

MINISTER FOR STATE DEVELOPMENT, MANUFACTURING, INFRASTRUCTURE AND PLANNING
Executive correspondence action sheet

DATE RECEIVED MO <u>18/1/2018</u>	DATE RECEIVED DEPT ___/___/2018	DATE DUE MO <u>12/2/2018</u>	DEPT REF MC18/..... <u>379</u>
Author:	Company:		
Response required		Other	
<input checked="" type="checkbox"/> Minister signatory	CONSTITUENT? <input type="checkbox"/>	<input type="checkbox"/> Decision brief	
<input type="checkbox"/> DG or CG signatory	Draft to MO first for approval? <input type="checkbox"/>	<input type="checkbox"/> Noting brief	
<input type="checkbox"/> DDG signatory		<input type="checkbox"/> Meeting brief	
<input type="checkbox"/> Dept signatory (ED or Director)		<input type="checkbox"/> Dot points	
<input type="checkbox"/> Dept for appropriate action		<input type="checkbox"/> Dept to call and resolve	
<input type="checkbox"/> Referral to (agency).....(DLO to action)		<input type="checkbox"/> Other.....	
<input type="checkbox"/> No response necessary – file & note		<input type="checkbox"/>	
Contact person (for response)	Min <input type="checkbox"/>	COS <input type="checkbox"/>	Dept officer <input checked="" type="checkbox"/> Other <input type="checkbox"/>
Response time	5 days <input type="checkbox"/>	10 days <input type="checkbox"/>	15 days <input checked="" type="checkbox"/> MALPI <input type="checkbox"/> business days from receipt. Note Planning responsible for due date

Minister's Office comments/drafting instructions

Approved by:..... Date:...../...../18

DLO USE						DLO comments/drafting instructions
BU	Lead	Copy/consult	BU	Lead	Copy/consult	
ODG	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Planning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
EID	<input type="checkbox"/>	<input type="checkbox"/>	IPP	<input type="checkbox"/>	<input type="checkbox"/>	
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BSP	<input type="checkbox"/>	<input type="checkbox"/>	QRA	<input type="checkbox"/>	<input type="checkbox"/>	
OCG	<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input type="checkbox"/>	<input type="checkbox"/>	

Lead area must ensure consultation occurs with other business units and departments if/as necessary to ensure a 'whole of portfolio' brief or response is provided.

Approved by:..... Date:...../...../18

Approved by Director-General/Coordinator-General signature & date:/...../18

Jasmine Melit

From: [redacted]@zoneplanning.com.au>
Sent: Thursday, 18 January 2018 6:15 PM
To: External - Woodridge Electorate Office; State Development
Cc: GCSARA@dilgp.qld.gov.au; tom.holmes@dilgp.qld.gov.au;
atzannes@goldcoast.qld.gov.au
Subject: Gold Coast City Council Temporary Local Planning Instrument 5 Submission
Attachments: TLPI submission to Minister 18118.pdf; Zone CP amendment submission.pdf

Dear Minister,

Please finds attached for your attention a submission relating Gold Coast City Council's recent request for you to approve a temporary local planning instrument (TLPI) relevant to flooding issues in the City.

Also attached is a copy of a recent submission made to Gold Coast City Council as part of the statutory advertising process for a recent amendment to the 2016 Cityplan, which again relates to flooding issues in the City.

We respectfully urge you to investigate both these matters and take them into consideration when making your decision.

Please feel free to call us on [redacted] if you wish to discuss the matter.

Regards



| w zoneplanning.com.au

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18 January 2018

The Hon Cameron Dick MP
Minister for State Development, Manufacturing,
Infrastructure and Planning
Unit 1, 80 Wembley Road
Woodridge QLD 4114

By email: Woodridge@parliament.qld.gov.au
statedevelopment@ministerial.qld.gov.au

Dear Sir

**FLOOD POLICY MEASURES IN THE CITY OF GOLD COAST
INCLUDING THE CITY OF GOLD COAST TEMPORARY LOCAL PLANNING INSTRUMENT (TLPI) NO. 5
(MINIMUM LAND ABOVE DESIGNATED FLOOD LEVEL AND RESIDENTIAL RISK REDUCTION) 2017**

The purpose of this correspondence is to bring to your attention a number of flood policy issues being prepared by Gold Coast City Council, and to seek your assistance in ensuring that a logical, transparent and robust outcome is achieved in relation to the adoption of these policies.

