

Our Ref: 0078/12lt5

15 February 2014

Marian Pate
NSW Department of Planning and Infrastructure
PO Box 39
SYDNEY 2001

Dear Marian,

**RE: SUTHERLAND DRAFT LEP REVIEW
41-47 ETON STREET SUTHERLAND**

We advise that we act on behalf of the owner of the above property and have been instructed to make a submission to be included as part of the independent review of the Draft Sutherland Shire LEP 2013. In accordance with the terms of reference set out by the Minister for Planning and Infrastructure, this submission relates to a site that was included in Mayoral Minute No. 6/13-14 dated 29 July 2013. In addition, we refer to the appropriateness of the second exhibited version of the Draft LEP and contend that the LEP is entirely appropriate in relation to the subject site.

By way of background, Planning Ingenuity made a submission to Council in response to the first exhibited Draft LEP requesting that Council make amendments to endorse a height limit of 40m for the site and an FSR of 4:1. The Draft LEP in its initial form identified the site as having a height of 30m and an FSR of 3.5:1. The request was consistent with the density that was initially exhibited as part of the Draft Sutherland Centre Strategy and is entirely consistent with the controls that apply to similar sized development sites within the Town Centre. The detailed submission is attached to this letter.

Staff was not supportive of the request. Council's report summarising submissions recommended that there be no change to the plan and noted the following:

" The subject site is proposed at an FSR of 3.5:1 and a Building Height of 30m under draft SSLEP2013. Increased building heights (40m) have been identified along the Old Princes Highway on sites with an FSR of between 3:1 and 4:1. These sites have a greater separation distance and will result in a Town Centre 'edge' along the Old Princes Highway upon redevelopment.

The section of Eton Street that incorporates the subject site and sites to the south are proposed at a similar 3:1 FSR. However, it is considered that these sites exhibit a reduced separation distance and a greater potential for inappropriate building scale and pedestrian amenity impacts should building heights be increased beyond the 30m proposed. A 30m height limit achieves a 9/10 storey development. It is considered appropriate to reduce the scale of development from the western edge of the Town Centre toward the east. Whilst this section of Eton Street is wider, it is considered that the height of development should take on a more transitional scale, in order to maintain solar access and pedestrian amenity at street level.

The two sites identified for an FSR of 4:1 and 40m height limits on the Old Princes Highway front the railway line, and have been identified as gateway buildings to the Sutherland Town Centre from both the north and the west and have therefore been afforded a greater height and FSR accordingly.

A detailed design study of envelopes and shadow impacts has been undertaken for the Town Centre. FSR and building heights should not be considered in isolation. A context based approach has been applied and the draft controls set a rational and considered approach for the desired built form within the Town Centre, including the opportunity for significant improvement for future pedestrian and residential amenity.

A detailed design submission to support the request for a 4:1 FSR and building height increase to 40m on this site was not provided.

The area is nominated as an Urban Activation Precinct. If successful, the planning context of the area will be re-examined. Should a more urban setting may be considered appropriate, additional height and FSR could be considered for this precinct. It is considered that the current proposed controls not be altered and that the area as whole be reconsidered as part of the Urban Activation Precinct."

As discussed, the subject site was mentioned in the Mayoral Minute as follows:

" vii. For 41-47 Eton Street, Sutherland – The height be increased to 40m and FSR increased to 4:1"

We note that the recommendation of the Mayoral Minute was different to that of staff and was in fact supportive of the views of Planning Ingenuity in the requested FSR and height. Notably, once the recommendations of Council's report on the first round of exhibition were available, our client immediately engaged an architect to undertake a building massing and modelling exercise to determine the likely built form implications of the request in the context of the density and height that applies to a number of adjoining properties. This was undertaken given that staff's primary concerns were design related. The modelling exercise included options for a likely building footprint and the overall scale of the requested density and height in the context of the controls that related to the adjoining properties. These massing diagrams and indicative building footprints are attached to this letter.

The additional massing diagrams as well as the submission of Planning Ingenuity was made available to a number of elected Councillors (as well as staff) who had the opportunity to understand the actual built form context and implications of the requested height and density. Following a consideration of the views of staff, our submission and the modelling, the Mayoral Minute resolved to support the requested density and height.

