

**26/11/2020**

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**DAPublic-A005505645-20201126-82912.pdf**

Oppose

Please find the attached submission.

26 November 2020

Partner:	Tim Quirk
Writer:	Tim Quirk
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Our Ref:	TXQ:APMC:210495

Dominic Hudson  
Senior Urban Planner  
Development Services  
Brisbane City Council  
GPO BOX 1434  
BRISBANE QLD 4001

## By Email

Dear Mr Hudson

### **Submission – Development Application MCU/A005505645 at 63 & 69 Macgregor Terrace, Bardon ("Land")**

We refer to our submission dated 9 September 2020 which raised a concerning threshold issue that the Development Application has been incorrectly submitted as code assessable in circumstances where it triggers impact assessment. The trigger being an exceedance of the prescribed height limit of 9.5m and 2 storeys<sup>1</sup>.

In our earlier submission, we:

1. brought to Council's attention that the proposed development had not been supported by a site identification survey nor a Surveyor's report that determines the natural ground level which was surprising given the severe topography of the subject land;
2. suggested that a 3D survey plan with a superimposed prescribed height limit layer be provided to demonstrate height limit compliance; and
3. identified as a matter of concern that carefully selected sections had been provided as part of the development plans which was wholly unsatisfactory to demonstrate whether the proposed development complied with the height limits, especially given the selected elevations provided demonstrated that a 3 storey element was present.
4. concluded that the proposed development:

<sup>1</sup> Pursuant to table 7.2.9.2.3 B of the Ithaca District Neighbourhood Plan, the maximum building height for the Land is 2 storeys and 9.5m ("*prescribed height limit*").

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- a. did not fall within the prescribed height limit and should be properly identified by Council as being impact assessable; and
- b. was not properly made<sup>2</sup> until such time as it was resubmitted with the correct application fee and forms and supporting reports that identify it as an impact assessable development application that will require public notification.

Although amended plans were submitted with the applicant's information response lodged with Council on 23 October 2020, there was no direct response to the matters raised in our submission. Curiously, the amended plans<sup>3</sup> submitted with the information response did remove a 3<sup>rd</sup> storey element that was identified in our submission, which suggests an acknowledgement of and an attempt to address the height limit exceedance was made by the applicant.

However, the applicant does not appear to have provided a surveyor's report or 3D survey plan for the whole of the site<sup>4</sup>, again providing only selected sections which result in an incomplete and unsatisfactory response to a critical threshold issue.

In the circumstances, our client has engaged its architect to consider this issue and undertake the work that should properly have been done by the Applicant. Concerningly, this exercise has revealed a significant portion of the proposed development (located in the north/western corner) exceeds both 3 storeys and 9.5m above natural ground level. It therefore remains our client's position that the proposed development:

- c. does not fall within the prescribed height limit and should be properly identified by Council as being impact assessable; and
- d. is not properly made<sup>5</sup> until such time as it is resubmitted with the correct application fee and forms and supporting reports that identify it as an impact assessable development application that will require public notification.

We **enclose** for Council's consideration, drawings SK01 to SK07 prepared by Hall Architects dated 24 November 2020.

In the event that Council fails to act on this submission and decides the development application on the basis that it is code assessable, we are instructed to again put Council on notice that our client will, at the appropriate time, seek a declaration that any such decision is invalid and of no effect and should be set aside. Accordingly, our client reserves its rights in relation to matters that may arise from the above.

