIDE
- POSITIVE COVENANT
- RESTRICTION AT TO USER
- EASEMENT TO PERMIT ENCROACHING TO REMAIN
- EASEMENT FOR PEDESTRIAN ACCESS

Registered **AW 07.02.2006**
Title System: **TORRENS**
Purpose: **SUBDIVISION**
Ref. Map: **U2715-2**
Lost Plan: **DP 213975**
PLAN OF SUBDIVISION OF LOT 2 DP 213975

Lengths are in metres Reduction Ratio: 1:1000

L G A PITWATER
Locality: PALM BEACH
Parish: NARRABEEN
County: CUMBERLAND

This is sheet 1 of my plan in 2 sheets.
(Delete if inapplicable)

Surveying Regulation 2001

I, **ROBERT KIPPONICH** of **AMANDA KIPPONICH SURVEYING PTY LTD** of **122/123 COLLAIRIE RD, NEWCASTLE NSW 2267** a surveyor registered under the Surveying Act, 2002, hereby certify that the survey represented in this plan is conducted in accordance with the Surveying Act, 2002 and was completed on **17/10/2004**. The survey refers to - **L515 1 & 2** (here specify the land actually surveyed, or specify any land shown in the plan which is not the subject of the survey)

(Signature) **[Signature]** Date: **17/10/2004**
(Print Name) **ROBERT KIPPONICH**
(Print Address) **122/123 COLLAIRIE RD, NEWCASTLE NSW 2267**
District: **"X"**

Plans used in preparation of survey/compilation:
DP219715, DP194371, DP101671, DP1016,
DP13780, DP419550, DP420875
DP850031

Zone: **Urban RESIDENTIAL**

Added in LPI NSW TO LOT 1 IN SUBJECT PLAN AT SURVEYOR'S REQUEST

DP1086858

M.G.A. NORTH

D P 1 0 1 1 6

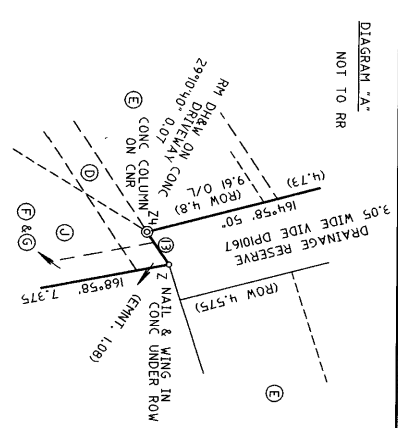
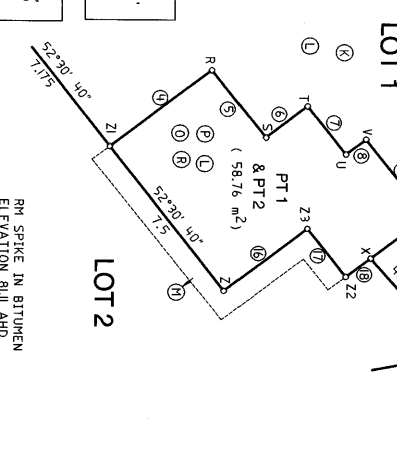
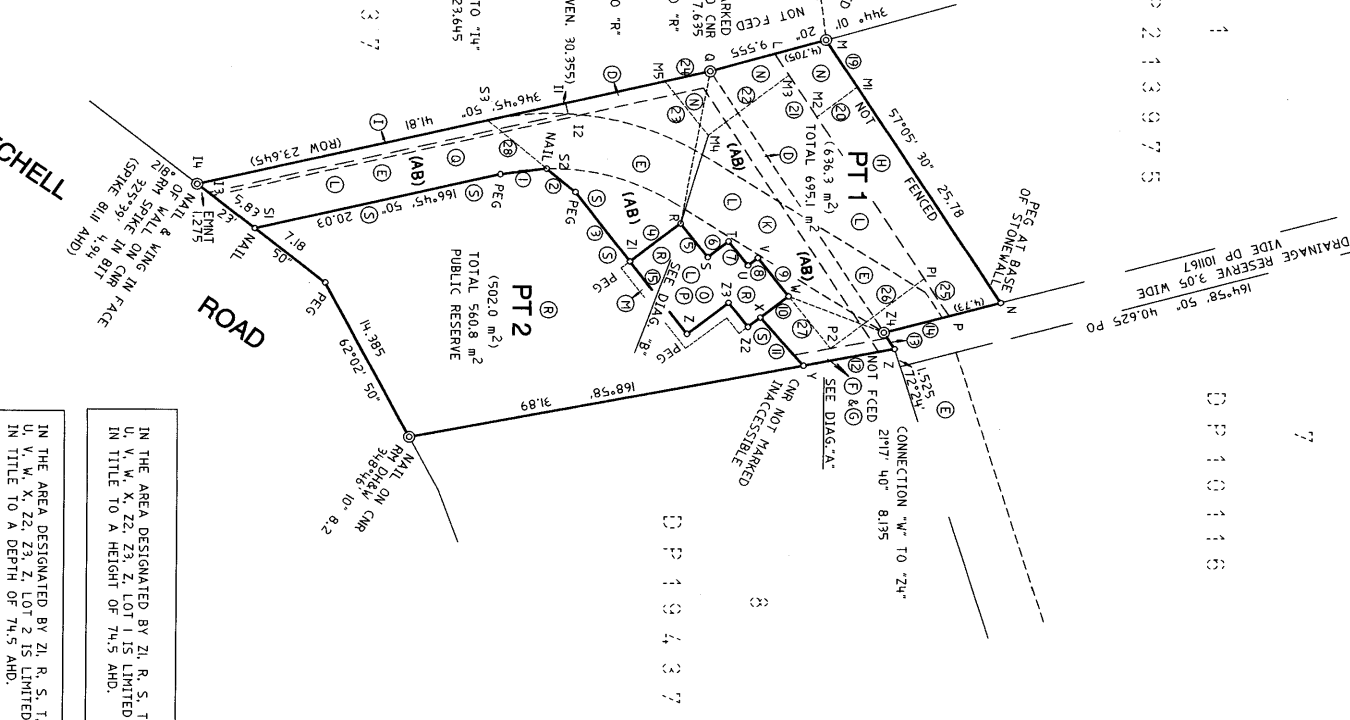
D P 2 1 3 9 7 5

