

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

ORIGINATING APPLICATION

Filed on: 05/03/2026

Filed by: Connor O'Meara Solicitors
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CAROLINE ANN JANSSEN AND SAVE CURRUMBIN LTD (ACN 688 965 700) of
c/- Connor O'Meara Solicitors, Level 22, 69 Ann Street, Brisbane in the State of
Queensland applies to the Planning and Environment Court at Brisbane, for
the following orders:

1. a declaration, pursuant to s 11(1)(a) of the *Planning and Environment Court Act 2016*, that the development application bearing reference number MCU/2022/588 made by the Second Respondent on 17 April



Originating Application
Filed on behalf of the Applicant
Form PEC-2

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- 2023 for a material change of use for a shop and multiple dwellings ("*Development Application*") in respect of land described as Lot 2 on RP58471 ("*the Land*") was impact assessable;
2. an order pursuant to s 11(4) of the *Planning and Environment Court Act 2016* that the decision notice given by the First Respondent dated 7 February 2024 approving the Development Application ("*Development Approval*") is of no effect and be set aside;
 3. a declaration, pursuant to s 11(1)(a) of the *Planning and Environment Court Act 2016*, that the development to which the change application relates bearing reference number OTH/2025/79 made by the Second Respondent for a change, other than a minor change, to the Development Approval ("*Change Application*") in respect of land described as Lot 1 on SP348547 ("*Change Application Land*") was impact assessable;
 4. an order pursuant to s 11(4) of the *Planning and Environment Court Act 2016* that the decision notice given by the First Respondent dated 12 February 2026 approving the Change Application ("*Changed Development Approval*") is of no effect and be set aside; and
 5. such further or other orders as the Court deems necessary.

The grounds relied on are:

6. The Land the subject of the Development Application:
 - (a) is situated at 776 Pacific Parade, Currumbin;

- (b) is more particularly described as Lot 2 on RP58471;
- (c) has an area of 502m²; and
- (d) has frontage to Pacific Parade.

7. The Change Application Land:

- (a) is situated at 776 Pacific Parade, Currumbin;
- (b) is more particularly described as Lot 1 on SP348547;
- (c) has an area of approximately 722m²; and
- (d) has a frontage to Pacific Parade and is vacant.

8. The Land and the Change Application Land:

- (a) is, pursuant to version 9 of the Gold Coast City Plan (*"Planning Scheme Version 9"*) and version 12 of the Gold Coast City Plan (*"Planning Scheme Version 12"*):
 - (i) included in the Neighbourhood centre zone; and
 - (ii) subject to the following overlays:
 - A. Acid Sulfate Soils;
 - B. Airport Environs;
 - C. Building Height;
 - D. Environment Significance – Biodiversity areas;

- E. Industry, community infrastructure and agriculture land interface area – Airport noise exposure area;
- F. Landslide hazard;
- G. Residential Density; and
- H. Ridges and significant hills protection.

The Parties

9. The First Applicant is the registered owner of land at 65 Woodgee Street, Currumbin ("*Neighbouring Land*"), which shares a common boundary with the Land and the Change Application Land. The Neighbouring Land is improved by a dwelling house and cottage. The First Applicant occupies the Neighbouring Land from time to time.
10. The Second Applicant is an Australian public company limited by guarantee interested in development outcomes for Currumbin and the proper application of the planning strategy embodied within the First Respondent's local planning instrument.
11. The First Respondent:
 - (a) is the assessment manager under the *Planning Act 2016*; and
 - (b) assessed and decided the Development Approval and the Changed Development Approval.
12. The Second Respondent:

- (a) is the registered owner of the Land;
- (b) is the applicant for the Development Application and the Change Application; and
- (c) has the benefit of the Changed Development Approval.

Development Approval

13. On 7 December 2022, the Second Respondent made a development application with the First Respondent seeking a development permit for a material change of use for multiple dwellings (3 units) and a shop on the Land.

14. On 21 December 2022, the First Respondent issued an Action Notice which said:

"This development application is not a properly made application under section 51 of the Planning Act 2016.

The reasons why Council, as assessment manager, is not satisfied that the application is properly made is/are:

The application constitutes a development involving 4 storeys in a 3 storey/15 metre height designation within the Neighbourhood centre zone."

15. On 6 April 2023, the Second Respondent gave a response to the action notice including amended plans of the proposed development. The response purported to change the Development Application with amended built form and a material change of use for multiple dwellings (4 units) and a shop.