Yours faithfully



**Tim Quirk**  
**Partner**

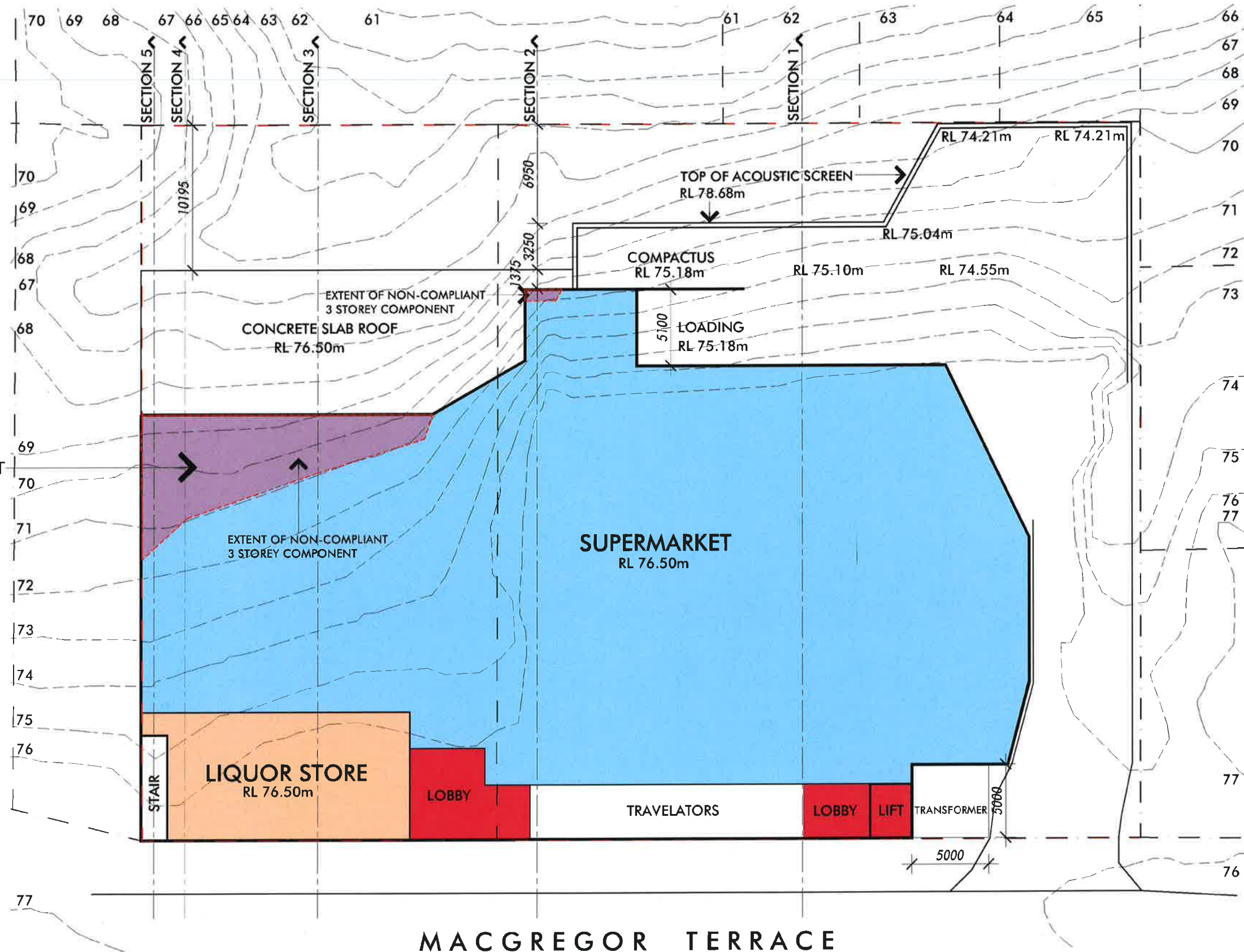
<sup>2</sup>s 51 *Planning Act 2016* (Qld).

<sup>3</sup> Section 06 – A3.06 Rev 9 dated 21/10/20

<sup>4</sup> The natural ground level relied upon by the Applicant is unproven.

<sup>5</sup>s 51 *Planning Act 2016* (Qld).

