

13 May 2024



Chief Executive Officer
City of Gold Coast
PO Box 5042
Gold Coast MC 9726

Attention: Zoe Lewis

Dear Zoe,

**SUBMISSION – RECONFIGURATION OF A LOT (BOUNDARY REALIGNMENT) OVER LAND AT
778 PACIFIC PARADE, CURRUMBIN
COUNCIL REF: ROL/2024/30**

I refer to our discussion earlier today regarding a development application for Reconfiguration of a Lot (ROL/2024/30) over land at 776 and 778 Pacific Parade, Currumbin. On behalf of our client Caroline Ann Janssen, the owner of 65 Woodgee Street (Lot 2 RP75585) which is contiguous to both 776 and 778 along their rear Western boundaries, and Emma and Andrew Henderson, the owners of 65A Woodgee Street (Lot 20 RP842700) which is contiguous to 778 Woodgee Street, we would like to make formal representations to Council in relation to the proposed reconfiguration of this land and in doing so, raise serious concerns regarding potential consequential impacts tied with approval of this development application.

Whilst we acknowledge that the representations are not considered to be a 'properly made submission' in accordance with the *Planning Act 2016*, we respectfully request that Council takes into consideration our clients representations and recommendations recommended herein.

We have undertaken a detailed review of the proposed development, the site's context and the *Gold Coast City Plan 2016* assessment benchmarks relevant to the assessment of the application. The subject site comprises land at 776 and 778 Pacific Parade, Currumbin, formally described as Lot 2 on RP58471 and Lot 0 BUP6774. The proposed development seeks approval for a Development Permit for Reconfiguration of a Lot for a Boundary Realignment (2 into 2 Lots), resulting in the severance of 220m² of Lot 0 (Common Property) for the benefit of Lot 2. The proposed realignment will result in the creation of a 722m² (Lot 2) and a 289m² (Lot 0) allotment. Of note, there is no explicit detail on any associated or subsequent Material Change of Use (MCU) or transparency surrounding the purpose of the boundary realignment.

At the outset, we would like to highlight the purpose of the Reconfiguring a lot code which calls for the following outcomes:

'(1)... that the reconfiguring a lot lays the foundations for high-quality urban design that supports the outcomes for the zone and is sensitive to the environment, topography and landscape features'. and

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“(2)(g) Reconfiguring a lot takes into account the physical, environmental, and infrastructure constraints, creating lots that respond to the natural topography of the land by minimising the extent of earthworks required.”

The application material prepared by Michel Group Services is vague, however in multiple responses to applicable code responses, it reinforces their strong representations to Council that no building works are proposed and therefore no further investigations into the potential impacts of development, facilitated by the proposed reconfiguration, is required.

As adjoining owners to the rear, there is a high level of concern on the part of our clients with respect to the vagueness of the application material and the intended use of the land, following its reconfiguration.

We seek to highlight the following primary area of non-compliance with the *Gold Coast City Plan 2016* (v11) in which the assessment is bound by. In accordance with Table 5.6.1 of the Planning Scheme, where located within the Neighbourhood Centre Zone (the zoning of the subject land), the minimum lot size for a lot reconfiguration is 1,000m². The proposed boundary realignment results in the creation of a 722m² lot (Lot 2) and 289m² lot (Lot 0), the latter being significantly under the prescribed minimum lot size and ultimately diminishes the capacity of Lot 0 to be developed to its full potential. We note that PO12 of the Neighbourhood Centre zone code calls for lots of a size and configuration that support viable neighbourhood centre activities.

The resulting lot size of 289m² in no way complies with PO12 as it is not of a size and configuration that supports viable neighbourhood centre activities. This is not just a simple two dimensional boundary realignment of a flat site.

Whilst code assessable development applications are bound to assessment against the relevant assessment benchmarks prescribed under the *Gold Coast City Plan 2016*, we reasonably point out that in the context of PO12 of the zone code and the purpose of the reconfiguration of a lot code, Council should consider the broader picture and the consequential impacts which will occur with approval of this boundary realignment. This is a highly sensitive, steeply sloping environment that requires detailed evaluation with respect to potential impacts that future development of the land, facilitated by this reconfiguration, could result in.

