

In the Planning and Environment Court
Held at: Brisbane

No. 631 of 2026

Between:	CAROLINE ANN JANSSEN	First Applicant
And:	SAVE CURRUMBIN LTD (ACN 688 965 700)	Second Applicant
And:	GOLD COAST CITY COUNCIL	First Respondent
And:	JOHN FUGLSANG DEVELOPMENTS PTY LTD (ACN 009 530 812)	Second Respondent

AFFIDAVIT

I, **PAUL ANTHONY STONE** of Unit 16, 160 Queen Street, Brisbane, in the State of Queensland, business owner and operator, state on oath:

1. I am a director and founding member of the company Save Currumbin Ltd ("*Save Currumbin*") and I am authorised on behalf of Save Currumbin to swear this affidavit on its behalf.
2. Save Currumbin is a not-for-profit company, limited by guarantee.

SHEET 1



Deponent



Solicitor/Barrister/Justice of the Peace

Affidavit
Filed on behalf of the Applicants
Form PEC-4

CONNOR O'MEARA
Solicitors
Level 22, 69 Ann Street
BRISBANE 4000
Phone: 3221 3033
Email: mail@connoromeara.com.au

3. The directors of Save Currumbin are Patrick Dixon, Peter Janssen and me. Each of the directors have an interest in land at Currumbin in some shape or form. For me, that interest stems from the land owned by my late mother, Delores Anne Stone, situated at 65B Woodgee Street, Currumbin.
4. My late parents always considered it important to protect the amenity of Currumbin and I have grown to share that same desire. For me, my participation in Save Currumbin grew out of this spirit and the shared interest of local residents to protect the locality.
5. Associated with that, a primary purpose for Save Currumbin's incorporation was to monitor and object to development applications made to the Council which Save Currumbin considered inappropriate in the existing settling of the locality, and where necessary challenge development approvals. Save Currumbin also monitors policy positions of the local council and State government for planning outcomes in Currumbin and makes representations about them when considered necessary or desirable to do so.
6. In my view, Currumbin is widely recognised for its unique confluence of the coastline, Currumbin Creek, and vegetated hills and ridgelines. It combines tropical rainforest with family friendly beaches.

SHEET 2


Deponent


Solicitor/Barrister/Justice of the Peace

7. The strong landscape defines the unique character and high-level amenity of Currumbin forming a distinctive setting which is readily distinguishable from other parts of the Gold Coast.

Development Approval

8. The development application the subject of the proceedings¹ ("*Development Application*") came to the attention of Save Currumbin from as early as February 2023. At that time, Save Currumbin provided submissions to the First Respondent expressing concerns about the decision to accept the development application as properly made and code assessable (see CEO Certificate at Volume 7, page 3787 to 3801)².
9. As part of that process Save Currumbin commissioned and received the advice of various experts concerning the Development Application, namely from town planners Greg Ovenden and Jake Storey (see CEO Certificate at Volume 3, pages 1269 to 1279)³

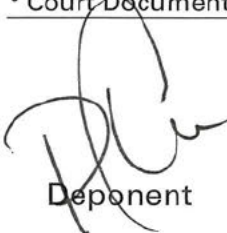
Changed Development Approval

¹ Bearing reference number MCU/2022/588.

² Court Document Number 16.

³ Court Document Number 12.

SHEET 3


Deponent

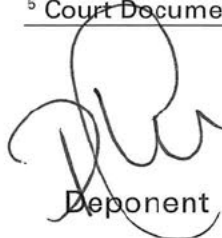

Solicitor/Barrister/Justice of the Peace

10. I am conscious that the Second Respondent made two additional change applications over the land at 776 Pacific Parade, Currumbin.⁴
11. In respect of the change applications, on 3 April 2025, Save Currumbin hosted a community meeting with Council representatives to discuss the proposed development at 776 Pacific Parade, Currumbin. That meeting was attended by 48 interested parties, Councillor Gail O'Neill and Council officers. Concerns were raised by Save Currumbin and the community that the proposed development had the potential to affect the landscape, natural environment and character of Currumbin.
12. Save Currumbin provided submissions to the First Respondent expressing concerns about the decision to accept the changed development application as properly made and code assessable (see CEO Certificate at Volume 6, pages 3160 to 3161, 3695 to 3696, and 3699 to 3701).⁵
13. Save Currumbin commissioned the advice and supplementary advice of various experts concerning the change applications. Specifically, advice was received from:

⁴ Bearing reference numbers OTH/2025/12 and OTH/2025/79.

⁵ Court Document Number 15.

SHEET 4



Deponent



Solicitor/Barrister/Justice of the Peace

- (a) Jake Storey, town planner;
- (b) Greg Ovenden, town planner;
- (c) Damien O'Brien KC, barrister; and
- (d) Dr Nick McGowan, Visual Amenity Expert.

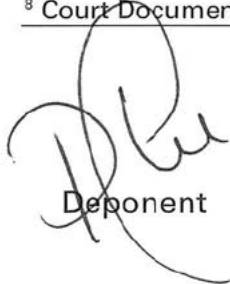
14. The advice received and commissioned on behalf of Save Currumbin was provided to the First Respondent (CEO Certificate at Volume 3 pages 1269 to 1279),⁶ (see CEO Certificate at Volume 6, pages 3204 to 3207, 3208 to 3210, 3463 to 3470, 3719 to 3725, and 3726 to 3735)⁷ (see CEO Certificate at Volume 7, pages 3886 to 3887).⁸
15. **Exhibit "PAS-1"** is a true copy of the additional advice received on behalf of Save Currumbin and provided to the Council by Peter Janssen a fellow director.
16. Save Currumbin is interested in the interpretation of the Planning Scheme to determine building height and how building height is assessed for development applications. That interpretation will be fundamental in the

⁶ Court Document Number 12.