EXTENT OF  
NON-COMPLIANT  
3 STOREY  
COMPONENT



## EXTENT OF DEVELOPMENT EXCEEDING 3 STOREYS

NOTES:  
NATURAL GROUND LINES HAVE BEEN FORMED BASED ON BCC BIMAP 2002 CONTOUR MAP.  
PROPOSED LEVELS & WALL LOCATIONS FOR BARDON DEVELOPMENT HAVE BEEN CREATED FROM  
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TOWN PLANNING APPLICATION REVIEW  
BARDON DEVELOPMENT  
63 MACGREGOR TERRACE, BARDON  
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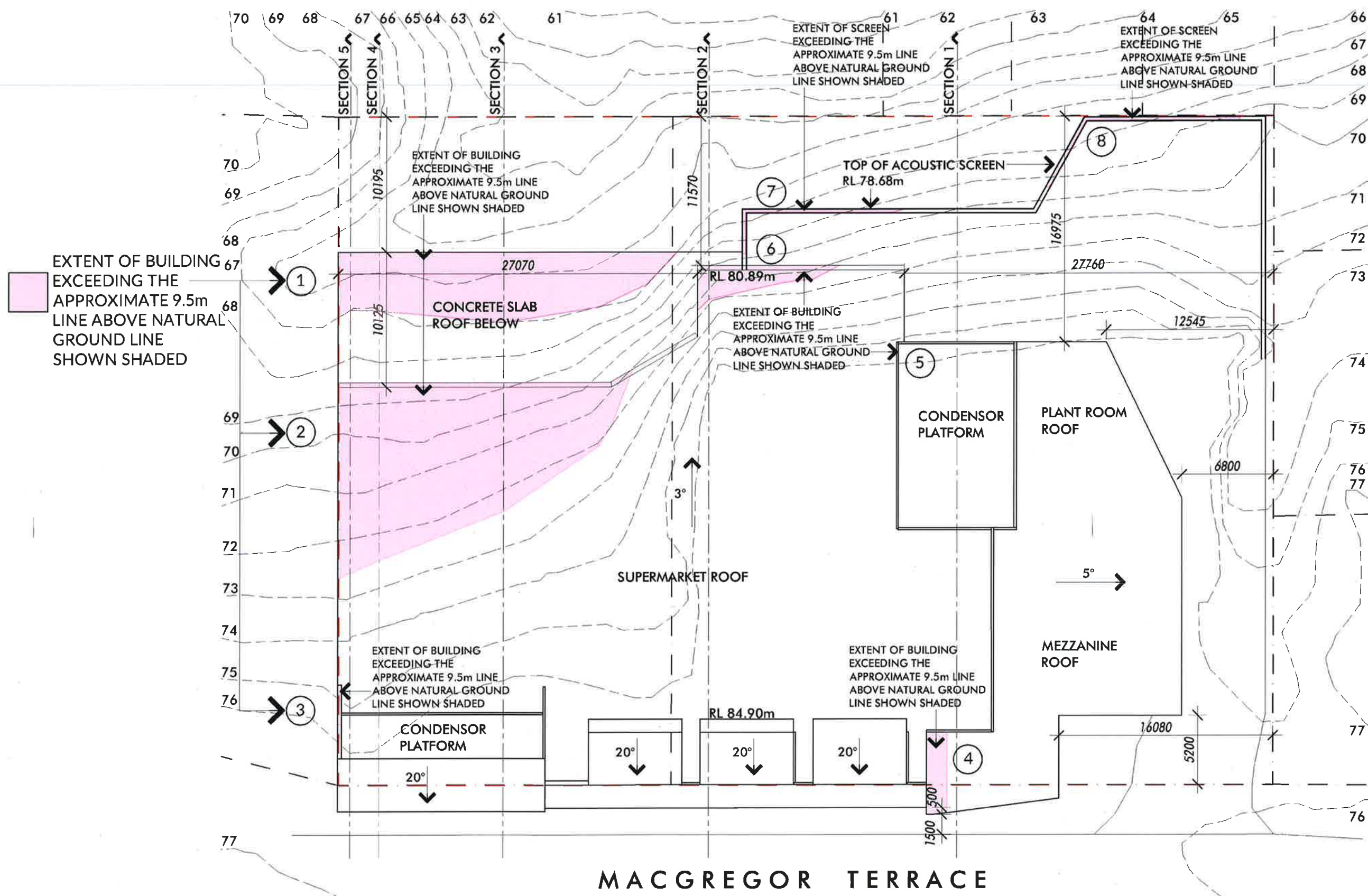
## PROPOSED GROUND FLOOR PLAN

Job No. 101:04 Dwg. No. SK01 Rev. P2  
Date: 24.11.2020 Scale: NTS @ A3

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EXTENT OF DEVELOPMENT EXCEEDING 9.5m

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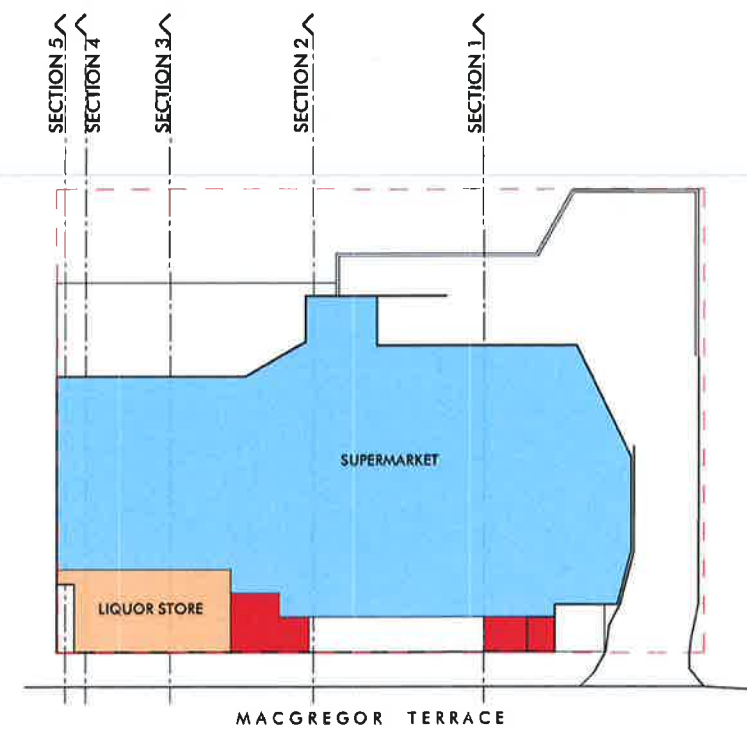
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PROPOSED ROOF PLAN  
Job No. 101:04 Dwg. No. SK02 Rev. P2  
Date: 24.11.2020 Scale: NTS @ A3