Based on our knowledge of the site's development history and consideration of the locational context, we anticipate that one of two outcomes will occur, subsequent to any approval of the boundary realignment. These are that the –

1. acquired land from Lot 0 (Common Property) is retained in its natural state, as foreshadowed in the multiple references in the common material accompanying the development application in terms of there being no building works proposed; or alternatively
2. in due consideration of the recently approved multi-unit apartment complex over land at 776 Pacific Parade, it is not unreasonable to assume that the intent of the boundary realignment is to expand upon the development footprint approved by way of MCU/2022/588 along the Currumbin Hill ridgeline.

The latter of these potential outcomes is the most concern to our client, as this strikes at the heart of the planning outcomes intended by the overlays of the planning scheme. While not called up for assessment it is relevant to consider what is intended by these overlays.

Ridges and Significant Hills Protection Overlay Code

The subject site falls within the area of the Ridges and Significant Hills overlay which seeks to *regulate development to ensure the protection, maintenance and enhancement of the natural and scenic values of identified ridges and significant hills within the city*. The intent of the overlay code is achieved through the assessment benchmarks including overall outcome 8.2.15.2(2) which seeks –

The landscape significance of the major ridgelines and minor ridgelines, including Burleigh Ridge and Currumbin Hill are characterised by their steep slopes and native vegetation cover, is protected by retaining and enhancing vegetation cover where possible and ensuring building designs preserve the existing and natural landform and complement the vegetated hill scape character.

In November 2019 members of the local community engaged the services of Dr Nick McGowan to assist with making a submission to Council on the (then) proposed amendments to the Gold Coast City planning scheme. The observations in Dr McGowan's report (to be forwarded under separate cover) are highly relevant. The thickly vegetated steeply sloping area behind both 776 and 778 Pacific Parade is part of the unique green topography of the Currumbin escarpment and is a character attribute that helps define Currumbin as a unique green low rise beach village.

It is this green backdrop, that would be seriously eroded if development was facilitated along the mid-tier of the hill, that is specifically protected under the Ridges and Significant Hills Protection Overlay Code.

Landslide Overlay Code

In addition to the above, the proposed realignment encompasses land wholly contained within the Landslide hazard overlay. As illustrated in **Figure 1** below, the proposed development acquires the portion of land predominantly identified within the High landslide hazard sub-category, with a minor portion within the western extent identified as Moderate hazard.

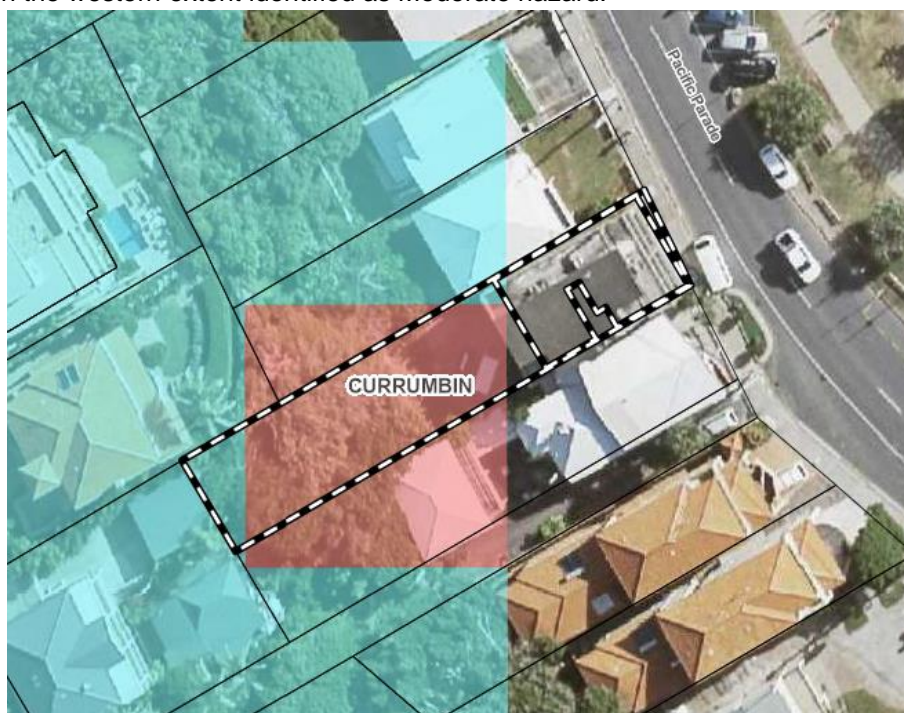


Figure 1: Landslide hazard overlay (Source: Gold Coast City Plan 2016)