This matter is relevant to your portfolio, as you will shortly be asked by Gold Coast City Council to sign off on a Temporary Local Planning Instrument (TLPI) relating to flooding issues, and will, in the coming months, also be asked to sign off on an amendment to the 2016 Gold Coast City Plan which relates to new flood levels in the City.

The combined effect of these two policy measures will be to severely restrict development potential in a large part of the City of Gold Coast, which will have significant, and seemingly unforeseen economic consequences for the City's economy.

We believe these policy measures have not been adequately 'thought through' and that it would be appropriate to undertake genuine public consultation with the development industry and broader community before any new measures are introduced.

No such consultation has occurred to date, and there is an air of secrecy surrounding these matters, which have all been addressed as confidential items behind closed doors.

The reason for approaching you directly in relation to these matters is that no opportunity for consultation has been provided by Council, and hence the only remaining avenue to air our concerns involves a direct approach to you and your Department.

We are aware that a number of similar submissions relating to the same matter have also been sent to your office for your consideration.

We trust you will instruct your Department to thoroughly investigate the issues raised in this submission, and will take these matters into consideration when providing your 'sign off' on these two flood related policy matters being proposed by Gold Coast City Council.

A detailed discussion of these matters is as follows:

ISSUE #1

AMENDMENT TO THE 2016 GOLD COAST CITY PLAN RELATING TO FLOOD LEVELS

In late 2017, Council publicly advertised a group of amendments to the 2016 Gold Coast City Plan which were, on the whole, fairly uncontroversial.

A matter of significant importance however, relates to new flood levels which are proposed to be introduced for the flood prone parts of the City.

As you would be aware, many parts of the City of Gold Coast are flood prone, and hence this matter is a significant development constraint to be considered for new development proposals, and also has a significant financial impost on residents in the affected areas due to high insurance premiums.

No one disputes the right of local government to review flood levels from time to time, and particularly to take into consideration the effects of sea level rise.

The complaint being raised in relation to Council's actions regarding the new flood levels is that no supporting information whatsoever, by way of technical reports or similar, have been provided to inform the community as to why flood levels have been changed in particular parts of the City. Justification for the changes in flood levels is apparently contained within a confidential report considered by Council, which has not been disclosed to the broader community.

If the recently introduced Planning Act 2017 genuinely promotes transparent public consultation in relation to matters of public policy, then a report detailing the reasons why changes to flood levels have been made should be made available as part of the consultation process for the community to review.

The changes in flood level were contained in an interactive mapping tool on Council's website, which disclosed existing and proposed Q100 flood levels throughout the City. Through the use of this tool, the community was able to identify what specific changes were proposed to flood levels for their properties.

At the conclusion of the statutory public advertising period, Council removed the interactive flood mapping tool from their website, despite this information being of crucial importance to those making decisions on future development projects. We have asked for this mapping to be reinstated and to date this has not occurred.

While the changes in flood levels vary throughout the City, the most dramatic changes are in the Burleigh Heads/ Palm Beach/ Currumbin area, where Q100 levels have been increased by 70cm to 75cm or more.

Clearly changes of this extent will have a significant bearing on access to insurance and the ability to redevelop flood prone sites in the affected suburbs.

We believe that residents deserve the right to obtain information from Council regarding how particular flood levels were determined, so that they can ask their own flood experts to review such information to confirm whether it is accurate or not.

This has not been done, and consequently we believe that statutory advertising process relating to new flood levels in the amendment to the 2016 City Plan is flawed and incomplete, and should be redone by making the relevant information available.