⁷ Court Document Number 15.

⁸ Court Document Number 16.

SHEET 5



Deponent



Solicitor/Barrister/Justice of the Peace

context of the proposed development but also any future development that is proposed within the locality of Currumbin.

17. If either of the applications the subject of these proceedings, or an application for a similar form of development on the Second Respondent's Land, was remade as an impact assessable application Save Currumbin would exercise its right to lodge a properly made submission in relation to any such application.

All the facts sworn in this affidavit are true to my knowledge and belief except as stated otherwise.

Sworn by **PAUL ANTHONY STONE**)
at Brisbane on the 1st day of June)
2026)
Before me:)



Abby Leigh Collison
Australian Legal Practitioner, Connor
O'Meara
Special Witness under the *Oaths Act*
1867

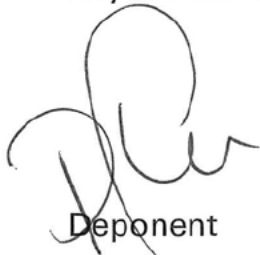
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CERTIFICATE OF EXHIBIT

Exhibit "**PAS-1**" to the affidavit of **PAUL ANTHONY STONE** sworn on 1st
day of June 2026.



Deponent



Solicitor/Barrister/Justice of the Peace

Certificate of Exhibit
Filed on behalf of the Appellant

CONNOR O'MEARA
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25/07/2025

Save Currumbin Ltd
Attn: Mr Peter Janssen
E: peter.janssen@corporatefirst.com.au

Dear Mr Janssen

Preliminary Observations About Other Change Application OTH/2025/12 – 776 Pacific Parade, Currumbin

Overview

At your request I have undertaken an initial review of the application material provided in relation to the above-referenced application, having particular regard to potential visual impacts and proposed landscaping.

I note that the application relates to land at 776 Pacific Parade, Currumbin (Lot 1 SP348547). This land comprises 772sqm within the Neighbourhood Centre Zone. The land is subject to a number of Overlays, including, of note:

- the Building Height Overlay, where the land is mapped with a building height limit of 3 storeys and 15 metres; and
- the Ridges and Significant Hills Protection Overlay.

The application seeks approval for a change (Other Change) to an approval (MCU/2022/588) for a multiple dwelling.

The Application Material

The application material includes the following:

- a Planning Report prepared by Michel Group Services;
- building design drawings updated in response to Council's Action Notice but which are not titled and are absent any indication of the author;
- landscape drawings provided in response to Council's Action Notice but which are not titled and are absent any indication of the author;
- a Site Based Stormwater Management Plan prepared by Cozens Regan Group and provided in response to Council's Action Notice, and including a survey of the site which is more detailed than the survey included in the building design drawings but does not extend across the entire site; and
- a Geotechnical Report prepared by Pacific Geotech and provided in response to Council's Action Notice

At the outset I note that the absence of information about the author(s) of the building design drawings and the landscape drawings is both unusual and of some concern.

It is my understanding that in Queensland, for a project of this nature, building design plans used to obtain an approval or for construction can only be prepared by a registered Architect or an accredited building designer. It is unclear if the author of the plans is either. While I do not see any significant shortcomings in what is depicted in the drawings (noting that I am not an Architect or Building Designer), I note that the drawing set lacks basic information such as dimensions, and provides only limited information on material treatments. The drawings include photomontages of the proposed development, but no explanation as to how these have been prepared. It is therefore not possible to know how accurate the photomontages are at depicting the proposed development in its setting.

I also have concerns about the landscape drawings. The Landscape Work Planning Scheme Policy requires that landscape drawings be prepared by *"a qualified Landscape Architect, or professional with proven experience and knowledge of landscape design and construction, with recognised Quality Assured Codes of Practice and/or procedures in place"*. It is unclear if the author is appropriately qualified or experienced. The Planning Scheme Policy also sets out

requirements for documentation of landscape drawings. The drawings included with the application material are manifestly inadequate in terms of the level of information provided. For reasons set out below, I also consider what is proposed in terms of landscaping to be an inappropriate outcome for the site.

I note as well that there appears to be only limited survey information about existing vegetation on the site and neighbouring land which, given the planning issues and applicable benchmarks of significance in this instance, is also of some concern. The photomontages included in the building design drawing set refer to vegetation to the rear of the site as being 98% invasive plant species. However, absent survey information this cannot be confirmed and, in my opinion, should not be assumed.

Building Height

I agree with the concerns expressed by Council in the Action Notice and note the earlier advice from Damien O'Brien KC about the number of storeys being proposed. In an effort to achieve a height of what it considers to be 3 technical storeys, the Applicant has located void spaces, stairways, or laundry spaces in parts of the building which comprise 4 or perhaps 5 discrete levels.