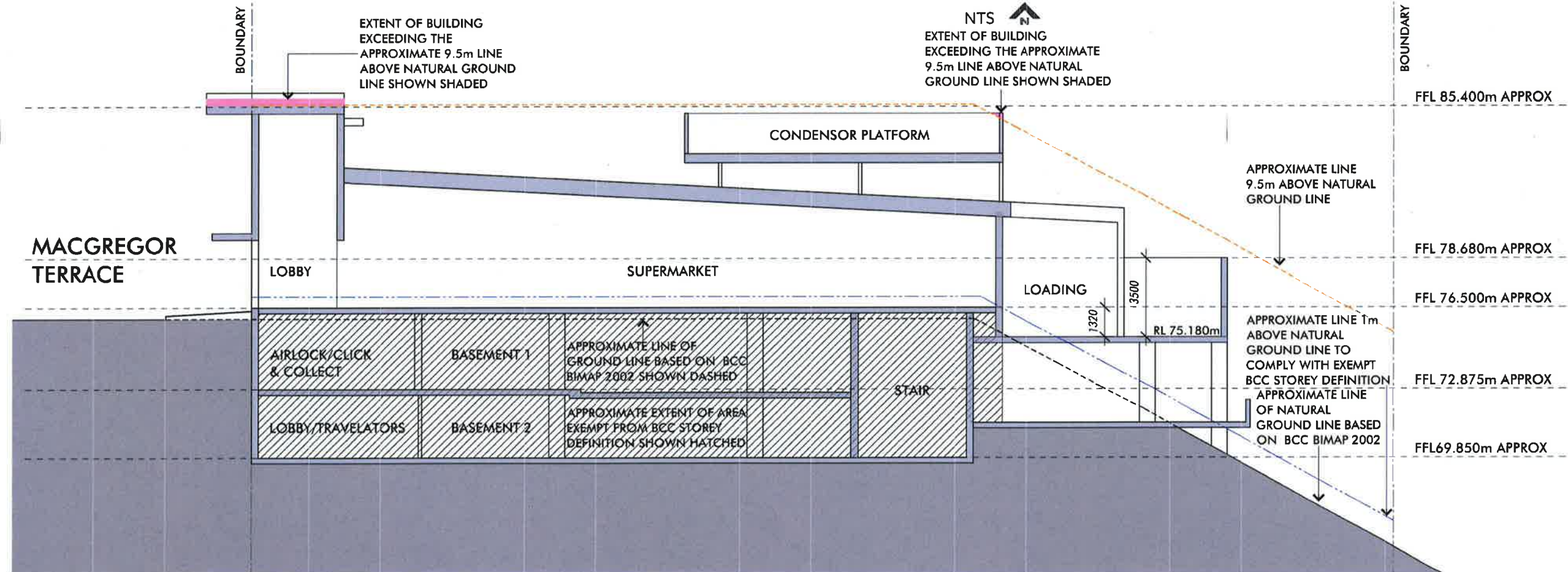
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PLAN OF PROPOSED DEVELOPMENT AS AT 23/10/2020  
WITH SECTIONS BY HALL ARCHITECTS INDICATED



SECTION 1

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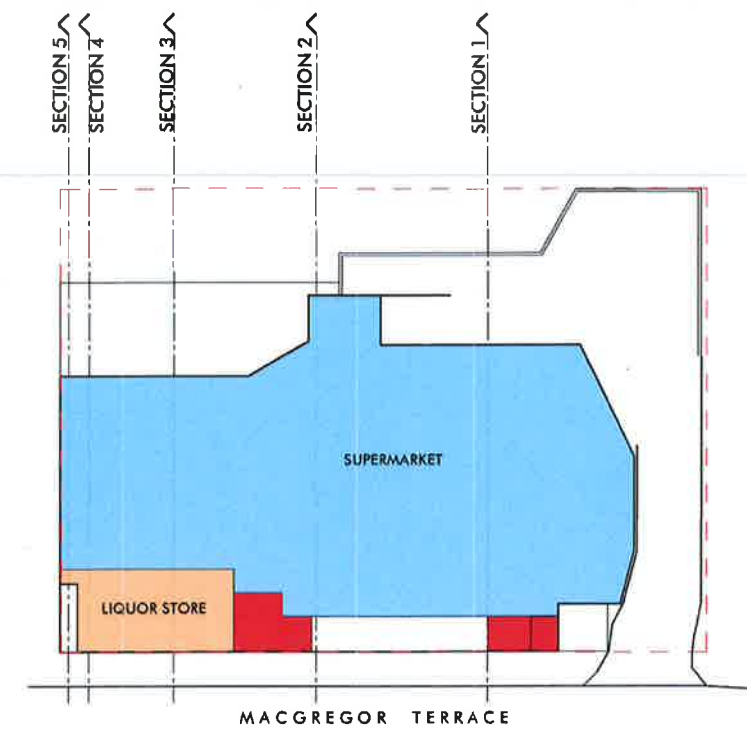
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PROPOSED SECTIONS