It is therefore abundantly clear that the requested changes to the height and FSR at the subject site were based on detailed and rigorous analysis of building form implications. We note that this is a subjective matter that was endorsed by Planning Ingenuity and not supported by Staff. However, in our view, there was sufficient information available to understand the built form implications of the proposal which were ultimately supported in the Mayoral Minute. In any case, the increased FSR and height were subject to a further round of public exhibition to allow public comment (ie. the second exhibition).

We therefore request that the panel endorse the Mayoral Minute as it relates to the subject site, that is, maintain the floor space ratio of 4:1 and height of 40m in relation to the subject site. Should you wish to discuss any of the above, please feel free to contact the undersigned.

Yours faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
DIRECTOR

ANNEXURE A: FIRST ROUND LEP SUBMISSION

Our Ref: 120078lt2
Council Ref: LP/03/252376

24 April 2013

Environmental Planning Unit
Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1499

Dear Sir,

**SUBMISSION ON THE DRAFT SUTHERLAND LEP 2013
41-47 ETON STREET, SUTHERLAND**

We refer to the *Draft Sutherland Shire LEP (SSLEP) 2013* which is on exhibition from 19 March to 1 May, 2013 and write to advise that we act on behalf of the owner of Nos. 41-47 Eton Street, Sutherland, which is a large land holding of approximately 1,132m² occupying the south-western corner of Eton Street and Flora Street. The location of the property is shown in Figure 1 below.

We have been instructed to make a submission in relation to the Draft LEP to request that Council make amendments to endorse a height limit of 40m for the site and an FSR of 4:1. The request is consistent with the density that was initially exhibited as part of the Draft Sutherland Centre Strategy and is considered to be consistent with the controls that apply to similar sized development sites within the Town Centre. The mechanism for achieving this request would be to amend the height and FSR maps that form part of the Draft LEP.



Figure 1: Location of 41-47 Eton Street, Sutherland

In forming our opinion on the suitability of the height and density requirements we have visited the site and locality and considered the *SSLEP 2006* and *Draft SSLEP 2013* controls in the context of the local and state strategic planning framework. We have also considered Council's *Employment Strategy – January 2013*, *Housing Strategy – December 2012* and *Draft Sutherland Centre Strategy* which are supplementary documents also on public exhibition.

The town planning justification for the requested increase in density is summarised in a series of sub-headings below:

Opportunity for true Transit Oriented Development (TOD)

The *Draft Sutherland Centre Strategy* acknowledges that the locality has access to “excellent public transport” and lists several prudent objectives (on Page 16) in relation to transport. These objectives seek to increase residential population with walking distance of the railway station, bus routes and other facilities. In our view, the subject site has the potential to accommodate one of the Sutherland Shire's most important transit oriented developments (TODs) due to its location at the heart of the Town Centre. The site is not challenged by the need to amalgamate several properties which is acknowledged by the *Draft Sutherland Centre Strategy* as a significant constraint to its “vision” being achieved.

It is considered that in this unique site context, every opportunity to support as high a density as possible should be taken. Pursuit of these transit oriented development options is central to the *Draft Metropolitan Strategy* and to contemporary planning thought.

Consistency with other Town Centre sites

We acknowledge and support the inclusion of increased densities within and around the Sutherland Town Centre. Sutherland is uniquely provided with a transport interchange and is a prime Centre for development impetus. We note 4 sites (or localities) that are subject to a 4:1 floor space ratio and 40m height limits. Our client's site was provided a 4:1 FSR under the originally exhibited *Draft Sutherland Centre Strategy* however this has been reduced to 3.5:1 due to Council's opinion that there was tension between allowable height and FSR for the site.

We note that 3 of the localities subject to the 4:1 FSR are challenged by the need to amalgamate several properties, in different ownership, to facilitate development. In contrast, our client's site forms a development parcel under one ownership ready for immediate development. We also note that three of the sites earmarked for 4:1 FSR are further from Sutherland Railway Station, the site at the corner of Belmont Street and the Old Princes Highway being approximately 600m from the station entrance. In contrast, our client's site can only be described as being “on the doorstep” of the railway station. Furthermore, the other sites that have been provided a 4:1 FSR have interface issues with surrounding properties, similar to the subject site. Like the subject site, it is expected that these issues would be the subject of rigorous design analysis and testing at the development application stage.