My reading of the Planning Scheme definitions is that a "storey" is a space between two floor levels or between a floor level and a ceiling or roof, except where that space (which logically would comprise the entire space between the two floor levels or between floor level and ceiling or roof) accommodated one or a combination of a lift shaft, stairway, meter room, bathroom, shower room, laundry, toilet or other sanitary compartment. The Applicant's approach appears to be to discount an entire level as being a storey if only part of the space accommodates one of the excluding uses.

It will ultimately be a matter for legal interpretation but I consider that, in circumstances where applicable Planning Scheme provisions are concerned with the building being of a height that complements its surrounding neighbourhood¹, the way the building will be seen by the casual observer must also be of some significance. Given the composition of the building, I would expect the casual observer would consider the building to have more than 3 storeys (especially when seen from viewpoints beyond the immediate vicinity of the site). A casual observer would have no appreciation of whether a part of the building does or does not count as a storey because it accommodates (for example) a laundry space.

Regardless of the technical number of storeys being proposed, the proposed building will be prominent, will be of a scale and form that is incompatible with the existing built form character of the area, and would result in the removal of and obstruction of escarpment green space that is a defining feature of the local area (discussed further below).

Landscaping

The landscape drawings comprise four pages included with the amended building design drawings that were provided as part of the Response to Council's Action Notice. As noted above, these drawings fall well short of the information and documentation standards sought by Council's Landscape Work Planning Scheme Policy. Of particular note, the drawings do not include crucial information (for development of this nature) such as the location of underground and overhead services, overland flow drains and devices, retaining wall drainage, fencing, and so on.

The lack of information about infrastructure and structures is particularly concerning noting:

1. the potential requirement for underground anchors to stabilise the slopes cross parts of the site, as observed in independent advice from Mike Neighbour at Butler and Partners;
2. the requirement for an overland flow path through the rear setback space, as identified in the Stormwater Management Plan; and
3. the requirement for a transverse drain between upslope properties and the proposed building as identified in the Geotechnical Report.

These types of infrastructure can severely restrict the space available for landscaping and must be taken into account. The absence of any acknowledgement of such infrastructure on the landscape drawings reflects a concerning lack of co-ordination between the various design disciplines.

The current landscaping drawings can be compared with the Landscape Statement of Intent prepared by Byrnes Lardner for the original approval (MCU/2022/588). These drawings reflect a far more comprehensive and considered landscape outcome for the site, where particular regard is had to complimenting the existing ecosystems, batter

¹ Strategic Outcome 3.4.1(8) of the Strategic Framework; and Overall Outcome (2)(d)(i) of the Neighbourhood Centre Zone Code.

stabilisation, and achieving a balanced landscape and built form outcome. Notably, these plans show a much wider rear planting space that would accommodate endemic coastal plants and evergreen trees.

As well as these deficiencies in the documentation standards of the landscape drawings now include with the Other Change application, there are two specific aspects of the proposed landscaping which warrant further discussion.

1. The landscape drawings show screen planting to 3m high in containerised planters along the south-eastern façade. There is no information about the internal width and depth of these planters, and so it is uncertain whether they can accommodate plants of this size. If this planting cannot achieve a reasonable height there may be some overlooking of Units 2 and 3 from people moving along the path.
2. The landscape drawings also nominate “small leaf ficus trees” along the 4.6m wide space at the rear of the building. The drawings include two sections which, whilst the section positions are not identified on the drawings, appear to be through this planting space at the rear. The application material relies on this planting to address requirements for protection of local landscape values.

The species of “ficus” is not nominated. The genus *Ficus* includes 45 species of plants that exist in Australia and includes at least half a dozen tree species which might be suitable for local conditions. Some species have a height of up to 35 metres and a spread of 30 metres, others are more confined. The fact that a species is not nominated on the landscape drawings reflects a lack of genuine intent to deliver appropriate, site specific landscaping outcomes.

In my opinion, any *Ficus* species would be a poor choice for this particular part of the site. As noted above, it is likely that the space for landscaping behind the building will be severely compromised by underground infrastructure. Even if the space was affected by infrastructure, it is still relatively confined. While there are some *Ficus* species that could fit into such a space, most *Ficus* trees have aggressive root systems and I consider it would be imprudent to plant them so close to a retaining walls or drainage infrastructure. This is particularly so on steep sites where interference with retaining walls and drainage infrastructure can result in critical slope destabilisation. This appears to be acknowledged in the Geotechnical Report, which recommends that trees and other vegetation be planted at a distance at least equivalent to three quarters of their mature height away from structures. Furthermore, *Ficus* species also have dense foliage density, which can cast extensive shade over neighbouring properties and can inhibit groundcover growth beneath the canopy which, in this instance, would be desirable to assist with bank stabilisation.

Setting aside these concerns, I doubt that any appropriate tree species could be accommodated with the narrow space at the rear of the site and achieve a height that would allow it to contribute to a visible green backdrop above and behind the building. The building is simply too tall and the space for planting is too narrow.

Furthermore, it has not been demonstrated that the development is complemented by high quality landscaping that contributes to the desired character of the area², or that the landscape enhances the visual and built form attributes of the development, or complements and enhances existing development and landscape values³.

The Ridges and Significant Hills Protection Overlay

I agree with the concerns expressed by Council in the Action Notice about impacts on the landscape values of Currumbin Hill.

The Ridges and Significant Hills Protection Overlay applies to just two parts of the city: Burleigh Ridge and Currumbin Hill. As the Overlay Code explains, the landscape significance of these ridge systems is characterised by the steep slopes and native vegetation cover.