The purpose of the Landslide hazard overlay code seeks to *regulate development which occurs on land or part of land containing steep slopes or unstable slopes*. More specifically, AO1 of the code seeks that development is not to be undertaken on any lot partially or completely identified within the Landslide hazard overlay map, unless certification is provided by an RPEQ confirming that the proposed development is appropriate for the sloping nature of the site and that the risk of landslide adversely affecting the subject lot, adjoining properties and the proposed development is at a low level.

There have been multiple instability events along Currumbin Hill further to the north, in and around Wallace Nicholl Park.

Our clients own adjoining land with structures on that land that are adjacent to a highly unstable escarpment, the soils on which are already prone to soil creep and thus susceptible to landslide. Geotechnical reports by Butler Partners have in the past confirmed the highly unstable land that forms part of the Currumbin escarpment.

That is part of the reason why it is mapped by Council as being of High risk of landslide on the overlay-atop the escarpment for 776 and 778 land and on its steep cliff face on 778. This risk would be accentuated if the steep slopes to the east and south-east are de-vegetated. The structural integrity of the escarpment will be compromised.

It is both reasonable and necessary to avoid foreseeable landslide damage to our clients' properties and in the circumstances. We request that Council give consideration to imposing a covenant to prohibit de-vegetation and building on the proposed 220m² piece of land to be amalgamated into 776, to avoid clearing of vegetation and to avoid development that may destabilize the soil on the slope or the escarpment itself.

Based on a review of the supporting documentation lodged, there was no RPEQ report or certification lodged. The development proponent should be required to demonstrate, with support of RPEQ certification, that an appropriate development footprint can be provided outside the mapped landslide hazard area which can safely accommodate development without compromising the stability of the site or adjoining properties.

In exercising its discretion on considering lot sizes that are inconsistent with the acceptable outcome and performance outcome of the zone code, in our opinion, Council, acting reasonably, should have consideration to the boundary realignment resulting in an allotment configuration with the potential to accommodate future development or expansion of the existing approved development footprint along what is a highly sensitive ridgeline, worthy of protection.

In the broader context of the development history on land at 776 Pacific Parade and the proposed development, it is our strong opinion that Council should not approve a development outcome without consideration to the consequential impacts of the realignment of boundaries. The outcome of this reconfiguration, has the potential to compromise structural stability and degrade the ecological and character values of the Currumbin ridgeline and its natural vegetated land form.

The Currumbin Hill ridgeline and its natural and scenic values should be protected from further degradation as a result of undesirable development outcomes and this should start with the thorough assessment of this realignment of boundaries. Unlike most other coastal communities along the Gold Coast, which have no green hillside backdrop, Currumbin Hill has a unique green layer stretching north to south that gives Currumbin a unique tropical character, cloaking the steep slopes and providing an ecological corridor for local wildlife. These values are being eroded by actions such as this as this boundary realignment.

If Council was of a mind to approve the application, then consideration as to the consequential impacts is an imperative, and on the basis of the multiple undertakings in the supporting town planning report to the application that no building works are proposed, we are of the opinion that Council could reasonably impose a condition which requires a covenant that prevents the development of the escarpment and the removal of established natural vegetation.

This submission objects to the proposed development for the grounds articulated earlier. The proposal has not demonstrated compliance with the relevant assessment benchmarks and should not be approved, unless measures are introduced to protect the stability and character of the Currumbin Hillside.

Should you wish to discuss any aspect of this submission, please contact the undersigned on 07 3217 5771.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'hm' followed by a stylized flourish.

Greg Ovenden
Managing Director
REEL PLANNING PTY LTD