Accordingly, given that our client's site exhibits the locational attributes that have been accepted by Council as suitable for increased densities and that the site is ready to be immediately developed without the need for amalgamation, it is requested that the FSR of 4:1 contained in the original *Draft Sutherland Centre Strategy* be applied to the site. We note that all other sites with a proposed FSR of 4:1 benefit from greater height controls of 40m and we therefore request the same height limit as these sites to enable the maximum requested FSR to be achieved.

Density as per original Centre Strategy

As indicated above, the *Draft Sutherland Centre Strategy* that was exhibited in May 2012 provided for an FSR of 4:1 for the subject site. The site was subject to a 31m height limit. Our firm prepared a submission that identified the tension between these controls, requesting that the height limit be increased. We maintain the view that the FSR of 4:1 should be applied, with an increased height to 40m for the reasons outlined in this submission. Council responded to that submission stating that lower building heights (and wider footprints) would better respond to wider street geometry and that greater height may result in overshadowing of the school playground to the east.

These sentiments have not precluded the pursuit of 4:1 FSR and 40m height limits further north on Eton Street where street geometry is identical (and any development would require amalgamation of several allotments). Similarly, the application of a 4:1 FSR and 40m height limit to the Council car park site further east on Flora Street has the potential for similar shadow impacts on the school playground to development of the subject site, in the morning rather than afternoon. On both sites, it is our view that development could be designed in response to these perceived constraints.

The *Draft Sutherland Centre Strategy* has bold strategic aims that we applaud for representing a tenable contemporary planning approach to Metropolitan Planning and Town Centre development. For this reason, it is our view that the original *Draft Centre Strategy* was far more appropriate in terms of its treatment of our client's site.

Centre Amenity

The Draft Sutherland Centre Strategy includes a *Potential Built Form Plan* that is said to illustrate a potential arrangement of building forms that would allow sufficient solar access to public spaces and other potential development sites. The Draft Strategy does not include this solar analysis and does not identify critical public spaces or development sites that it intends to protect. The only hint of methodology states that "a reasonable test to ensure that a footpath retains its potential for outdoor eating is to ensure that at noon in midwinter there is solar access to at least 30% of the length of the street". In our view, the location of the subject site on the southern side of Flora Street, means that shadow from development would not affect the vibrant outdoor eating precinct between Eton Street and the Old Princes Highway or any significant public open spaces.

Furthermore, it is our view that shadow analysis of higher density development sites needs to test several design options for a site and across a locality. There is no evidence to suggest the extent of design testing that has been undertaken. For example, the *Draft Sutherland Centre Strategy* appears to assert that the testing was based on SEPP 65/Residential Flat Design Code compliant development. If the form in *Section AA through Flora Street looking west* is the form that has been tested, we would immediately suggest that narrower floor plates could be tested as could the placement of the tower component. In our opinion, these are matters that could be pursued at the development application stage for any redevelopment rather than at the "zoning stage" where there are several unknowns in relation to future development scenarios.

Conclusion

In summary, our client supports the notion of density increases on the subject site. However the reduction in the maximum FSR control compared with the original Draft Sutherland Centre Strategy is considered to be contrary to the highly plausible strategic aims of Council's *Housing Strategy* and those of the *Draft Sutherland Centre Strategy*.

The subject site has the potential to accommodate one of the Sutherland Shire's most important transit oriented developments (TODs) due to its location at the heart of the Town Centre. The site is not challenged by the need to amalgamate several properties which is acknowledged by the *Draft Sutherland Centre Strategy* as a significant constraint to its "vision" being achieved.

It is our strong view that given this unique site context, every opportunity should be taken to support as high a density as possible on the site. At the very least, the site is capable of accommodating an FSR of 4:1 and height of 40m, consistent with other sites within the Town Centre that are in fact further from the transit node and face greater challenges of site amalgamation.