As we have observed in previous advice, Currumbin is well known for its unique confluence of the coastline, Currumbin Creek, and vegetated hills and ridgelines. The Landscape Character Study (LCS) prepared for Council in 2014⁴ explains that the combination of strong landscape elements in Currumbin forms a distinctive landscape setting which is readily distinguishable from other parts of the Gold Coast. These natural landscape features collectively define the unique character and high levels of amenity of Currumbin, and contribute to unique imageability, making it one of the most attractive and memorable suburbs of the Gold Coast. These natural landscape features also provide a dramatic and attractive setting for the built form of the area, which is generally modest, well integrated with the landscape, and characterised by a human scale and ‘village feel’.

² As required by Overall Outcome (2)(c) of the Multiple Accommodation Code.

³ As required by Overall Outcome (2)(a) and PO1 of the Landscape Works Code.

⁴ Prepared by Cardno; Cardno Chenoweth; Cardno HRP; and Catherine Brouwer Landscape Architects.

One of the most notable features of the local area is the relationship between the built form and the steep slopes of Currumbin Hill. More particularly, there is an appreciable pattern of built form interlaced with bands of vegetation and green space along the steeper parts of the hill. This feature is shown in Figures 1-3 below. Contrary to the claims made in the application material, as it exists the escarpment along the rear of the subject site contributes to this banding of open space (as can be seen on Figures 1-3 below).



Figure 1 - Aerial view towards Currumbin Hill, showing the banding of built form and vegetation across the steeper slopes of the hill. Image from Skypics.

As we have previously observed, the landscape features and qualities of Currumbin warrant protection from development that may erode those features and values, for example: by obscuring views to the identified landscape features (including the banding of vegetation and skyline vegetation); built form that was incompatible with the prevailing scale, particularly along the esplanade interface; or development that resulted in degradation of landscape features, such as removal of skyline vegetation or substantial modification of topography.

To this end, the Ridges and Significant Hills protection Overlay Code includes a number of important benchmarks, including:

- Overall Outcome (1)(a), which requires that the steep slopes and native vegetation cover is protected by retaining and enhancing vegetation cover where possible and ensuring building designs preserve the existing natural landform and complement the vegetated hillscape character.
- Performance Outcome PO2, which requires that building colours blend in with the natural landscape to soften the visual impact of buildings.
- Performance Outcome PO3, which requires that building design minimises visual impact and prevents buildings from dominating the natural landscape; is compatible with the natural characteristics of the area; and avoids skyline intrusion.
- Performance Outcome PO4, which requires that buildings are sited to minimise the impact on the natural landscape and topographical features and to avoid any unnecessary removal of vegetation.

In my opinion, the application material does not demonstrate compliance with these benchmarks, particularly noting the lack of information about existing vegetation on and adjacent to the site, and noting the inadequate space provided for substantial tree planting behind the proposed building. As noted above, it appears that, at the height and scale proposed, the proposed building will remove and obstruct views to the escarpment along the rear of the site, thus diminishing an important and appreciable landscape feature that contributes to the unique character and amenity of the area. In my opinion, the information included with the application material has not demonstrated that these types of impacts can be avoided or mitigated.

For a project of this nature, and considering the need to address the above benchmarks, I would expect that, as well as more certainty about existing and proposed landscaping, photomontage should be provided for a range of viewpoints. While visualisations and photomontages have been provided (setting aside the lack of information about how they have been prepared) they have only been provided for nearby viewpoints. It appears that, in order to properly understand the impact of the proposed development on the landscape features identified above, it would be necessary to see photomontage from more distant viewpoints such as the Elephant Rock lookout (refer Figure 2 below), the beach (refer Figure 3 below), and even from over the ocean.