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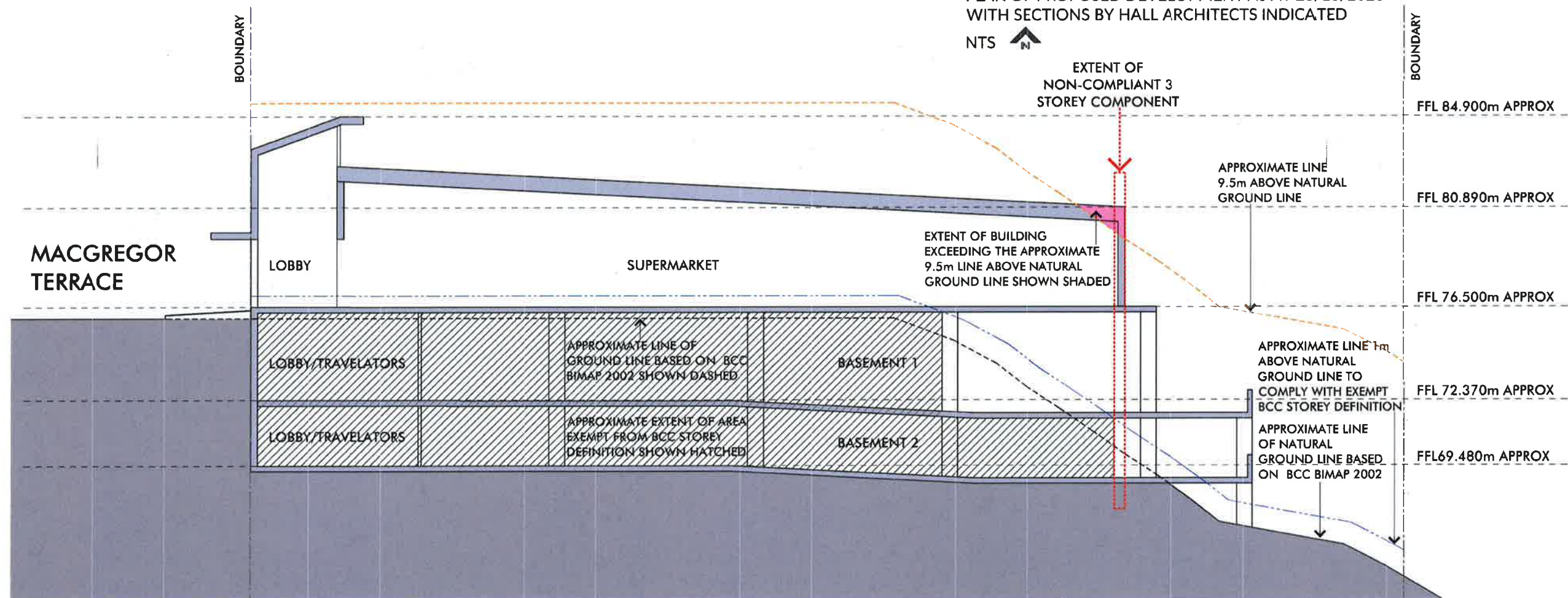




PLAN OF PROPOSED DEVELOPMENT AS AT 23/10/2020  
WITH SECTIONS BY HALL ARCHITECTS INDICATED

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EXTENT OF  
NON-COMPLIANT 3  
STOREY COMPONENT