We anticipate that Council will not be inclined to agree to this request, and hence we urge you to intervene to require the re-advertising of Council's flood mapping at the time that the matter is presented to you for your sign off.

For your information please find attached a copy of the submission sent to Gold Coast City Council by Zone Planning Group regarding the abovementioned issues (**Attachment #1**).

ISSUE #2

PROPOSED INTRODUCTION OF A TLPI 5 – MINIMUM LAND ABOVE FLOOD LEVEL AND RESIDENTIAL RISK REDUCTION

As mentioned previously, Council have resolved to adopt this TLPI and to forward the matter to your office for sign off.

Two important questions arise in relation to this matter, which are:

- 1) **What are the reasons for the introduction of a modified policy, and to what extent is Council's current flood policy not addressing the identified issue(s)?; and**
- 2) **What has necessitated the urgency such that the matter needs to be dealt with via a TLPI, rather than through a standard planning scheme amendment process, including community consultation?**

The Existing Approval Process

Before examining the proposed TLPI amendments, it is worth reviewing Council's current processes for the approval of development in flood affected areas.

The 2016 Gold Coast City Plan contains overlay mapping which identifies flood affected areas, and also contains a 'Flood Overlay Code' which contains detailed information on appropriate measures for development in flood affected areas.

As mentioned previously, the area of flood affected land in the City is extensive and hence the mapping and overlay code are frequently referred to for development proposals throughout the City.

The Flood overlay code contains a series of 'best practice' standards as follows:

Self Assessable Development

- A balance of flood storage is to be achieved to the designated Q100 flood level.

- Building floor levels must be above the designated Q100 flood level, plus a 'freeboard' allowance depending on the type of development being proposed.
- Garages and carparking areas are not to be inundated beyond a medium hazard.
- Development cannot interfere with overland flow of stormwater.

Assessable Development

- A balance of flood storage is to be achieved to the designated Q100 flood level.
- Building floor levels must be above the designated Q100 flood level, plus a 'freeboard' allowance depending on the type of development being proposed.
- Garages and carparking areas are not to be inundated beyond a medium hazard.
- Development cannot interfere with overland flow of stormwater.
- Development does not increase the number of people calculated to be at risk from flooding.
- Demonstration that sufficient access or egress is available during Q100 flood events.

It is often a complex process to achieve compliance with all the above requirements, and in recent years podium style development on raised concrete piers has been used because it allows a flood storage balance to be achieved, provides Q100 and sometimes PMF (probable maximum flood) immunity, and is capable of providing facilities and centrally managed safety measures to enable communities to safely withstand flood events.

Podium style development has been approved by Council for the last 5 to 10 years in a manner which is compliant with Council's Flood Overlay Code (since 2016) and a similar code contained within the 2003 Gold Coast Planning Scheme prior to that.

Examples of approved and constructed developments in the City are:

- The 'Sage' residential development at Bourton Road Merrimac
- The Queensland Government's Robina Hospital
- The Commonwealth Games indoor sporting facility at Carrara
- Bunnings Warehouse at Burleigh Waters
- Broadbeach Waters Police Citizens Youth Club

Council have been more than happy to approve such development (including residential development) on raised concrete structures provided that a Flood Evacuation Management Plan (FEMP) accompanies a development application.

In fact, Council have been very strict in relation to who is able to prepare such reports, and insist that only flood risk experts are able to prepare FEMPs in Medium to High hazard flood situations. Molino Stewart, a Sydney based flood risk firm are Council's preferred author of reports; and Council have routinely approved FEMPs provided by this firm for a variety of development types.

Doing so apparently absolves Council from any legal risk associated with approving development in flood affected areas, and also ensures a safe outcome suitable to the insurance industry and future residents.

In summary, Council's existing Flood Overlay Code has apparently been operating to Council's satisfaction since 2016, and Council have been more than happy to rely on the professional expertise of flood risk professionals to determine that podium style development in flood affected areas is appropriate from a flood risk perspective.