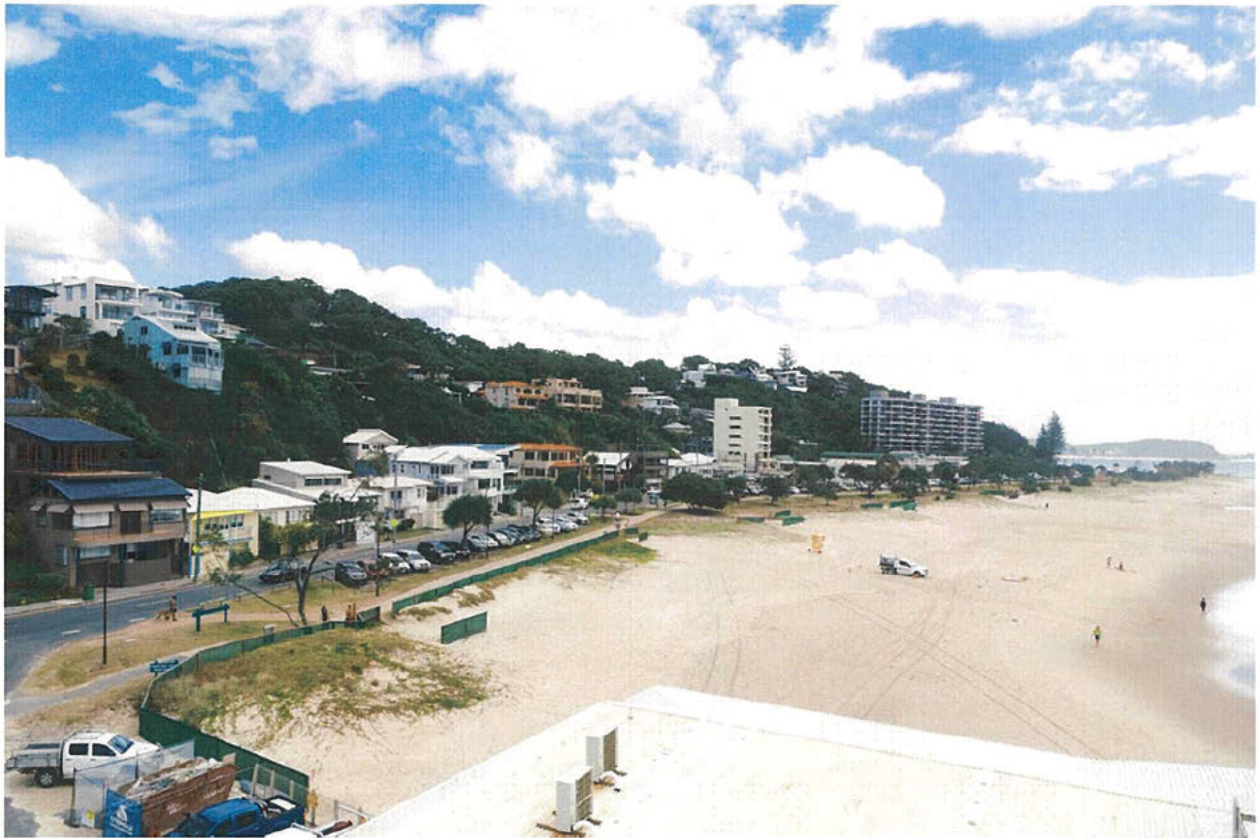


Figure 2 - Looking towards the site from Elephant Rock lookout.

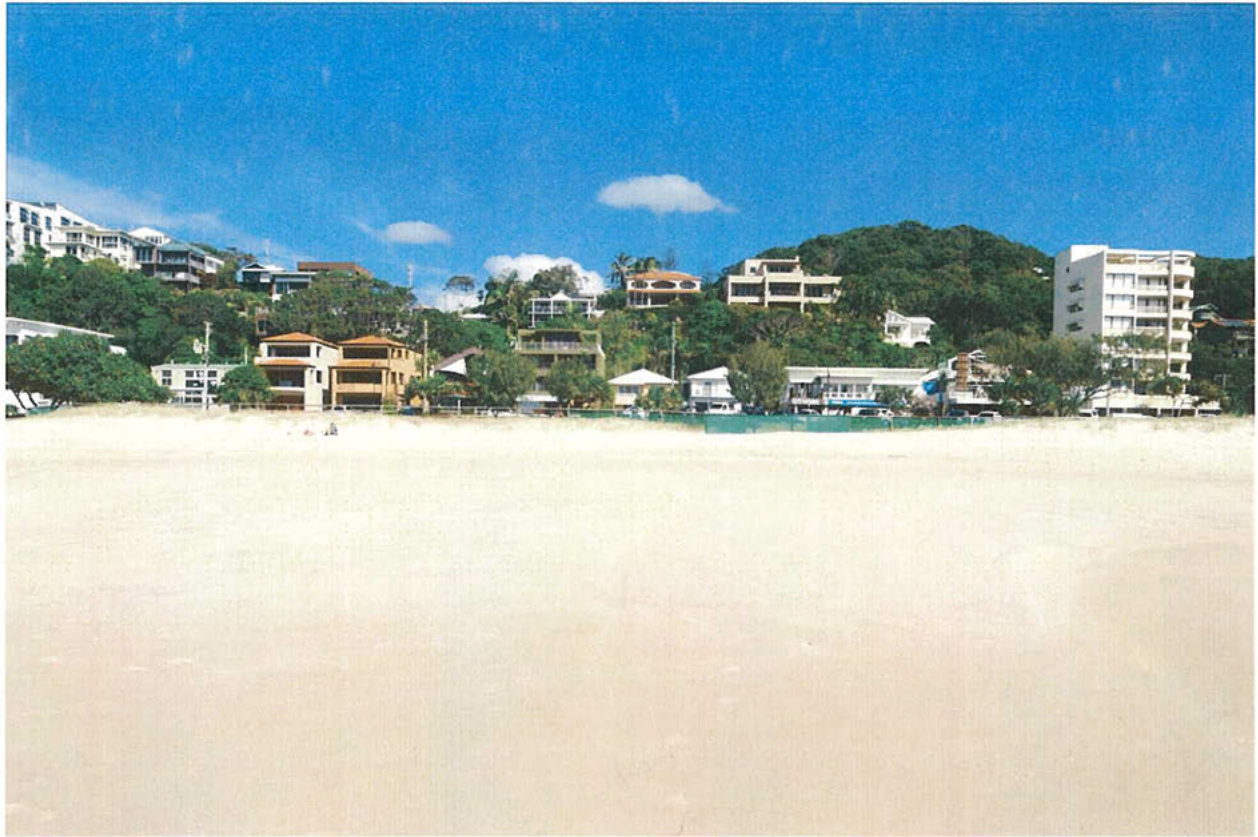


Figure 3 - Looking towards the site from the beach.