SECTION 2

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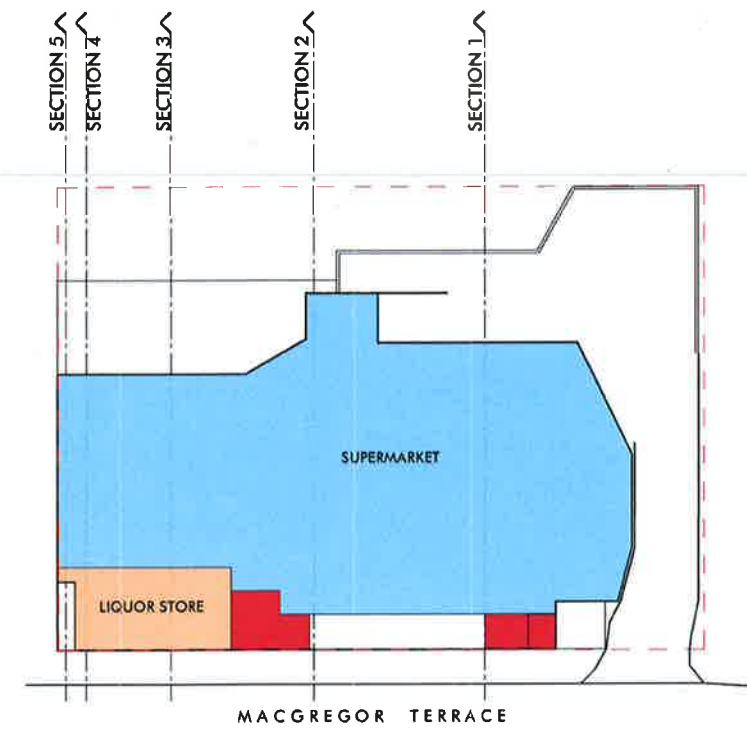
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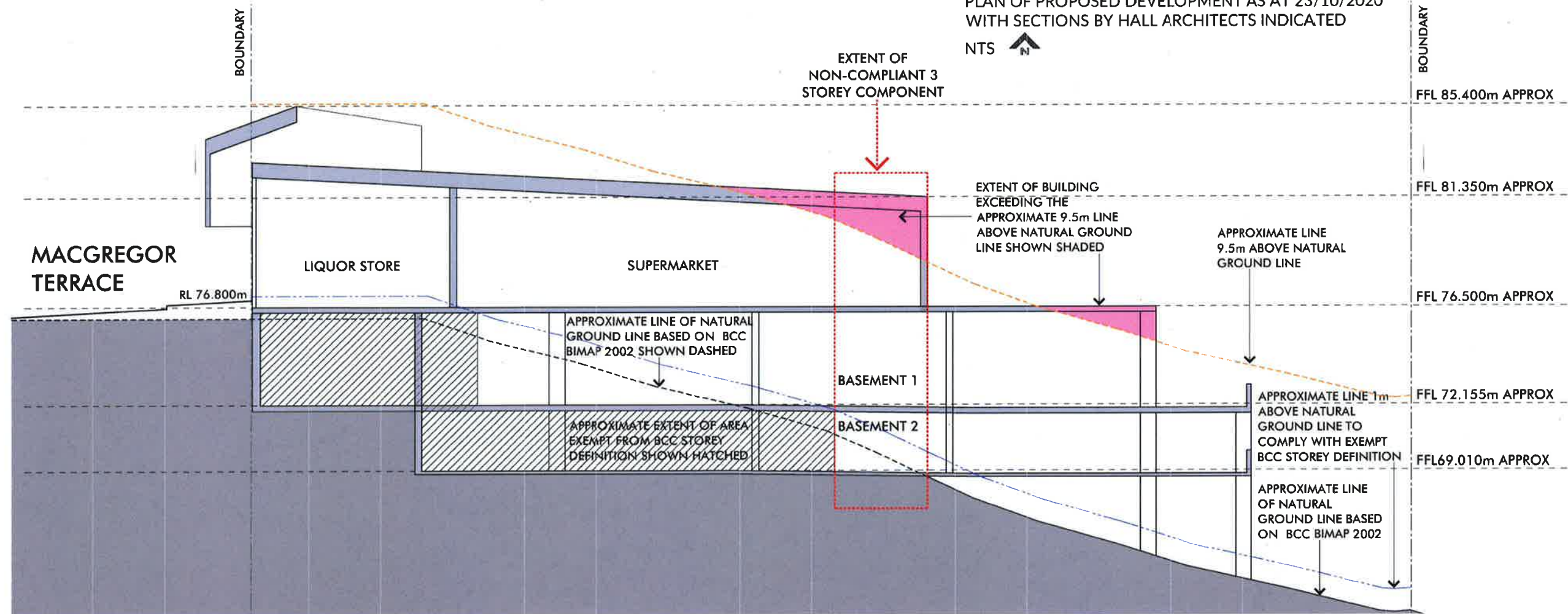
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PLAN OF PROPOSED DEVELOPMENT AS AT 23/10/2020  
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SECTION 3