D P 1 0 1 1 6

7

SHORT LINES	BEARING	DISTANCE
1	95°2'30" 30'	3.71
2	40°00' 20"	2.985
3	52°30' 40"	7.175
4	32°55' 30"	5.11
5	51°55' 30"	3.5
6	32°55' 30"	2.1
7	51°55' 30"	2.5
8	14°55' 30"	4
9	51°55' 30"	2.855
10	14°55' 30"	5.245
11	48°47' 40"	7.375
12	168°58' 50"	1.6
13	57°05' 30"	9.61
14	52°30' 40"	7.5
15	32°55' 30"	4.185
16	51°55' 30"	2.5
17	32°55' 30"	1.245
18	57°05' 30"	4.605
19	14°55' 30"	4.52
20	57°05' 30"	4.415
21	237°05' 40"	7.655
22	14°55' 30"	5.655
23	231°55' 30"	3.705
24	346°55' 50"	3.495
25	237°05' 30"	3.495
26	14°55' 30"	8.95
27	231°55' 50"	5.43
28	200°00' 00"	6.17

- (D) EASEMENT 1.22 WIDE CREATED BY VIDE HH0958
- (E) RIGHT OF WAY 4.57 WIDE VIDE K26304
- (F) EASEMENT FOR DRAINAGE OF WATER 1 WIDE
- (G) EASEMENT FOR DRAINAGE OF SEWAGE 1 WIDE
- (H) RESTRICTION AS TO USER (AREA L, M, N, P.)
- (I) POSITIVE COVENANT (AREA II, 12, 13, 14.)
- (J) RESTRICTION AS TO USER (AREA MH, M3, P1, P2, W, Y, U, T, S, R.)
- (K) POSITIVE COVENANT
- (L) EASEMENT TO PERMIT ENCROACHING STRUCTURE TO REMAIN 0.3 WIDE
- (M) POSITIVE COVENANT (AREA M, M1, M2, M3, M4, M5, Q.)
- (N) RESTRICTION AS TO USER (AREA Z1, R, S, T, U, V, W, X, Z2, Z3, Z.)
- (O) EASEMENT TO PERMIT ENCROACHING STRUCTURE (AREA Z1, R, S, T, U, V, W, X, Z2, Z3, Z.)
- (P) EASEMENT FOR PEDESTRIAN ACCESS (AREA 14, 53, 52, 51.)
- (Q) RESTRICTION AS TO USER
- (R) RESTRICTION AS TO USER
- (S) RESTRICTION AS TO USER
- (AB) COVENANT - D485602



IN THE AREA DESIGNATED BY Z1, R, S, T, U, V, W, X, Z2, Z3, Z, LOT 2 IS LIMITED IN TITLE TO A HEIGHT OF 74.5 AHD.