Summary

Compared to the currently approved development on the subject site, the changed development seeks approval for a higher and more substantial building, extending across a larger parcel of land.

It appears that the proposed development would impact on the landscape values of Currumbin Hill, noting that these are expressly protected under the Ridges and Significant Hills Protection Overlay Code.

In my opinion, the application material does not provide sufficient information or sufficient certainty to understand the extent to which the proposed development would impact on the values nor the extent to which the proposed development could be seen to satisfy key benchmarks concerned with character and amenity impacts more broadly.

Regards

Insight Design and Assessment Services

Nick McGowan
Principal

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20 November 2025

Our ref: SU-2025-015

Save Currumbin
c/- Peter Janssen
Peter.Janssen@CorporateFirst.com.au

APPLICATION FOR 'OTHER CHANGE' FOR A MULTIPLE DWELLING AT 776 PACIFIC PARADE, CURRUMBIN – LOT 1 SP348547 - OTH/2025/79

We refer to Change Application ('Other Change') OTH/2025/79 lodged by John Fuglsang Developments Pty Ltd seeking a change to Material Change of Use Approval MCU/2022/588 for a Multiple Dwelling development at Lot 1 on Survey Plan 348547 situated at 776 Pacific Parade, Currumbin.

The application was lodged on 7 November 2025 as a 'code assessable' change application.

Councils PD Online records currently do not show that a confirmation notice has been issued and that the application has been accepted by Council as being a properly made code assessable application.

As requested, we have undertaken a review of the development application in respect to its assessment status, particularly whether or not the amended development proposal represents a three (3) storey development enabling it to be accepted as code assessable.

1.0 CONTEXT

Our assessment deals with the new application OTH/2025/79 on its individual merits, but is also informed and contextualised in regard to the common material and Council's rejection of the applicants building height determination for previously lodged change application OTH/2025/12.

We provide our brief advice herein.



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2.0 OVERVIEW

In respect to new change application OTH/2025/79 we note:

- There is absolutely no additional justification or demonstration in the applicants planning consultant's report as to what changes have been made to bring the development into compliance as a three (3) storey building in the context of Councils final (4th) action notice issued for OTH/2025/12. Put simply, it is essentially a reissue of an earlier report.
- The proposal plans have some minor changes, but there is noticeable absence of any additional or useful diagrammatic information that assists in demonstrating how the applicant now considers the proposal to be three (3) storeys in light of the Councils advice in respect to the method of calculation of the number of 'storeys' within the development.

3.0 DETERMINED METHOD OF STOREY CALCULATION

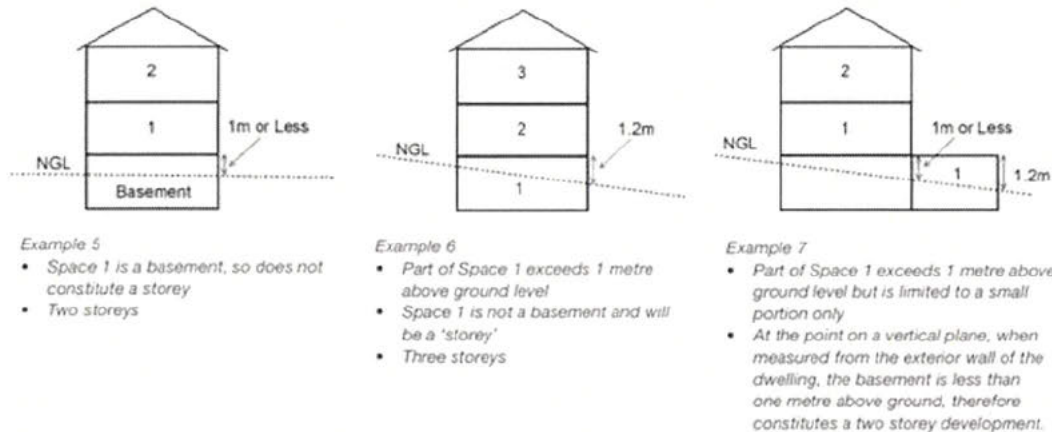
There are several key points to Councils determination that the earlier proposal was 'impact assessable' as informed by its 4th Action Notice for OTH/2025/12:

- **A floor within a building cannot be broken up horizontally into different 'storeys'.**

If part of a floor is 3 storeys for example, the entirety of that floor is 3 storeys (save for the express exclusions under the definition).

- **A basement is not a 'basement' but a 'storey' when any part of it exceeds 1m above ground level.**

On further scrutiny, this seems to align with Councils practice note relied on in McKeown's legal advice for the applicant dated 22 September 2025 titled '*Gold Coast City Plan – Determining the Height and Number of Storeys of Development Proposals*' which shows:



Whilst arguably poorly illustrated and described in Example 7, the distinction in Example 7 shows two clear spaces at the lower level allowing the space that entirely sits below one (1) metre above ground to be excluded - whereas Example 6 means that the whole basement as one space is not excluded even though part of that one space is below 1m above ground.

- Voids not enclosed by walls are excluded.**

We suggest that this aspects does warrant further scrutiny, in that a void where natural ground level is retained at its base warrants exclusion, but a created void (whether or not unpaved ground is reinstated or whether it has a paved floor) ought not be excluded as it forms part of the building as a whole.