We thank you for the opportunity to comment on Council's Draft LEP and we look forward to amendments being incorporated prior to final consideration by Council. We would appreciate the opportunity to discuss our submission. Should you require any further clarification, please do not hesitate to contact our office.

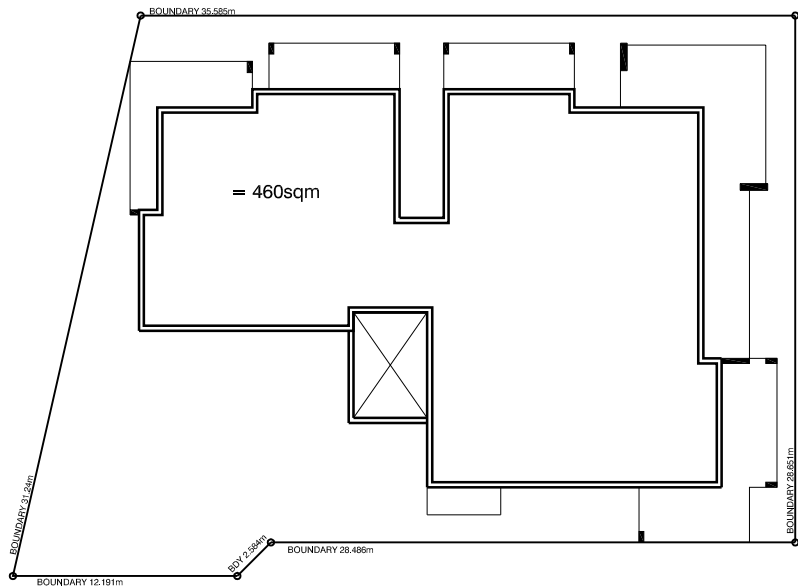
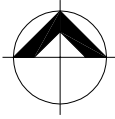
Yours faithfully,
Planning Ingenuity Pty Ltd