RM SPIKE IN BITUMEN ELEVATION BILL AHD ESTABLISHED FROM PM 52524 103088 AHD SCRS SEARCH DATED 7/10/2004 CLASS LC ORDER L3.

DP1086858

Registered: AW 07.02.2006

This is sheet 2 of my plan in 2 sheets covered by my certificate No. 1086858 dated 7/10/2004

Surveyor registered under the Surveyors Act 1928
 This is sheet 2 of the plan of ...
 sheets covered by my certificate No. 1086858 of ...

Advertisement Person/General Manager/Authorised Officer
 For use where space is insufficient in any part on Plan Form 2

PURSUANT TO SECTION 888 OF THE CONVEYANCING ACT, 1919, AS AMENDED, IT IS INTENDED TO CREATE:-

- 12. RESTRICTION AS TO USER
- 13. RESTRICTION AS TO USER

IT IS INTENDED TO DEDICATE LOT 2 AS PUBLIC RESERVE.

Reduction Ratio 1: 300

Surveyor's Reference: 04_202 CHECKLIST

Plan Drawing only to appear in this space

Nemani Robertson

From: petrina minter <petrinamnr@gmail.com>
Sent: Friday, 28 October 2022 11:02 AM
To: Council Northernbeaches Mailbox
Subject: APPLICATION NO PEX 2022/003 DA 2020/1596

Categories: Amelia

Dear Nemani

I am writing on behalf of my mother Nancye Walton who is 99 years of age, the owner of 17 Florida Road.

In our previous submission to council we complained about the lack of concern for the stone wall behind but close to our southern boundary. We included a copy of White Geotechnical Engineer report 2014 to describe the danger posed by this wall.

We would have expected consideration of our problem in this submission.

To add insult to injury the Survey plan supplied in this application does not show the existence of this stone wall at all. The only reference to our problem is in the Davis Geotechnical Engineers Report that states "this report does not mention 17 Florida road situated below 6 Mitchell road. The steep slope and conditions of the possibility of sandstone boulders present potential hazards and risk to 17 Florida road. This slope component must be inspected and potential risks assessed."

This report dated 1st July 2022 a very surprising comment considering a part of this wall collapsed and tons of rock fell down the cliff onto our land on the 7th April 2022, six months earlier.

Following a request from northern beaches council on 8th April 2022 this site was inspected by Michael Neville senior geotechnical engineer from Public works. I will forward his report which was commissioned by the northern beaches council at the time

The owner of this property has made no effort to make the site safe. The council has not followed up anything with us despite commissioning the report. The house is not safe to live in or rent at the moment so we are losing rent every week. We have engaged lawyers at our own expense to try to do something about our problem. Little wonder we have no confidence with this development and no confidence that there will be any effort to protect us if this application were to be successful.

The survey drawings conducted by DP Surveying have omitted the problem wall from their survey as though it doesn't exist yet it is on every other survey including the survey supplied on the original application. What kind of surveyor would remove a retaining wall that has partly collapsed and is causing grief to a neighbour.

We have no confidence in this application and have no reason to trust anyone involved in it. We hope and expect a far more comprehensive treatment of the geotechnical issues that exist before this building can possibly be passed.

I will forward the latest White Geotechnical Report received on 27th October, describing the current condition of the failed wall and the risk it poses to the property below.

Regards
Petrina Minter

Nemani Robertson

From: petrina minter <petrinamnr@gmail.com>
Sent: Friday, 28 October 2022 11:06 AM
To: Council Northernbeaches Mailbox
Subject: Fwd: 6 Mitchell Road and 17 Florida Road Palm Beach Landslip: Site Visit
Attachments: Mitchell & Florida Rds Palm Beach_Site Visit.pdf

Categories: Amelia

Application no PEX 2022/003 DA 2020/1596

Attention Nemani

Please view and attach this report to my email regarding this application.

Regards
Petrina Minter

----- Forwarded message -----

From: Ben Fallowfield <Ben.Fallowfield@northernbeaches.nsw.gov.au>
Date: Sun, 10 Apr 2022 at 08:41
Subject: Fwd: 6 Mitchell Road and 17 Florida Road Palm Beach Landslip: Site Visit
To: petrinamnr@gmail.com <petrinamnr@gmail.com>

Hi Petrina, report attached.