The Proposed Changes in Council's TLPI No 5

Council seeks to amend the Flood overlay code to introduce two new Performance Outcomes, being PO16 and PO17, to be added to the end of the existing Flood Overlay Code. The purpose of the TLPI is to cause these provisions to have immediate effect (retrospective to December 8, 2017), rather than waiting until the standard planning scheme amendment process under the plan making procedure in the Planning Act is completed, thus preventing any public consultation from occurring in relation to this matter.

We say that the matters being covered by the TLPI are not new, do not represent some immediate risk requiring urgent resolution, and should not be undertaken in a manner which deprives the community of a public consultation opportunity.

The applicable provisions of the TLPI are:

PO16 - Hazard considerations for residential development

'To ensure that development for Residential Uses is located so as to effectively mitigate risks to life and property, such development must not occur on land that is exposed to either or both of the following flood hazards:

- (a) Flood inundation depth exceeding 0.6 metres, and*
- (b) Flood water velocity exceeding 0.8 metres per second.*

Note: This also applies to development elevated above Designated Flood Level'.

and:

PO17 – Minimum area above Designated Flood Level

'Development involving reconfiguration of a lot must ensure that any lot created has a sufficient area of land above the Designated Flood Level to effectively accommodate the associated intended use while also adequately mitigating the risks and/or hazards associated with flooding'.

The acceptable outcomes or AOs are listed for this PO which seek to require that 50% or 400m² of each residential lot created exceeding 500m² in area, must be above the Q100 flood level. For proposed residential lots with areas of less than 500m², 70% or 300m² must be above the Q100 level. Further, any ROL for Commercial Use or Industrial Use must have 60% of the area of a new allotment must be above the Q100 flood level.

Interestingly the TLPI does not seek to prevent podium or cut /fill pad style development being undertaken for retail, commercial, industrial or recreational developments where no subdivision of land is proposed.

What is the Impact of TLPI No 5?

When considering the impact and effect of TLPI No 5 on the development potential of flood affected sites in the City, it should be remembered that Council are also seeking to increase the Q100 flood levels in the City (without adequate justification or consultation), as discussed earlier in this submission.

Higher flood levels in the City will make PO16 and PO17 very difficult to comply with in the vast majority of the flood affected parts of the City, and in effect act as a prohibition on residential

development on podiums and fill pads. This is due to the fact that large parts of the City will have a Q100 flood level which is more than 60cm above the current ground level.

Again, it is interesting that the TLPI will not prevent non-residential development such as retail, commercial, recreational or industrial developments from occurring on elevated concrete platforms, irrespective of the flood depth, in instances where the subdivision of land is not proposed.

Observations in Relation to TLPI No 5

As mentioned previously, there are 2 aspects to consider here, being:

- a) why is a new policy required/ how is current policy failing?; and
- b) why is a new policy required to be introduced so urgently?

Council's motivation for introducing this policy as a TLPI is difficult to understand, and can only be gleaned from an examination of confidential Council resolutions (CP17.1011.008 and CP17.1011.011) which have been heavily redacted; and the 'object statement' contained within the TLPI itself.

The following section of this submission seeks to examine the reasons of justification provided in these documents and provides a response.

Council Justification Point #1

Council's intention within the Gurangunbah Structure Plan, 2003 Gold Coast Planning Scheme and current version of the 2016 City Plan is that clusters of development should occur through a balance of cut and fill, and not on engineered building platforms.

Response - As mentioned previously, Council has been approving development on engineered platforms for a substantial period of time in a number of locations throughout the City. Documents such as the 2003 Gurangunbah Local Area Plan were very flexible, and enabled an applicant to present different ways of addressing a range of flood constraints.

Council has for many years approved such development in medium and high flood depth scenarios, subject to provision of a Flood Evacuation Management Plan (FEMP) prepared by a recognized flood risk expert.

The fact that the development industry is examining this style of development more frequently is due to the fact that there is a dwindling supply of land in the southern part of the City, and that such development is now economically viable due to buoyant market conditions.