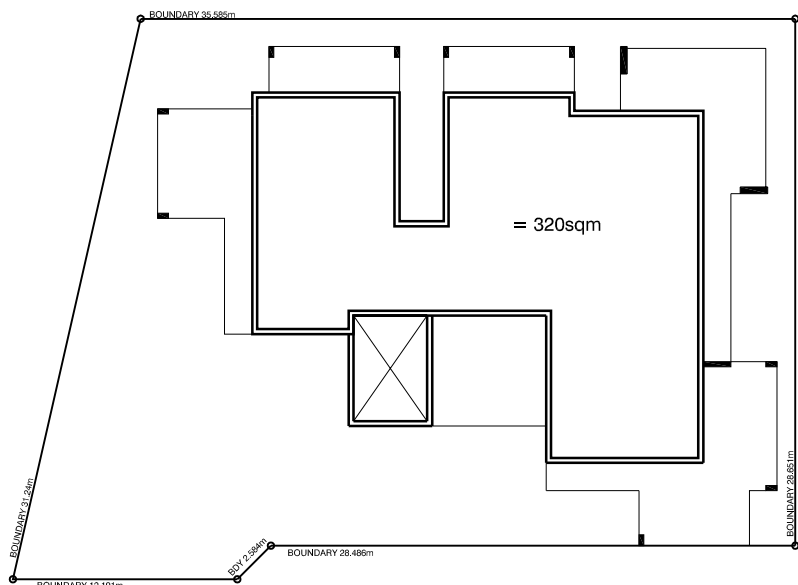
Jeff Mead
DIRECTOR

3.5:1 SCHEME

9 STOREYS



LEVELS 3-5

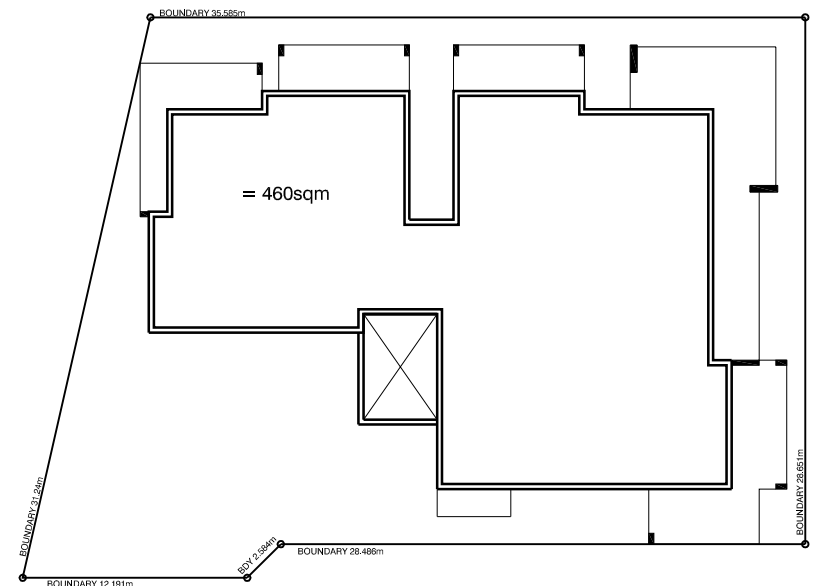
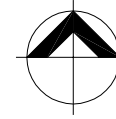


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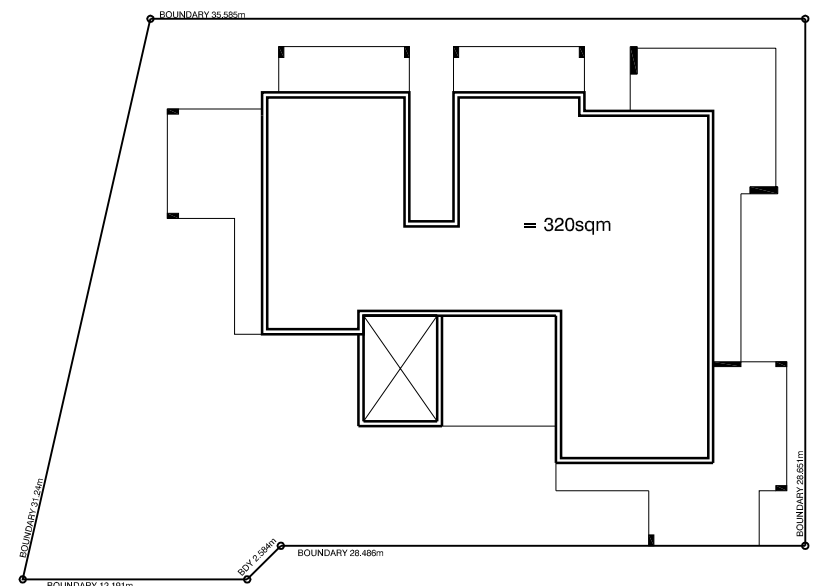
OPTION B