16. On 17 April 2023, the First Respondent confirmed the Development Application was properly made and code assessable.
17. By Decision Notice dated 7 February 2024, the First Respondent approved the Development Application and granted the Development Approval subject to conditions.

The Change Application

18. On 13 November 2025, the Second Respondent made a Change Application, for a change other than a minor change, to the Development Approval.
19. The Change Application, amongst other things, sought a change to the Development Approval to:
 - (a) reflect that it related to the Change Application Land; and
 - (b) alter the built form given the changed dimensions of the Change Application Land to provide for, amongst things, a wider building and an additional level and dwelling unit.
20. On 24 November 2025, the First Respondent confirmed the Change Application was properly made and subject to code assessment.
21. By Decision Notice dated 11 February 2026, the First Respondent approved the Change Application and granted the Changed Development Approval subject to conditions.

Building Height

22. At the time the Development Application was made, the Planning Scheme Version 9 was in force.
23. At the time the Change Application was made, the Planning Scheme Version 12 was in force.
24. Pursuant to the Building Height Overlay Map OMB1-23 of the Planning Scheme Version 9 and the Planning Scheme Version 12, the Land and the Change Application Land is designated a maximum building height of three storeys or 15 metres.
25. Pursuant to Table 5.5.5 of the Planning Scheme Version 9 and the Planning Scheme Version 12:
- (a) *“all activities”* are impact assessable where there is a Material Change of Use involving building work in the Neighbourhood Centre zone; and
 - (b) the height exceeds the height identified on the Building Height Overlay Map.
26. Pursuant to the Planning Scheme Version 9 and the Planning Scheme Version 12, *“Storey”* is defined to mean:

“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 only accommodate building plant and equipment."*

27. Pursuant to the Planning Scheme Version 9 and the Planning Scheme Version 12, "*basement*" is defined to mean:

"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."*

28. Pursuant to the Planning Scheme Version 9 and the Planning Scheme Version 12, "*building height*" is defined to mean:

"If specified:

1. *The vertical distance, measured in metres, between the ground level of the building and the highest point on the roof of the building, other than a point that is part of an aerial, chimney, flagpole or load-bearing antenna; or*
2. *the number of storeys in the building above ground level."*

29. Pursuant to the Planning Scheme Version 9 and the Planning Scheme Version 12, "*ground level*" is defined to mean:

"The level of the natural ground, or, if the level of the natural ground has changed, the level as lawfully changed."