Previous Council policy has never knowingly precluded such development from occurring, and the fact that it has been approved for the last 5 to 10 years is evidence of this.

It is unclear as to why a TLPI is considered to be an appropriate means of resolving an issue which Council have known about and supported for a substantial period of time.

Additionally, PC 16 of the TLPI prevents the filling of any land subject to a Q100 flooding depth exceeding 600mm where intended to be used for a residential purpose, and hence will preclude the 'clustering' of development that the author of the TLPI claims is the intent of the Gurangunbah LAP and other documents relating to flooding in the City.

Council Justification Point #2

The TLPI will ensure that a portion of the land for all development remains at or above the relevant design flood planning level.

Response - Because the TLPI doesn't seek to preclude retail, commercial, industrial or recreational development from being constructed on elevated platforms or fill pads, it can be assumed that the motivation behind the TLPI has nothing to do with building aesthetics, and is solely to do with human safety.

Assuming that human safety is genuinely Council's greatest concern, the TLPI doesn't explain why development constructed on an earth mound is any safer than that constructed on an elevated platform, but in any event both methods of construction are banned in circumstances where the flood depth exceeds 600mm.

It is often the case that development constructed on concrete piers and a podium has a higher level of flood immunity than development constructed on an earth fill pad. This is because achieving a cut fill balance of earth on a site is a costly and time consuming process and hence will be undertaken to the minimum standard, being Q100 level immunity, with the freeboard component typically being contained within the built form of a building structure. By contrast a podium development is able to be relatively easily constructed with a higher level of flood immunity, sometimes up to PMF (probable maximum flood) representing something similar to a 1 in 500 year event. Some residential developments such as the 'Sage' development at Merrimac have their carparking level above Q100 level, meaning that the floor level of the lowest residential level is something like 3 metres above Q100 level. This means that podium style developments are highly resilient to flood events and that dwellings within such developments are likely to never experience flooding.

Additionally, FEMPs ensure that residential designs and operational procedures will provide a very safe environment for residents such that they have no need to take any risks to leave a flood affected property during a flood event.

In summary there is nothing inherently safe about a development being constructed on a fill pad as opposed to concrete piers and a podium structure. Both forms of development require an FEMP to be prepared in situations where Q100 flood depth exceeds 600mm, however a podium style development is able to be constructed at a higher level, relatively easily, often providing for a Q500 level of immunity.

In such circumstances, podium development actually serves as a place of refuge for surrounding existing residential development which is situated below the Q100 level.

Council Justification Point #3

Council's report claims that the policy will ensure that a portion of the land for all development remains at or above the relevant Q100 flood level, and will resolve the potential risks associated with extensive platform development.

Response - Council's statement is incorrect. Nothing in the TLPI prevents retail, commercial, industrial or recreational landuses being established on podium structures in situations where no subdivision of land is necessary. Additionally, it is relatively rare for the subdivision of land to occur in flood prone areas in the manner anticipated in Council's TLPI. It is far more common for community title development to occur which does not require initial subdivision of land.

Council's report does not identify what the potential risks associated with podium development are. What are they?

Council Justification Point #4

Podium development will facilitate the expansion of the development footprint across the City's floodplains, which is undesirable.

Response - Flood affected areas of the City, whether they be contained within the Gurangunbah conceptual land use map area or otherwise, are contained within a variety of zones under the 2016 City Plan, most of which promote and facilitate many forms of development including residential development.

A case in point in the 'Limited Development Zone' in the City Plan, which allows for residential development to occur in a 'medium rise' format. Despite the negative name for this zone, it can and does facilitate many forms of development (including residential development) provided that flooding issues are appropriately addressed.

Land use zones which are flood prone already allow for extensive residential development to occur, and have been factored into SEQRP infill population targets. Precluding development in these areas will undermine the potential for the City to achieve recently adopted SEQRP population growth targets and will exacerbate the current shortage of development land in the southern part of the City.

Has Council examined this issue and taken it into consideration?

Council Justification Point #5

Clusters of islands utilizing a cut fill balance and use of lakes (ie Emerald Lakes) are a preferred form of development compared to development on raised podiums.