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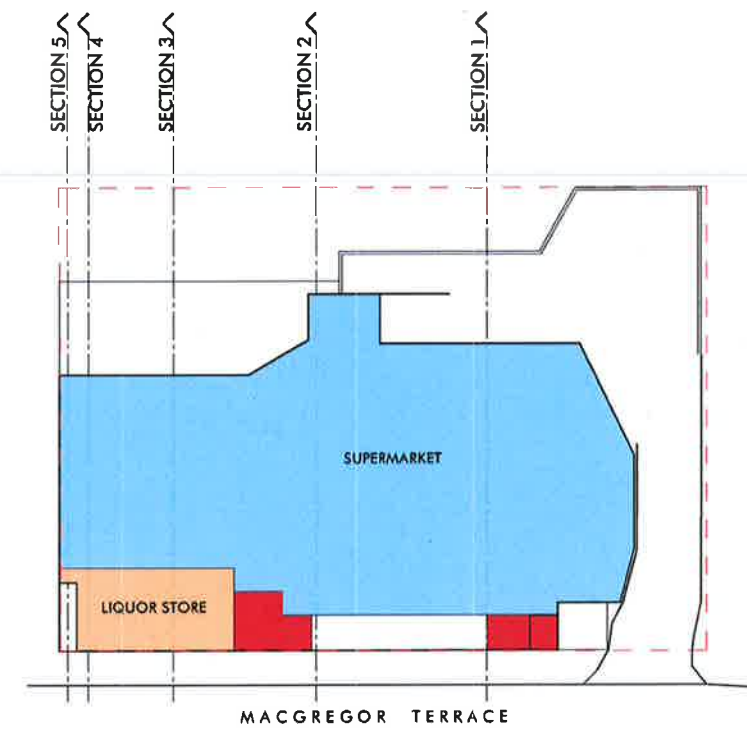
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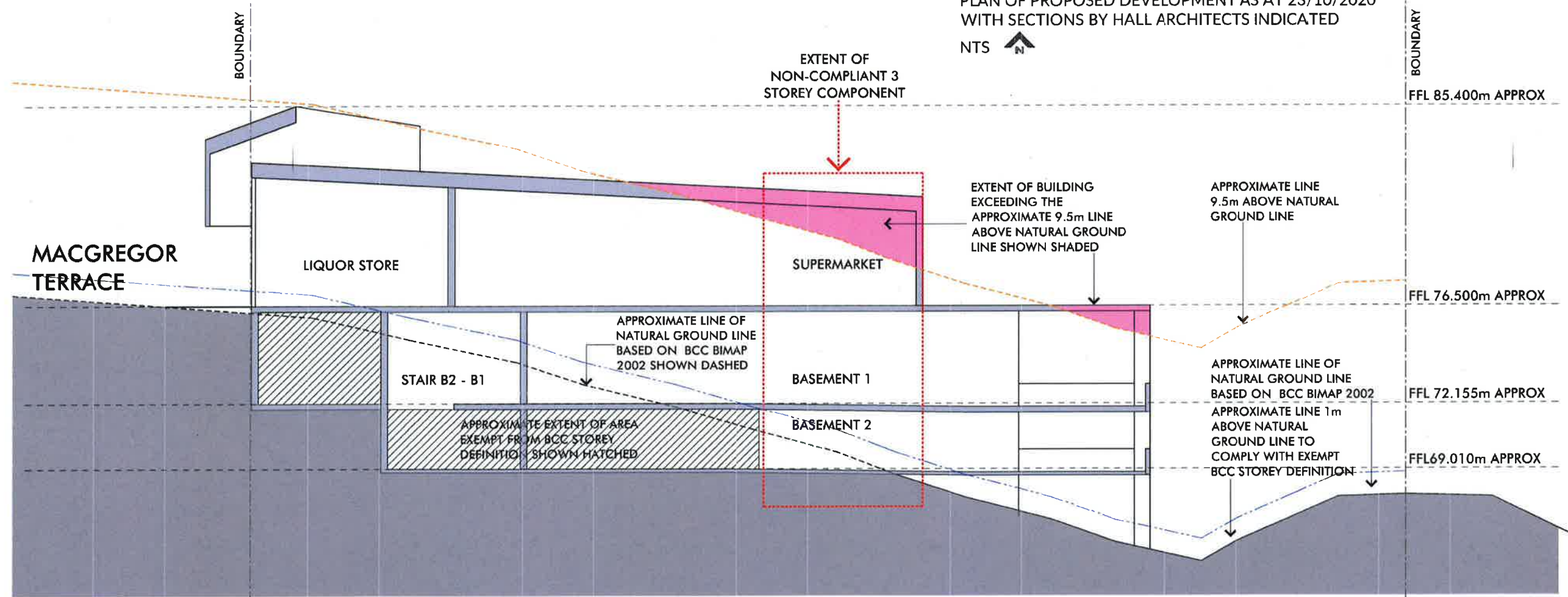
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SECTION 4

