

7<sup>th</sup> April 2025

Save Currumbin  
C/o Corporate First Lawyers  
Level 18  
324 Queen Street  
Brisbane QLD 4000

Attention: Mr Peter Janssen

Dear Sir,

**Re: Other Change Development Application - MCU/2022/588 - 776 Pacific Parade, Currumbin**

I refer to your instructions to review the Other change development application with a focus on establishing the level of assessment of the application, based on the number of storeys proposed. This advice focuses solely on that aspect of the application and does not extend to a review of the merits of the application.

We note the legal advice you have obtained from Damien O'Brien KC. Please note that we have undertaken our own independent review of the proposal which aligns with the opinions expressed by counsel.

Having regard to the planning context established for the site under the Gold Coast City Plan, the Height Overlay Map establishes a height limit of 3 storeys or 15 metres, for development to remain code assessable. Beyond this height, development becomes impact assessable.

In framing the development application, the applicant submits that the development does not exceed 3 storeys or 15 metres and is therefore code assessable. Our detailed review of the plans confirms that the development is in fact 5 storeys. Please refer to the attached diagrams which illustrate this.

Further to this assessment, in our opinion, in an attempt to exclude areas of the building from the definition of 'storey' in City Plan, there are some internal design aspects, particularly on Level 2, which leads to practical questions on functionality and ultimate use of spaces. In particular:

- a. Unit 2 is split into 2 levels with only 2 bedrooms and 2 ensuites located on the second floor.
- b. The entry to unit 2 is via the gym room on the first floor of this unit.
- c. The laundry associated with unit 2 is located outside of the unit and accessed via the gym. The gym, toilet, shower and laundry on this level do not appear to be common property as there is no other laundry for unit 2 and no bathroom/toilet on this level.
- d. As these areas appear to be exclusively used by unit 2, it is possible that with some minor alterations internally that the entire floor space including the unlabeled areas near the lift and stairs could be used for additional living space (which would trigger a further 'storey').

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We concur with the legal advice received, that at 5 storeys, the proposed building exceeds the Height Overlay Map for the land and as such the proposal is impact assessable development and not code assessable development, as the application has been made.

The application should therefore be made to proceed through the impact assessment process, allowing the community to make submissions in relation to the development generally and more particularly, the serious non-compliance with the height limitations of City Plan.

Yours faithfully,

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

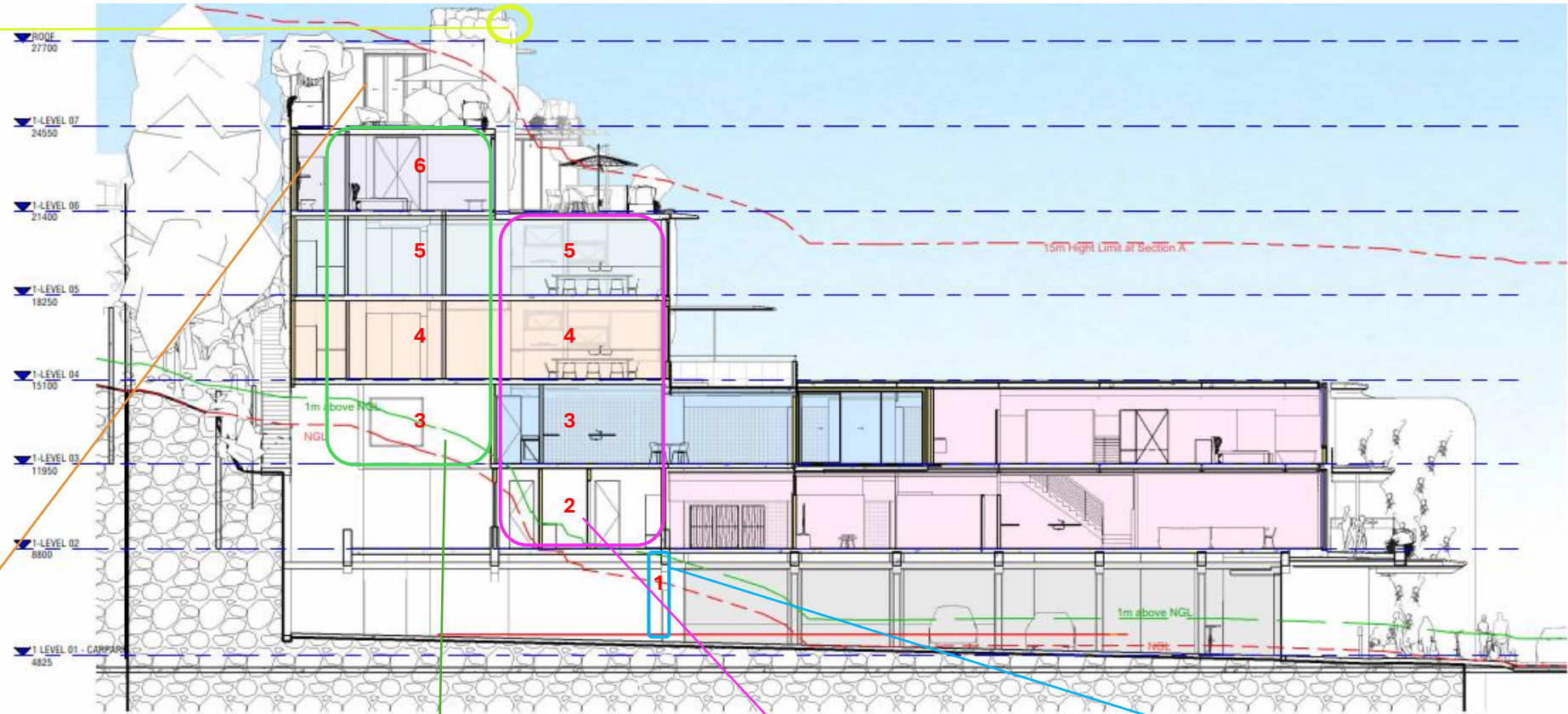
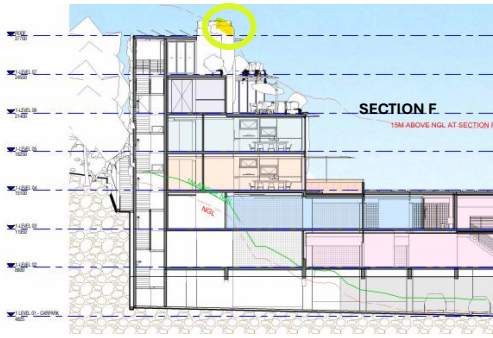
Greg Ovenden  
Managing Director