Response - Council's TLPI precludes both methods of construction from occurring for residential development in situations where Q100 flood depth exceeds 600mm, which will be a common occurrence after Council's new Q100 flood levels are introduced as per the proposed City Plan amendment.

While development on a filled earth platform may be Council's preference compared to raised concrete platforms, PO16 of the TLPI clearly precludes both forms of construction from occurring for residential development where flood depth exceeds 600mm, thus severely restricting development in flood prone areas throughout the City.

Council Justification Point #6

The 'drivers' for the policy are:

- 1) Supporting sustainable development on the City's floodplains to accommodate projected population growth;***
- 2) Ensuring the flood absorption capacity of floodplains are maintained; and***
- 3) Managing community expectation relating to the development of a floodplain.***

Response - The meaning of the term 'unsustainable' is unclear in Council's report. What exactly is unsustainable about development contained on engineered podiums? It is the case that a podium approach to balancing flood storage capacity is more sustainable as it involves far less modification of land including disruption to vegetation and ecosystems, but in any event the TLPI prevents a filled scenario where flood depth exceeds 600mm Q100 flood depth.

The meaning of the term 'flood absorption capacity' is unclear and undefined in Council's reports. If Council means 'flood storage capacity' then there is no difference between a filled or platform outcome. Both can achieve the same flood storage result.

In terms of community expectation, it is again unclear as to what Council are referring to in their report. A cut fill balance outcome in medium and high flood depth areas is an accepted and long-standing development practice on large flood affected sites in the City, ie Emerald Lakes, The Glades, Varsity Lakes, Salacia Waters etc. The community are very familiar with this form of development and there is no apparent community opposition to such a development outcome. Similarly, development on raised piers is common on the floodplain, (ie Commonwealth Games indoor sports centre, Robina Hospital, Bunnings Warehouse Burleigh Waters and Sage residential development), and there is no known community opposition to this form of development.

Council should identify any community concerns that they are aware of in relation to this matter.

The broader community would however expect that they are able to sensibly develop their own flood affected properties in various established urban areas to improve their Detached Dwellings or to undertake modest infill developments such as a Dual Occupancy on suburban allotments which are appropriately zoned. Schedule 1 of the TLPI makes it clear that a 'Residential Use' includes both a Dwelling House and a Dual Occupancy, which are precluded from being developed either on a podium structure or a fill pad as per PO16 in circumstances where the flood depth exceeds 600mm. By way of an example, the whole of the flood affected part of Palm Beach will not be able to be redeveloped according to the TLPI, because the new Q100 level will increase by 75 cm, new development is required to balance flood storage capacity, and development on raised platforms or fill pads cannot occur where flood depth exceeds 600mm.

It is fair to say that this outcome, when becoming public knowledge, will be completely contrary to community expectations.

If the TLPI is introduced, no doubt the community will also ask why no community consultation was undertaken in relation to a policy which affects the value of their land assets so significantly.

Council's Justification Point #7

Platforms have a limited design life and will need to be renewed over a 50 or 70 year cycle, resulting in substantial costs to the community.

Response - The design life of a development built on a podium will be no different to the design life of a comparable form of development built on a filled pad. A podium development simply raises the foundation structure above flood level when under standard conditions the equivalent structure would be situated underground. Multiple Dwellings, whether built on a platform or within a fill pad will have an equivalent design life, and if Council has any evidence to the contrary it should be disclosed to the community.

Council's Justification Point #8

Platform development requires maintenance beneath the platform and for the void area to remain open, which poses a compliance issue for Council.

Response - Any residential development occurring on a raised podium will be a community title development with a body corporate. A community management statement (CMS) is required to be prepared, and must comply with any conditions of approval, requirements of an FEMP or any other

conditioned flood requirements or the body corporate will face insurance and compliance consequences.

This will be a self regulating arrangement which will not create any enforcement burden for Council.