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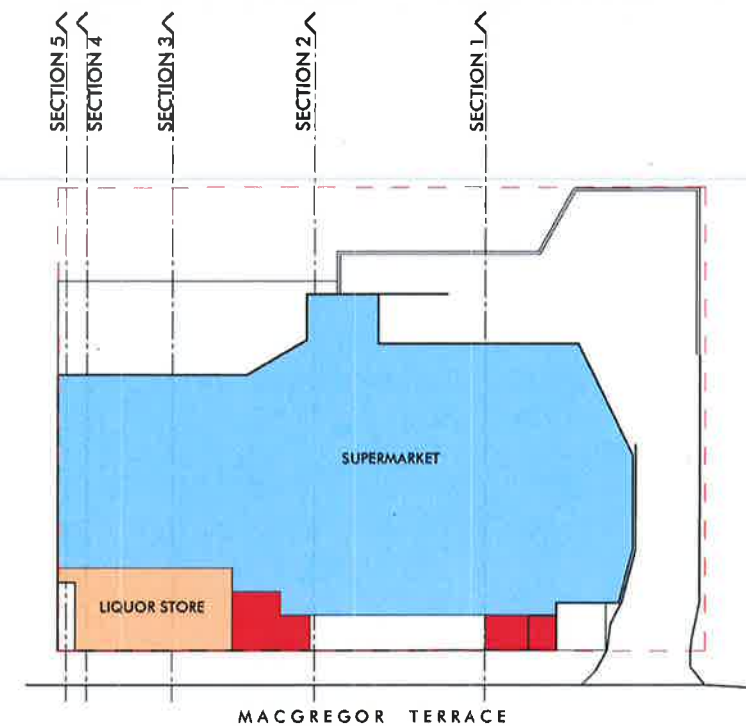
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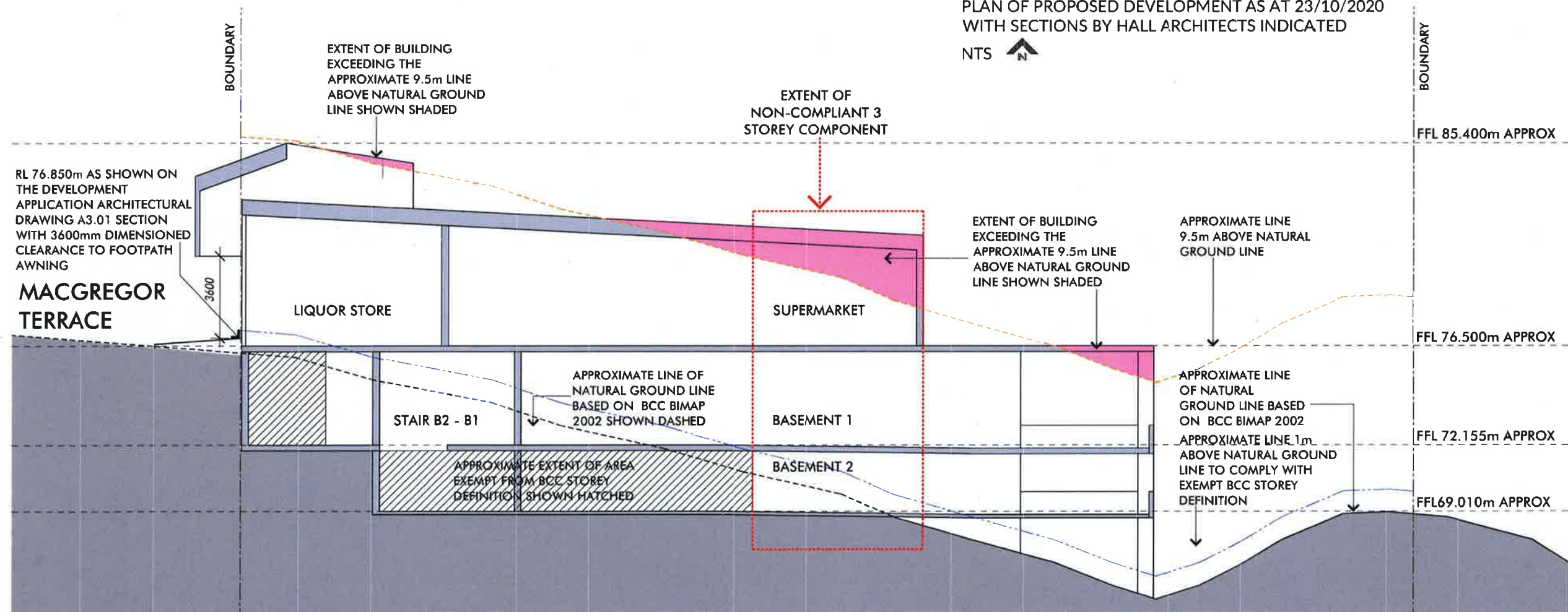
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## TOWN PLANNING APPLICATION REVIEW BARDON DEVELOPMENT

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## PROPOSED SECTIONS

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