4.0:1 SCHEME

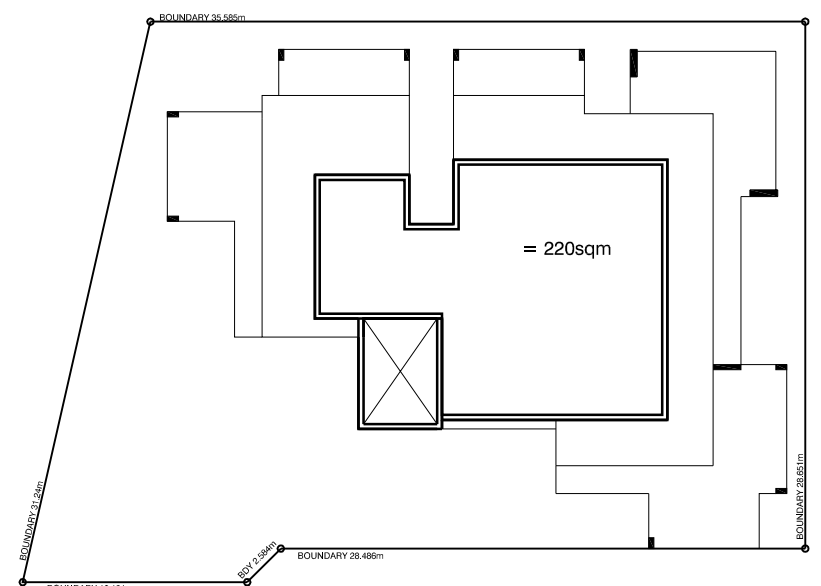
11 STOREYS



LEVELS 3-5



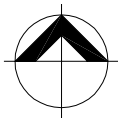
LEVELS 6-10



LEVELS 11

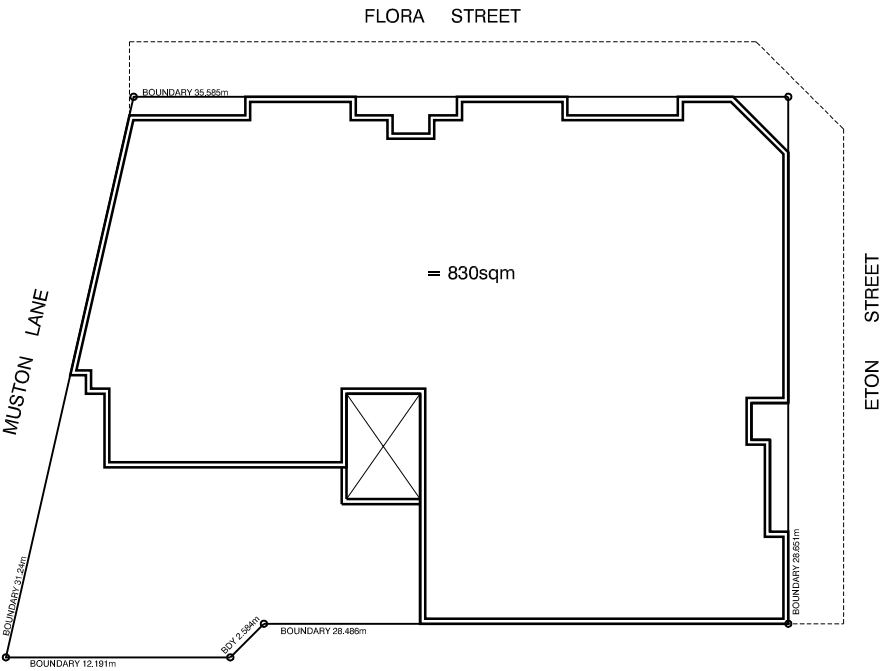
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9 STOREYS

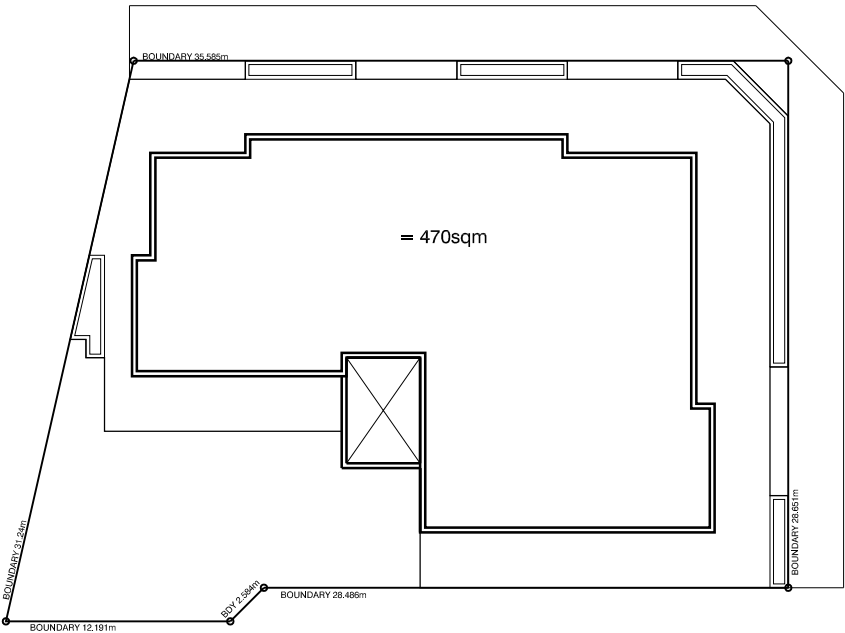


SITE CALCULATION

SITE AREA	= 1131.72m ²
ALLOWABLE FSR:	= 3961m ²
LEVEL 1 FLOOR AREA:	= 830m ²
LEVEL 2 FLOOR AREA:	= 470m ²
LEVELS 3-5 FLOOR AREA:	= 1380m ²
LEVELS 6-9 FLOOR AREA:	= 1280m ²
 SUB TOTAL :	 = 3960m ²
PROPOSED FSR :	= 3.5 : 1