30. Figure 1 illustrates the development approved by the Development Approval.

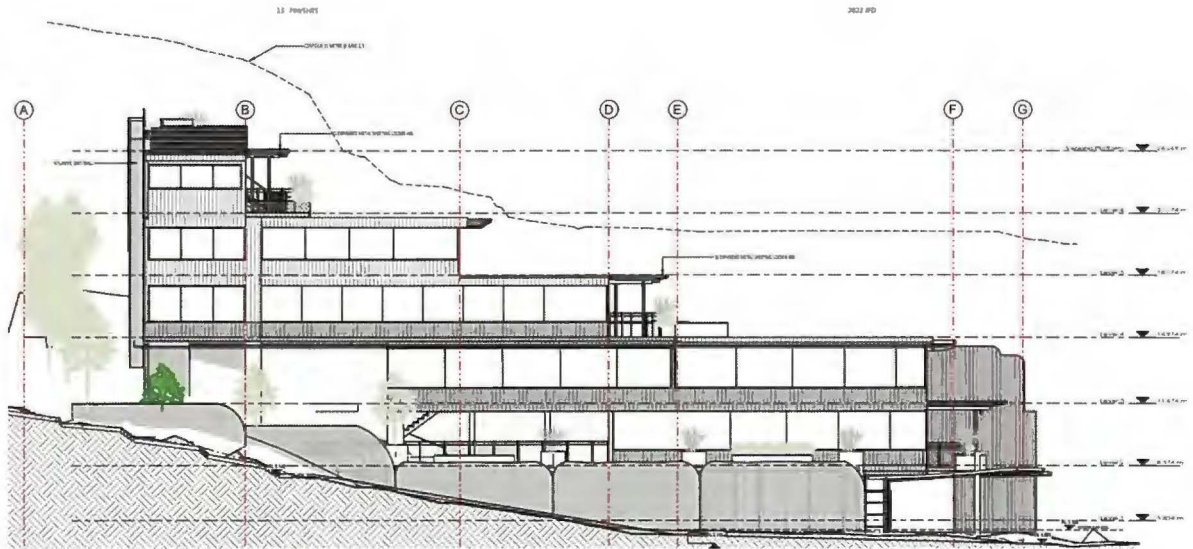


Figure 1: Southern elevation of the Development Approval

31. Figures 2 and 3 illustrate the development approved by the Changed Development Approval.

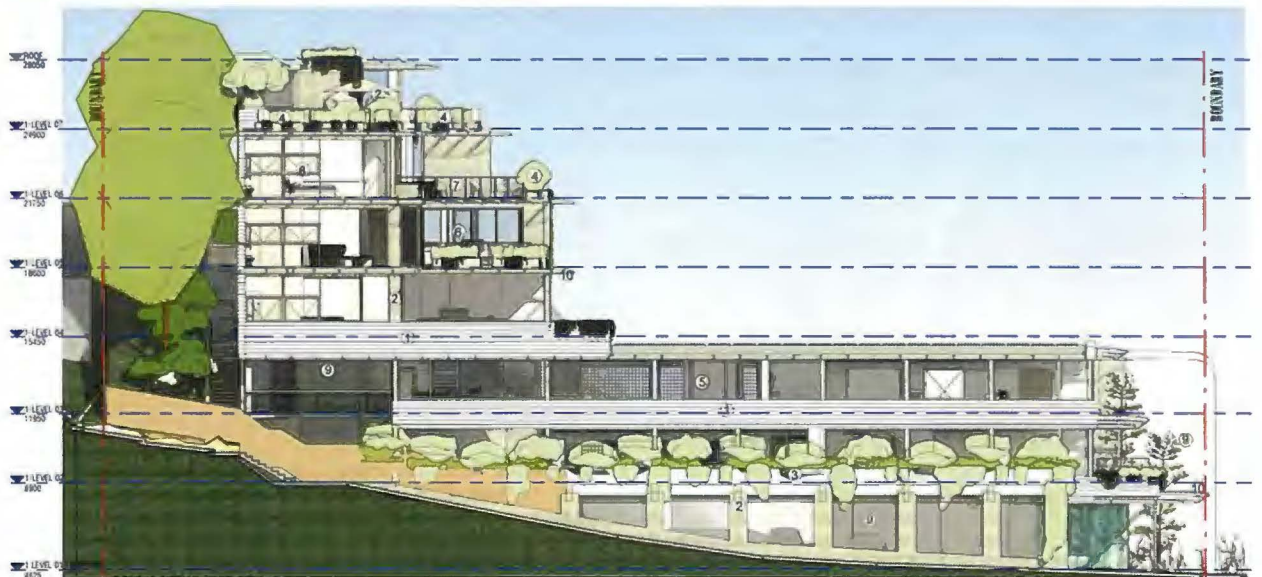


Figure 2: Southern elevation of the Changed Development Approval

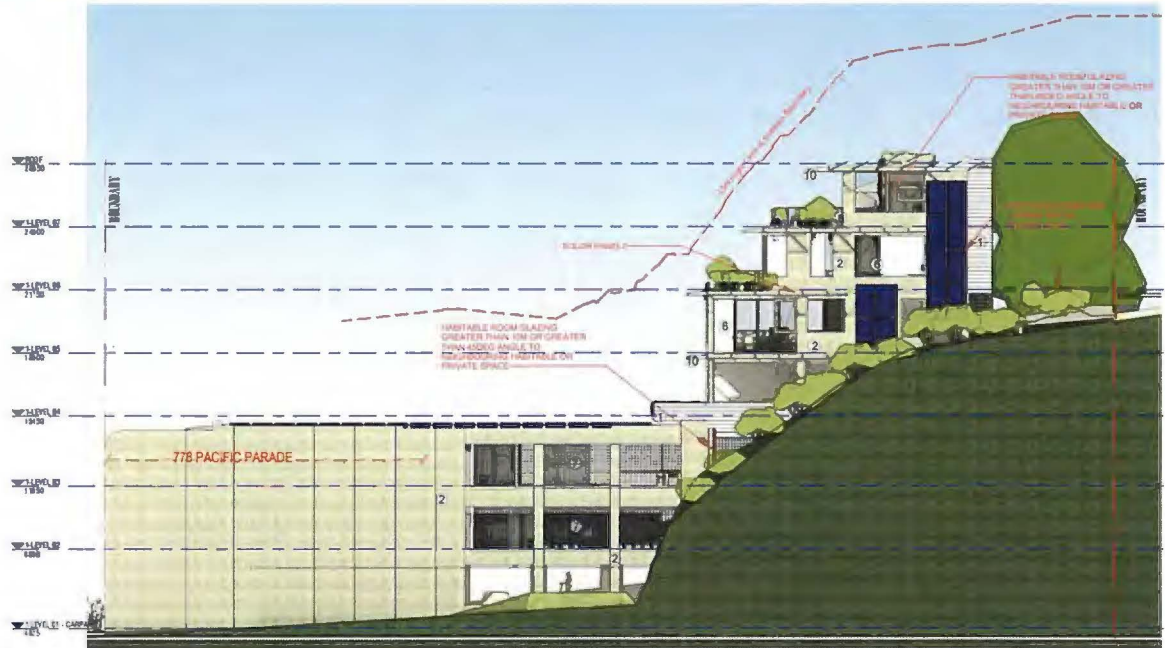


Figure 3: Northern Elevation of the Changed Development Approval

32. As a consequence of the above, the form of development for which approval was sought by the Development Application was impact assessable:

Particulars

- (a) the development involves building work;
- (b) the development for which approval is sought does not include a basement;
- (c) each of the levels identified on the plans depicting the proposed form of development for the Development Application from "Level 1" to "Level 6" are, wholly or in part, a storey; and
- (d) as a consequence of the above, the proposed development in the Development Application and approved by the Development Approval comprises more than 3 storeys and exceeds the

maximum building height for the Land depicted on the Building Height Overlay Map OM1-23 in the Planning Scheme Version 9.

33. The form of development for which approval was sought by the Change Application was impact assessable:

Particulars

- (a) the development involves building work;
 - (b) the development for which approval is sought does not include a basement;
 - (c) each of the levels identified on the plans depicting the proposed form of development for the Change Application from "*Level 01*" to "*Level 07*" are, wholly or in part, a storey by definition; and
 - (d) as a consequence of the above, the proposed development comprises more than 3 storeys and exceeds the maximum building height for the Change Application Land depicted in the Planning Scheme Version 12 on the Building Height Overlay Map OMB1-23.
34. In the circumstances, the First Respondent could not:
- (a) be satisfied that the Development Application is code assessable in accordance with Table 5.5.5 of the Planning Scheme Version 9;
 - (b) properly exercise its power to:

- (i) provide notice that the Development Application was properly made as code assessable; and
 - (ii) assess and approve the Development Application as an application that required code assessment;
