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PROPOSED MIXED USE DEVELOPMENT 43 LINDFIEDL AVENUE & 9 HAVILAH LANE, LINDFIELD DA 578/14

Clause 4.6 - Exceptions to development standards - Floor Space Ratio

The proposed development will result in a gross floor area of 5,529m² and which equates to a maximum FSR for the site of 3.05:1.

Under the requirements of Clause 4.4 of the LEP a maximum floor space ratio of 3:1 is permissible in this instance.

The proposed non-compliance equates to 98.37m².

The additional FSR is directly attributable to the provision of an additional 7 car spaces upon the site. The car spaces are located in the basement and in my opinion do not add to the height, bulk and scale of the proposal.

In response to the proposed FSR non-compliance the following Clause 4.6 variation is provided.

It is submitted that the variation is well founded and is worthy of the support of the Council.

The following is an assessment of the proposed variation against the requirements of Clause 4.6.

1. What are the objectives of Clause 4.6 and is the proposal consistent with them.

The objectives of Clause 4.6 of the LEP are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

It is my opinion, as is demonstrated by the responses to the questions below, that the proposed variation is consistent with the objectives of this clause.

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2. Is the standard to be varied a Development Standard to which Clause 4.6 applies.

Clause 4.4 is contained within Part 4 of the LEP and which is titled Principal Development Standards. On this basis it is considered that the proposal is a development standard for which Clause 4.6 applies.

3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of this case.

It is my opinion that compliance with the requirements of Clause 4.4 is both unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The extent of the departure is considered to be relatively minor (1.8%) and would not be discernible from adjoining properties or the street.
- The proposed additional floor area is attributable to 7 additional car spaces proposed as part of this application and which are located within the basement car park. The subject spaces being located in the basement do not occupy areas which could otherwise be used for habitable purposes and do not add to the height, bulk or scale of the development.
- Accordingly it is my opinion that there are no detrimental impacts arising as a result of the proposed non-compliances.

On this basis it is my opinion that strict compliance with the standard is unreasonable and unnecessary in the circumstances of this case.

4. Are there sufficient environmental planning grounds to justify contravening the development standard.

It is considered that a contravention of the development standard is justified given that:

- Compliance is unreasonable and unnecessary in the circumstances of this case.
- The non-compliance will not result in any unreasonable impacts upon adjoining properties.
- The non-compliance will not result in any unreasonable impacts upon the public domain.

- The proposal will provide for a development outcome which satisfies the objectives of the Council for development within this zone.
 - The proposal satisfies the objectives of Clause 4.4 of the LEP.
5. Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development is in my opinion in the public interest because it is compliant with the zone objectives and the objectives of the particular standard.

6. Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.

It is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning.

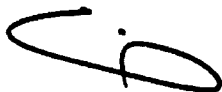
7. What is the public benefit of maintaining the development standard.

It is my opinion that there is no public benefit in maintaining the development standard in this instance given that the additional floor space is located below ground, the minor nature of the departure and the absence of any unreasonable detrimental impacts.

It is also noted that compliance would result in the reduction in the number of car spaces provided upon the site and which has the potential to be detrimental to customers of the retail facility.

Conclusion

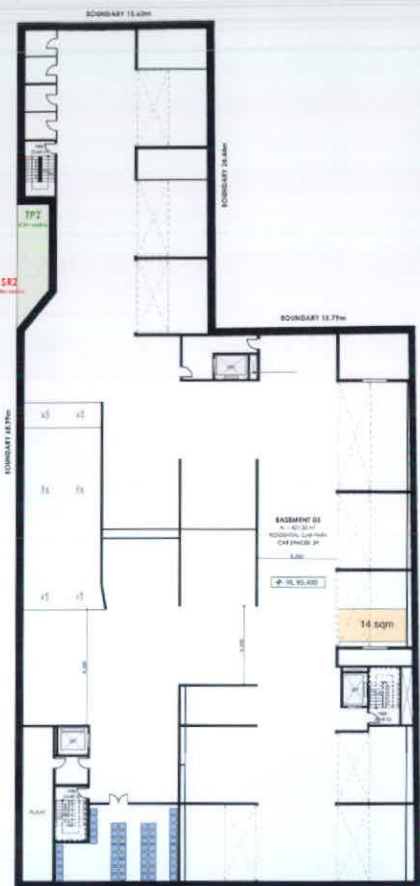
It is therefore my opinion based upon the content of this submission that a variation of the floor space ratio control as required by Clause 4.4 of the Ku-ring-gai LEP (Local Centres) 2012 is appropriate in this instance.