LEVEL 1

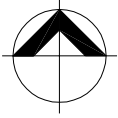


LEVEL 2

OPTION B

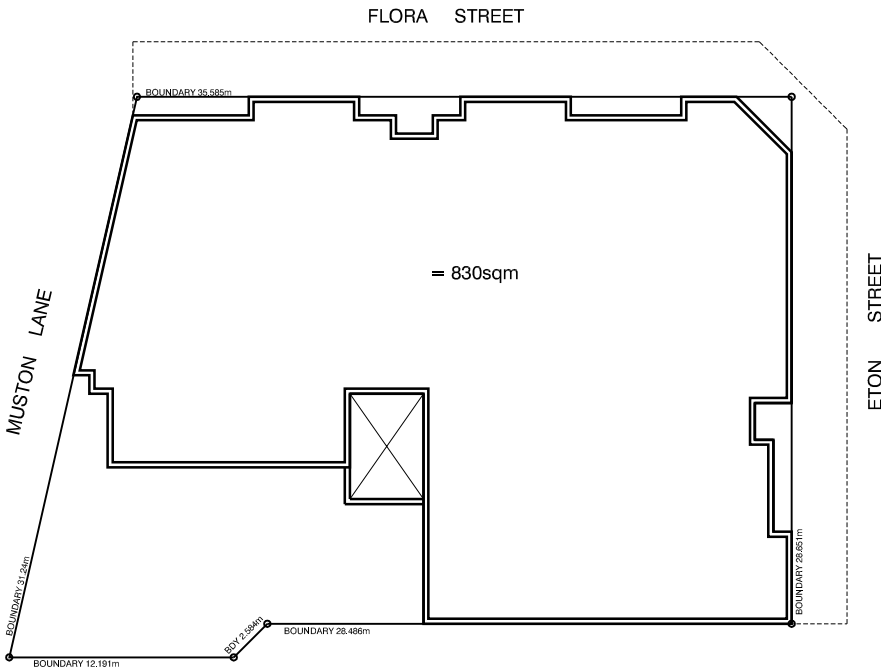
4.0:1 SCHEME

11 STOREYS

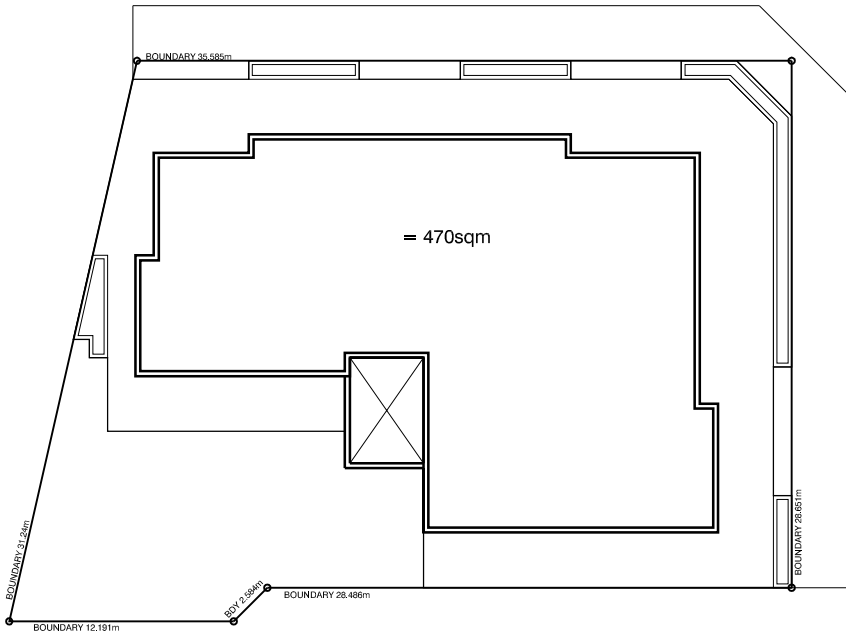


SITE CALCULATION

SITE AREA	= 1131.72m ²
ALLOWABLE FSR:	= 4526m ²
LEVEL 1 FLOOR AREA:	= 830m ²
LEVEL 2 FLOOR AREA:	= 470m ²
LEVELS 3-5 FLOOR AREA:	= 1380m ²