Interpretation of number of storeys – 776 Pacific Parade, Currumbin

SECTION A

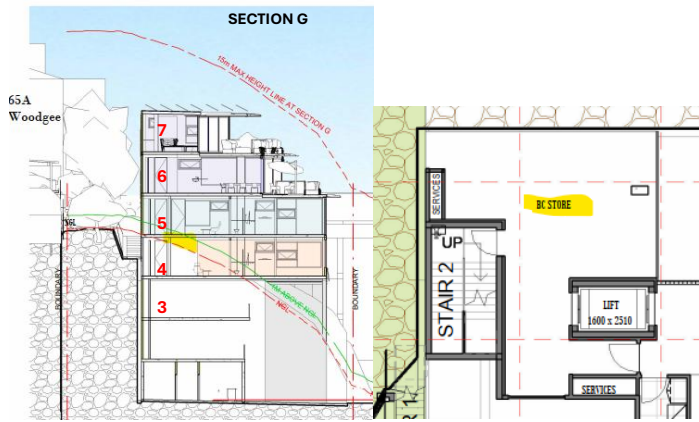
In relation to building height, impact assessment is triggered where exceeding the prescribed building height of 3 storeys and 15m above ground level.

Section F below shows a small section of the lift overrun (highlighted yellow below) which extends beyond 15m above ground level. An additional section (between Section F & G) is required along with an RL in relation to the lift overrun to determine whether the building height exceeds 15m in this part of the building and therefore triggers impact assessment.

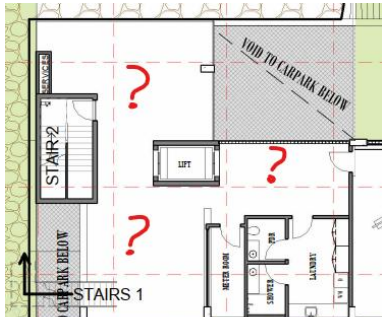


Level 7 - At Section E & G, this level constitutes a 'storey' as it includes a bedroom and ensuite and therefore is not only a space used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, toilet or other sanitary compartment. See Page 2 below.

A BC Store (i.e. storage area) is proposed on Level 03 which is excluded from the definition of 'storey'. This area is identified in yellow on the floor plan and Section G below. As such, **4 storeys** is proposed within this section of the building and triggers impact assessment.



Whilst this area comprises stairs, lift, meter room, shower, PDR and laundry (which are excluded from the definition of 'storey'), there are areas that are not labelled (see areas identified in question mark on image below) that are in excess of space that would be reasonably required to access the lift and stairs. This space could be used for a purpose other than that excluded from the definition of a 'storey' i.e. storage or additional living space for instance. Therefore, depending on the intent of use of this space, the area of the building identified in pink above is **4 storeys**.



The small area shown in blue below does not meet the definition of 'basement' and is essentially a 'storey'. This is because a 'basement' (which is excluded from the 'storey' definition) is defined as a space between a floor level in the building and the floor level that is immediately below it with no part more than 1m above ground level. As this space exceeds 1m above ground level, this part of the building is not a basement and constitutes a 'storey'. Therefore this section of the building is **5 storeys**.



City Plan Definitions:

- 'Storey'** is defined as:  
A space within a building between two floor levels, or a floor level and a ceiling or roof:
- (a) other than:
    - (i) a space containing only a lift shaft, stairway or meter room; or
    - (ii) a space containing only a bathroom, shower room, laundry, toilet or other sanitary compartment; or
    - (iii) a space containing only a combination of the things stated in (i) or (ii); or
    - (iv) a basement with a ceiling that is not more than one metre above ground level; and
  - (b) includes:
    - (i) a mezzanine; and
    - (ii) a roofed structure that is on, or part of, a rooftop, if the structure does not accommodate building plant and equipment.

- 'Basement'** is defined as:  
A space:
- (a) between a floor level in a building and the floor level that is immediately below it; and
  - (b) no part of which is more than one metre above ground level.



Site Plan showing location of sections:



Levels 4 to 7 – At Section E and G – each of these levels constitute a storey. At Level 7 there is a bedroom and ensuite and as such, this does not constitute only a space used for a lift shaft, stairway, meter room, bathroom, shower room, laundry, toilet or other sanitary compartment.

A portion of Level 3 protrudes above natural ground level resulting in this level constituting a storey, noting that a 1 metre protrusion exemption (from being calculated as a storey) only applies at basement level. The development is therefore technically **5 storeys**.