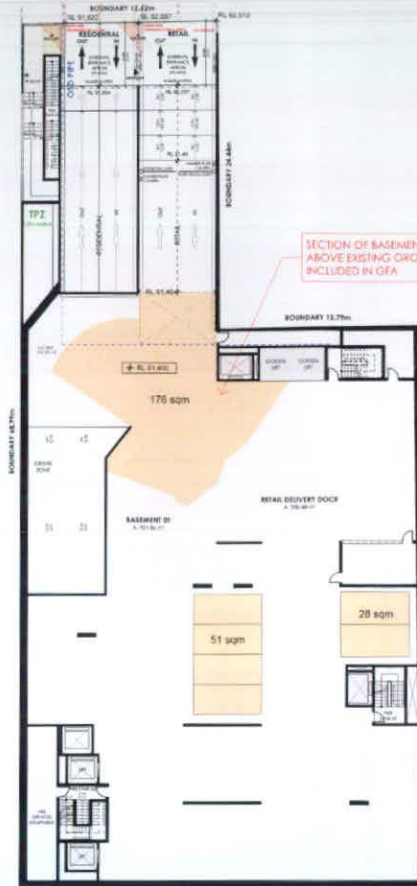
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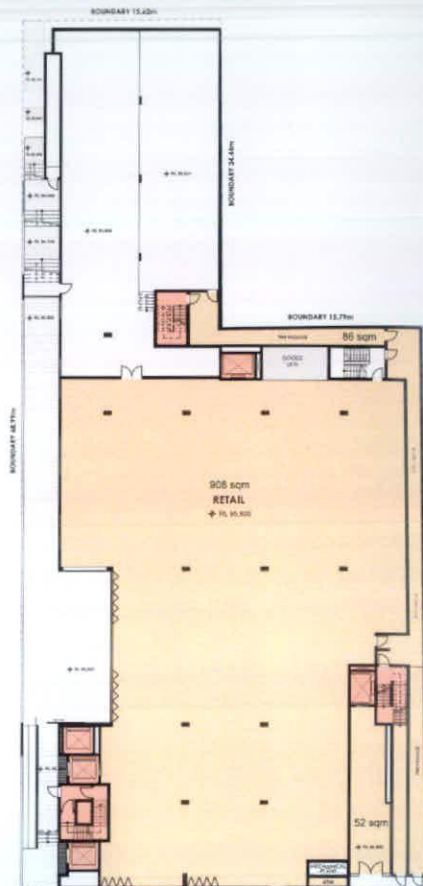
7th May 2015