LEVELS 6-10 FLOOR AREA:	= 1600m ²
LEVEL 11 FLOOR AREA:	= 240m ²
 SUB TOTAL :	 = 4520m ²
PROPOSED FSR :	= 4.0 : 1



LEVEL 1



LEVEL 2

3.5:1 SCHEME

9 STOREYS



IMAGE 1.



IMAGE 2.

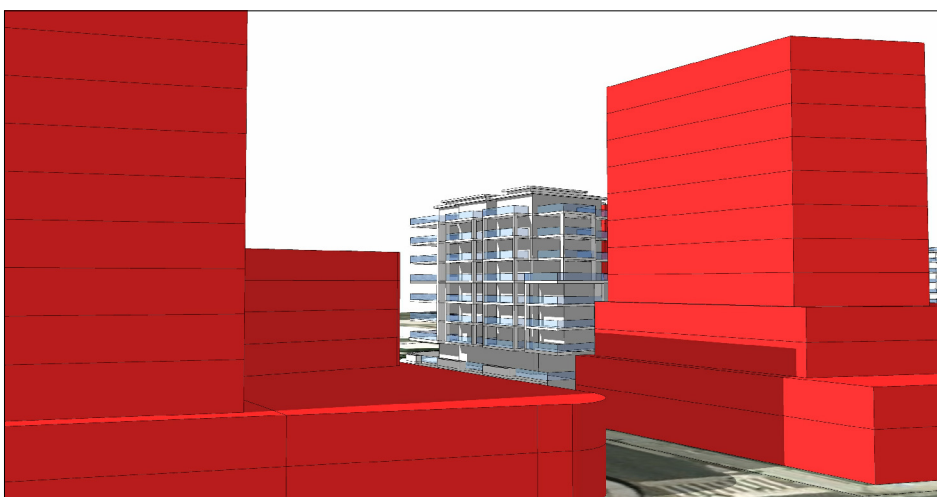


IMAGE 3.

OPTION B

4.0:1 SCHEME

11 STOREYS



IMAGE 1.

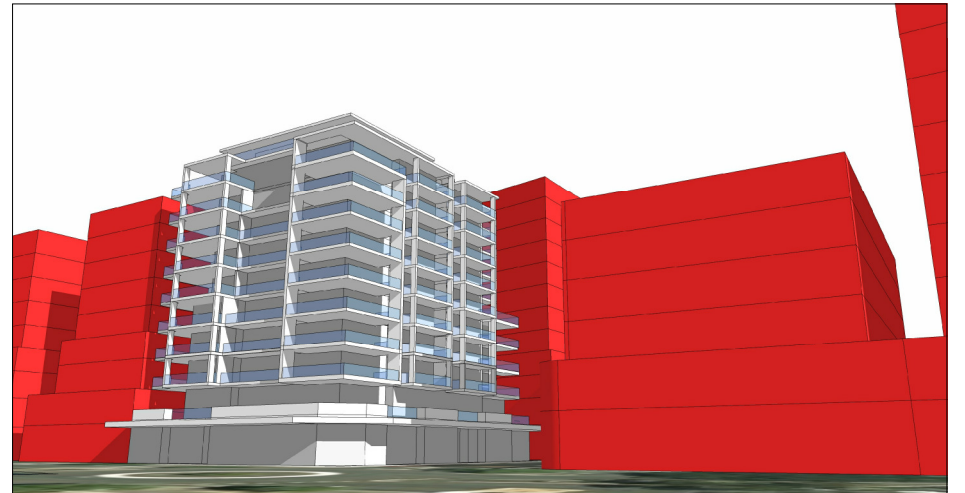


IMAGE 2.



IMAGE 3.