4.0 STOREY DETERMINATION OTH/2025/79

In terms of the defined building height represented in the plans submitted in OTH/2025/79 The applicants new plans show:

Level 1 Carpark

- There is no change to this plan from the rejected proposal (4th action notice OTH/2025/12)
- The level exceeds 1m above ground level in part, so the entire floor is a storey by definition - the 1st Storey

Level 2

- The bathroom and laundry are now removed and are proposed as a void. The bathroom is deleted entirely and the laundry moved to beside the stair.
- This area of the void is therefore potentially not a storey (although arguably it is a constructed undercroft and forms part of the building and consideration should be given to this being included).

However this has no impact on determining storeys - the floor level sits over Level 1 and is therefore the 2nd storey.

Note: The change to the floor plan at this level is suspicious and we would suggest it is very possible that the applicant later intends to return the void to a bathroom and laundry through an impact assessable application once building bulk and height are generally established through approval of this application as code assessable development (as proposed by the applicant). Level 2 is the primary living area for Unit 2, and it is inconceivable that there would be no bathroom at this level and that the laundry would be both small and situated immediately beside the kitchen and media room.

Level 3

- This level is unchanged.
- The applicant appears to be suggesting (though it is not clearly shown) that this floor is only part 3 storeys due to a part sitting above a void.

However, as per Council's determination, the entirety of this floor must be considered the 3rd storey (and consequently floors counted upward above).

Level 4

- The excessive laundry access, for which its exclusion was questioned in the previous application, has been removed although we cannot see how this has any consequential impact in changing the determination of height of this floor or any floor above.
- The floor in its entirety is the 4th storey.

Level 5

- No changes have been made to the previously rejected plan.
- The floor in its entirety is the 5th storey.

Note: The applicant is showing the ground level for Level 2 on this plan. It is misleading and clearly incorrect as it is well east of the ground line for level 3 and 4 below. It reinforces a lack of confidence in the accuracy of ground levels represented by the applicant and given that height is the fundamental issue with this application it is concerning that accuracy in this regard is not achieved.

It is however likely that showing the Level 2 ground line on the Level 5 plan is an attempt to show that this floor constitutes a 3rd storey, on the basis of a belief that the portion west of this line at Level 2 is below ground and not a storey (ie. zero (0) storey).

Council has established that portioning storeys with respect to ground level is irrelevant to determining storeys unless it is a basement as defined. Therefore, whether or not Level 5 is contained within (west of) this line is irrelevant to the determination of 'storeys'.

Level 6

- There is no ground level shown at all for this level.
- In any case, this floor sits above Level 5 which is clearly the 5th storey - so this floor becomes the 6th storey.

Level 7

- The ground line has reverted back to the Level 4 ground line.
- Again, this is incorrect and appears to be an attempt to persuade Council that this floor sits entirely above the portion of the second floor which is presented as being below ground - thereby arguing that Level 7 represents only 3 storeys.

This is incorrect as discussed above and, in any case, it is clearly shown that part of this level is outside that line rendering the entire floor a storey.

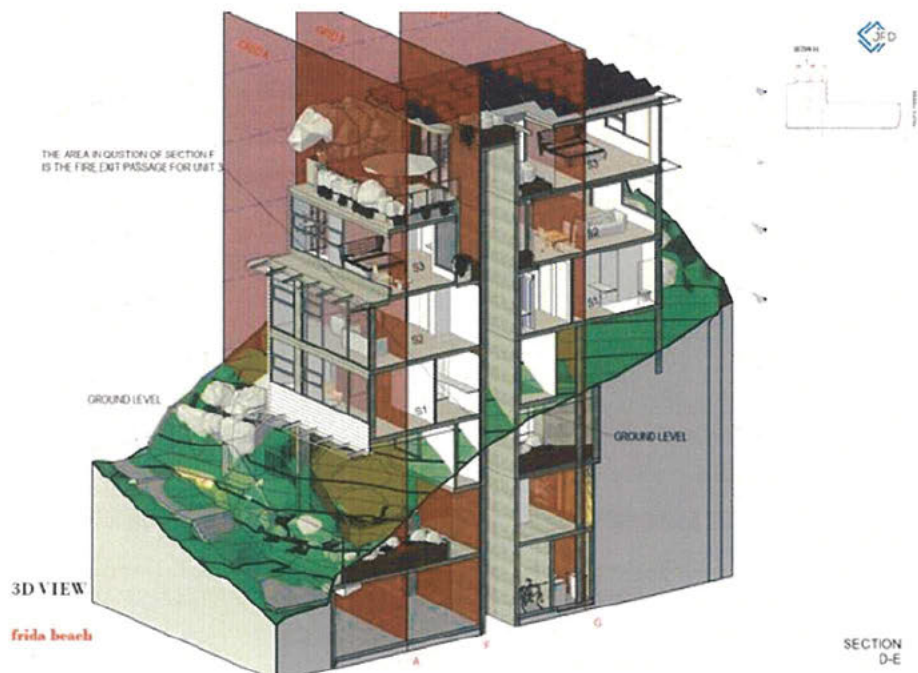
- There are no changes to this plan from the rejected set.