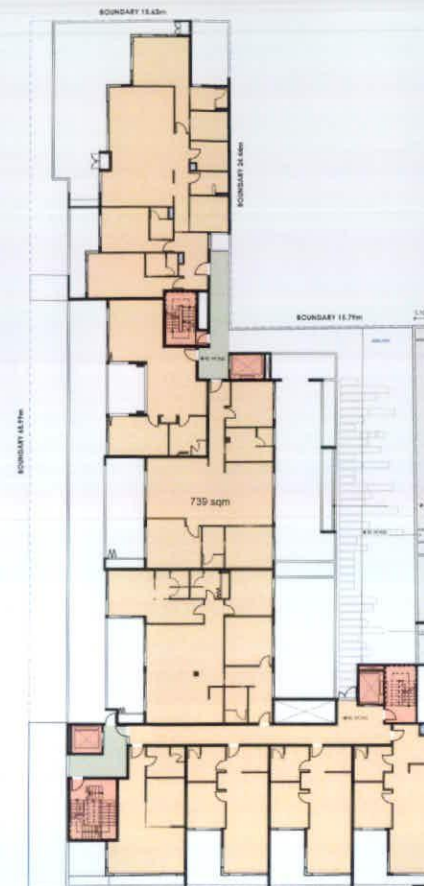
BASEMENT 03
SURPLUS CAR SPACE 14 sqm



BASEMENT 01
176 sqm + SURPLUS CAR SPACES 79 sqm



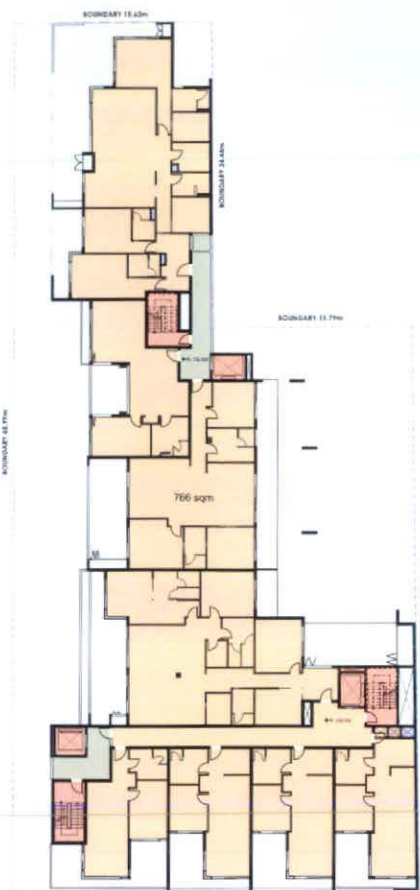
LEVEL 01
1046 sqm



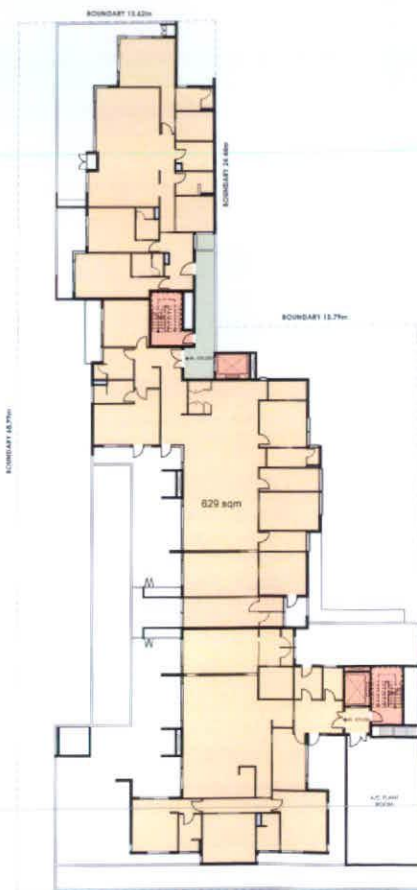
LEVEL 02
739 sqm



LEVEL 03
766 sqm



LEVEL 04
766 sqm



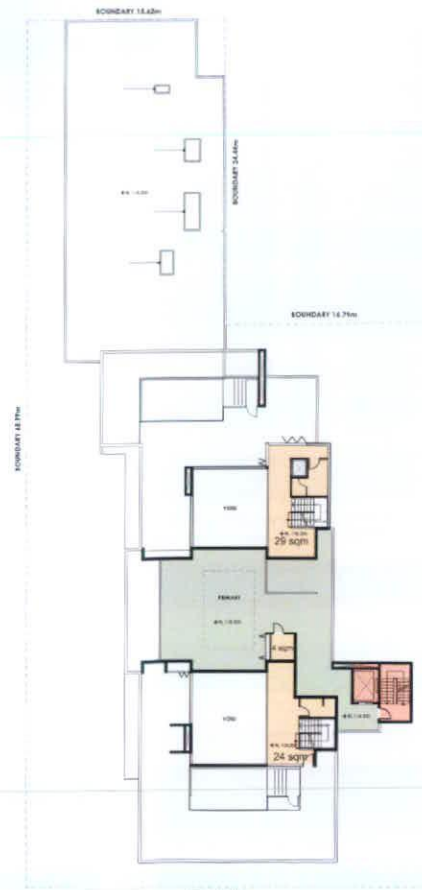
LEVEL 05
629 sqm



LEVEL 06
627 sqm



LEVEL 07
630 sqm



LEVEL 08
57 sqm

FSR	
SITE AREA	1810.21 sqm
Allowable FSR	3:1 sqm
Allowable GFA	5430.63 sqm
Proposed GFA	5529 sqm

PROPOSED FSR
DOES NOT COMPLY (refer to SEE) 3.05:1

GFA	
BASEMENT 01 (area above 1m)	176 sqm
LEVEL 01 commercial	1046 sqm
LEVEL 02 residential	739 sqm
LEVEL 03 residential	766 sqm
LEVEL 04 residential	766 sqm
LEVEL 05 residential	629 sqm
LEVEL 06 residential	627 sqm
LEVEL 07 residential	630 sqm
LEVEL 08 residential	57 sqm
TOTAL (excluding surplus car spaces)	5434 sqm
BASEMENT 03 surplus car spaces	14 sqm
BASEMENT 01 surplus car space	79 sqm
TOTAL (surplus car spaces)	93 sqm
TOTAL	5529 sqm

PROPOSED TOTAL
DOES NOT COMPLY (refer to SEE) 5529 sqm

GFA CHANGED

KEY	
	FLOOR AREA
	SERVICES AREA WITHIN APARTMENTS
	LIFT/STAIRS
	OPEN CIRCULATION