Regards
Ben

Get [Outlook for iOS](#)

From: Michael Neville <michael.neville@pwa.nsw.gov.au>
Sent: Sunday, April 10, 2022 4:40:00 PM
To: Ben Fallowfield <Ben.Fallowfield@northernbeaches.nsw.gov.au>
Cc: Russell Peake <Russell.Peake@northernbeaches.nsw.gov.au>; Martin Dwyer <martin.dwyer@pwa.nsw.gov.au>
Subject: 6 Mitchell Road and 17 Florida Road Palm Beach Landslip: Site Visit

Ben,

Report attached. Russell to pass on to the property owners.

Michael

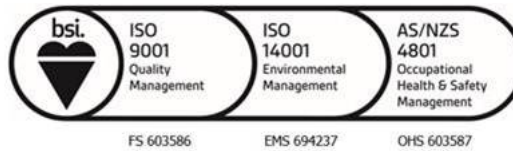
Michael Neville

Senior Engineering Geologist | Emergency Engineering Management

Public Works Advisory & Regional Development | Department of Regional NSW

T 02 9769 9778 | M 0472 984721 M 0407 026499 | E Michael.neville@pwa.nsw.gov.au

Level 30, 4 Parramatta Square, 12 Darcy St, Parramatta, NSW 2150.



LinkedIn  **YouTube** ◀ [What does PWA do? Check out these short videos!](#)

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Northern Beaches Council

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17 FLORIDA ROAD & 6 MITCHELL ROAD, PALM BEACH: SITE INSPECTION 9.04.2022

Following an email request from Northern Beaches Council (8.04.2022: 10:42 PM), the sites were inspected on the morning of 9.04.2022. Between both addresses approximately 2¼ hours were spent on site. During the inspection, I was accompanied by Russell Peake (Northern Beaches Council) and Katrina Minter (owner 17 Florida Road), and at various times by Sian Uther (Real Estate agent, 6 Mitchell Road), Roger Bain (owner, 6 Mitchell Road), his son Albert, David Pralston (tenant, 6 Mitchell Road), and Peter North (excavator operator, invited by Katrina Minter). A soil slump in saturated soil caused failure of a sandstone block retaining/landscape wall in a lower garden of 6 Mitchell Road (see **Photos 1 and 2**). Sandstone blocks rolled/bounced approximately 13m down a steep rock slope, coming to rest on a flat sandstone bench above the dwelling at 17 Florida Road (see **Photos 3 and 4**). Fortunately, there was no damage; although a length of steel pipe was displaced, and one block came to rest against a secondary structure (see **Photo 5**). Approximately 10m above the sandstone bench at the rear of 17 Florida Road, the downhill roll of three large blocks was arrested by thick vines (see **Photo 6**). The largest block is estimated to be 0.5 – 0.6 tonnes (see **Photo 7**).

There are two stability issues at the site:

- I. The three large unstable blocks arrested by the thick vines are of immediate concern and require immediate attention as they pose a risk to the dwelling below.
- II. The slump and failed retaining/landscape wall requires assessment by a geotechnical specialist to develop an appropriate remedial solution. This assessment should be undertaken in the short-term; but is less critical than the above. The existing wall appears to be a landscaping structure rather than an engineered retaining structure; although, blocks are not mortared and would allow drainage. Seepage appears to have concentrated in the area behind the failure, saturating the soil.

For the immediate remedial work, an attempt is proposed to cradle the unstable blocks from above and lower them by winching down to the flat sandstone bench at the rear of 17 Florida Road. This work would require machine access onto the concrete drive above the residence at 6 Mitchell Road. The load capacity of the concrete drive would need to be assessed by a structural engineer, prior to development of detailed work plans. Access to the unstable blocks will be difficult, probably requiring rope access and some vegetation clearing.

Further rainfall is predicted. As temporary measures, the following was recommended (and was being actioned by the owner of 6 Mitchell Road):

- Filling a thin, additional tension crack (see **Photo 8**) at the rear of the main failure with an expansive foam filler to prevent water infiltration and potential for additional failure, and
- Covering the failure area with a plastic tarpaulin between the upper block wall and the lower failed wall.

Currently, the tenant of 17 Florida Road has given an undertaking to only occupy the front portion of the dwelling. Following completion of immediate remedial work, normal dwelling use is possible.

This site was previously investigated by Douglas Partners in 2004 as part of development plans for the sites. Anecdotally, they apparently recognised potential for stability problems. Further geotechnical assessment by Douglas Partners would be appropriate, with initial contact through John Braybrooke (Principal, Engineering Geologist).