 - (c) be satisfied that the Change Application is code assessable in accordance with Table 5.5.5 of the Planning Scheme Version 12; and
 - (d) properly exercise its power to:
 - (i) provide notice that the Change Application was properly made as code assessable; and
 - (ii) assess and approve the Change Application as an application that required code assessment.
35. Had the Development Application and the Change Application been identified and assessed as impact assessable development the Applicants would have made submissions in respect of each of them objecting to those applications.
36. In the premises:
- (a) the Originating Application should be allowed;
 - (b) the declaration and order sought by the Applicants should be made; and

- (c) any other orders which the Court considers necessary should be made.

PARTICULARS OF THE APPLICANTS:

Name: **CAROLINE ANN JANSSEN
and
SAVE CURRUMBIN LTD (ACN 688
965 700)**

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Solicitor's name: Michael Connor
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Connor O'Meara
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CONNOR O'MEARA
Solicitors for the Applicants
Dated: 05/03/2026 *02/04/26*

This application is to be heard by the Court at Brisbane on 2 April 2026 at 10:00am.

The Applicants estimate the hearing of this application to take 15 minutes.

05 MAR 2026

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Registrar



NB: If you are named as a respondent in this proceeding and wish to be heard in this application you must:

- (a) **within 10 business days after being served with a copy of this Originating Application, file an Entry of Appearance in the Registry where this application was filed or where the court file is kept; and**

- (b) serve a copy of the Entry of Appearance on each other party.**

The Entry of Appearance should be in Form PEC – 5 for the Planning and Environment Court.

If you are entitled to elect to be a party to this application and you wish to be heard in this application you must:

- (a) within 10 business days of receipt of this Originating Application, file a Notice of Election in the Registry where this application was filed or where the court file is kept; and**
- (b) serve a copy of the Notice of Election on each other party.**

The Notice of Election should be in Form PEC – 6 for the Planning and Environment Court.