- Level 7 is the 7th storey

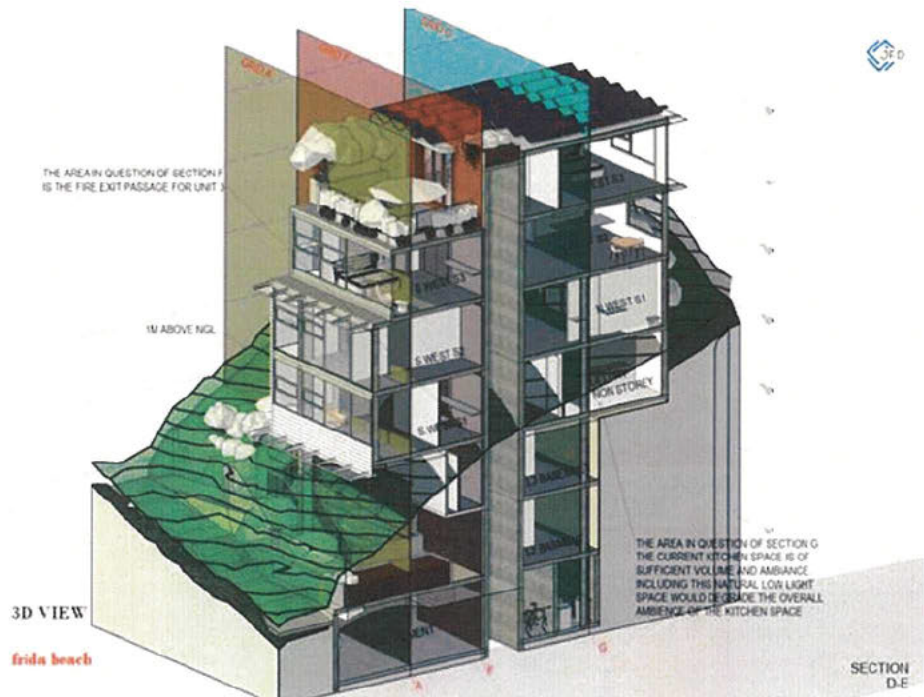
Incidentally, there appears to again be some change to ground levels shown on the sections and elevations in the plans submitted for OTH/2025/79. It is unclear what is the correct level as the plotted levels seem to have changed through various revisions submitted for OTH/2025/12 without changes to the design floor heights, and are inconsistent across plans for OTH/2025/79.

For example, *Section D-E* clearly shows the ground line raised compared to the previous plans—evident from where the line now intersects the floors on the new plan. Before Council makes any determination, the applicant ought to be required to accurately determine and depict ground levels.

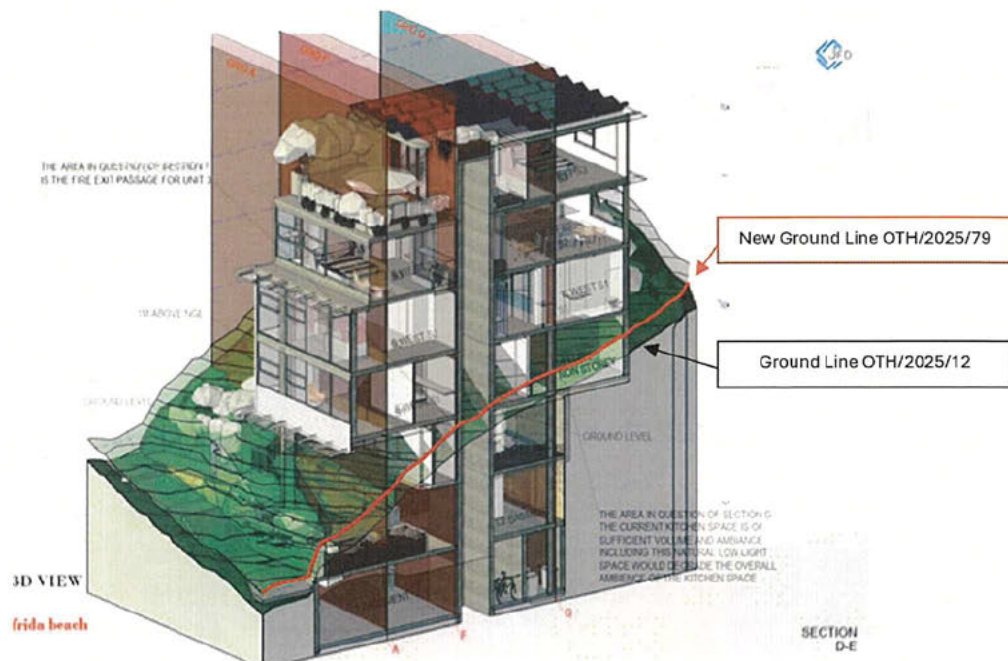
NEW PLAN OTH/2025/79



REJECTED PLAN OTH/2025/12



PLAN OVERLAY



Notwithstanding, the ground level becomes irrelevant to the determination of 'storeys' for the upper levels of the building on the basis that any part of a basement more than a metre out of the ground causes the whole basement (Level 1) to be a storey, and that floors cannot be 'split' into various storeys depending on where they intersect with ground level and the intersection at the floors below.

In our view, the proposal is 7 storeys based on Councils previous determination.

Further, the changes made to the OTH/2025/79 development scheme are inconsequential, and have not resolved the non-compliance with the code assessable building height of three (3) storeys.

There is a clear absence of sufficient and accurate documentation provided to support the applicants proposition that the building is three (3) storeys as defined.

The development intent is also suspicious. We respectfully submit that, if this change application was to be approved as code assessable development, scrutiny of the changes