M. Neville
Senior Engineering Geologist
Public Works Advisory

PHOTOS



PHOTO 1 Approximate locations of main features



PHOTO 2 General view of slump area and failed lower retaining/landscape wall



PHOTO 3 View from 6 Mitchell Road, showing slump/wall failure and flat sandstone bench with block debris at the rear of 17 Florida Road.



PHOTO 4 Sandstone block debris on flat sandstone bench at the rear of 17 Florida Road (Russell Peake in photo).



PHOTO 5 Block at rest against the secondary structure, 17 Florida Road.



PHOTO 6 Three unstable blocks located approximately 10m above, and posing risk to the dwelling at 17 Florida Road.



PHOTO 7 Close view of the unstable blocks above 17 Florida Road, the largest estimated as approximately 0.5 - 0.6 tonnes.



PHOTO 8 Small tension crack extending from slumped area, recommended to be filled with expanding foam filler.

Nemani Robertson

From: petrina minter <petrinamnr@gmail.com>
Sent: Friday, 28 October 2022 11:14 AM
To: Council Northernbeaches Mailbox
Subject: Fwd: 17 Florida Rd, Palm Beach - Report
Attachments: J0167A 17 Florida Rd, Palm Beach. Failed Retaining Wall 11.10.22.pdf

Categories: Amelia

Application No PEX 2022/003 DA 2020/1596

Attention Nemani

Please view and attach this report below from White Geotechnical Engineers to my email regarding this application

Regards
Petrina Minter

17 Florida Road, Palm Beach

Retaining Wall Stability

Scope

The aim of this letter is to assess the failed retaining wall immediately above the subject property.

Background

The site was inspected on the 11th of September 2022 and previously on 21st May 2014.

During the inspection in 2014 it was assessed the wall did not meet current engineering standards and could fail during adverse conditions. It was recommended the wall be remediated to current engineering standards. This work was never carried out. During the intense prolonged rainfall that occurred in March this year we were informed by the owner that the wall failed across a width of some 3.0m. Several block components of the wall came down the steep slope and damaged the timber deck immediately behind the subject house below.

The owner informs us the retaining wall is wholly located on the neighbouring property above, no. 6 Mitchell Rd, Palm Beach, that is accessed via the Bible Garden from Mitchell Rd above. The retaining wall totally benefits the property above in that it supports a fill that creates a level platform on the slope for a lawn that extends from the downhill side of the neighbouring house above house.

Observations

The sandstone block retaining wall is located on the edge of a near vertical rock face (Photo 1 & 2). A Studio/Entertaining Area and House on the subject property is located immediately below the very steep slope (Photo 2 & 3).

The retaining wall is covered in thick lantana making access and visibility difficult. Additionally, a tarp had been draped over the failed portion of the wall from above (Photo 4).

The portion of wall that failed reached a height of some 3.0m (Photo 5 & 6). The Components from the failed portion of the wall were scattered on the steep slope immediately below the wall (Photo 7). The fill behind the failed portion of the wall consists of broken sandstone and soil. Along the Northern margin of the failed portion of wall the lower wall components have moved from horizontal to dipping at up to 45° (Photo 8). Where this has occurred, it is possible further movement or wall failure could occur during prolonged wet weather or a changed drainage regime upslope (such as a result of a broken pipe or similar).



Photo 1 – failed portion of wall



Photo 2 – failed portion of wall



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8

Recommendations

It is recommended the wall be remediated to current engineering standards as soon as possible as it is likely further collapse of the wall could occur during or shortly after heavy prolonged rainfall.

Prior to any remedial works commencing a catch fence should be installed on the rock face below to protect the subject house and Studio/Entertaining Area from any construction related movement.

As the wall is mostly supported on Sandstone bedrock this would most easily be done by utilising the bedrock for the wall support, by grouting suitable bar 0.4m into the Medium Strength Sandstone bedrock. Mesh over strip drain at 1.2m centres could be fixed to the existing wall face, then the whole thing sprayed with concrete to form a sprayed concrete wall over the existing. Should additional lateral support be required for the wall Deadmen can be installed on the slope above. The details of the sprayed concrete wall are to be designed by a structural engineer in consultation with the geotechnical consultant.

Any works carried out on the wall will need to be done by contractors working in harnesses due to the steep slope immediately below.

Any questions on any aspect of this report, do not hesitate to contact us.

White Geotechnical Group Pty Ltd.



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