Despite Council's concerns regarding maintenance and compliance issues, the TLPI will not regulate non residential development on podium structures where no subdivision is required. Why would such maintenance and compliance issues only arise in relation to residential developments?

Does Council have any evidence of non compliant activity beneath raised podiums which has created an enforcement burden for Council?

Council Justification Point #9

Development located on podiums will create environmental health issues associated with water ponding.

Response - If this is a major problem, why have Council only sought to prohibit residential podium development instead of all development? What evidence does Council have of increased water ponding associated with development located on elevated platforms? Such development is required to be free draining consistent with conditions of approval. Development situated on fill pads requires compensatory excavation which may be in the form of ephemeral wetlands or lakes which may also create environmental health impacts associated with insects, odor and post flood clean up.

Council Justification Point #10

The floodplain is zoned 'Limited Development' which allows for concentrated development potential to be achieved without the use of podiums.

Response - This is simply incorrect. The TLPI has the potential to apply to all landuse zones which are on flood affected land, not just land within the Limited Development Zone. The Limited Development Zone only represents a small proportion of the total amount of flood affected land in the City, which is otherwise situated in a variety of other zones. Irrespective of which zone the land is situated in, and whether the particular proposal is on a fill pad or on a platform, the TLPI acts to prohibit residential development where the Q100 flood depth exceeds 600mm. This will prevent any residential development occurring anywhere in the City where flood depth exceeds 600mm which will have significant adverse economic consequences.

Council Justification Point #11

The proposed TLPI does not restrict land use intensification beyond the area able to be achieved through a cut fill balance.

Response - This is simply incorrect. Proposed PO16 also clearly prevents development occurring on a fill pad where the flood depth exceeds 600mm, which means that most of the flood prone parts of the City will not be able to be developed via a cut/fill balance method of construction when Council's new flood levels are introduced.

Council Justification Point #12

A TLPI is justified because there is a significant risk of serious adverse cultural, economic, environmental or social conditions occurring.

Response - Council's confidential redacted report provides no justification of what this perceived risk is or how it falls into the above categories referred to in the Planning Act. We reiterate that this is not

a new issue and that there has been no previous indication that Council has any concerns in relation to existing development patterns in flood prone areas. Council have willingly approved many developments in medium and high hazard flood designations subject to receiving a suitable FEMP.

There is simply no urgent or dangerous situation which warrants the introduction of a TLPI with retrospective effect. If Council wishes to pursue this matter they should do so through a standard planning scheme amendment process which provides an opportunity for genuine community consultation.

Council Justification Point #13

The policy will promote community safety.

Response - Under the heading 'Stakeholder Impacts' Council's resolution CP17.1011.008 states that:

'The ultimate outcome of this policy is community safety through the provision of a viable solution for flood cognizant development'.

The above statement does not make any sense. The term flood cognizant development is unknown, and the problem to which the policy purports to provide a 'viable solution' is not stated. As discussed previously, podium style development, or development in flood depths exceeding 600mm which employs a cut fill balance approach are not new, and are the subject of detailed flood risk assessments utilizing Council's nominated flood risk consultants which Council have been more than willing to approve.

With regard to consultation, there has been no consultation whatsoever in relation to this matter, and the opinions of the development industry and the broader community have not been sought.

SUMMARY

Through this correspondence we believe we have accurately summarised why there is no need to amend existing flood policy as proposed by Council, and why the perceived issues are neither new nor urgent so as to justify their introduction through a TLPI process.

There are clearly adequate measures in Council's existing flood policy to ensure that matters of human safety are appropriately addressed, and that recognized flood risk experts make 'project by project' decisions regarding flood risk issues. Under the current system, if a development represents an unacceptable flood risk, it will simply not be approved. As such there is no need for Council to introduce an 'across the board' prohibition on these matters.

The proposed TLPI amendments are poorly drafted, have not been adequately thought through, and the significant economic consequences have not been considered in any way.

The introduction of new and higher flood levels in many parts of the City will ensure that many greenfield and brownfield sites will have a flood depth of 600mm or greater, and hence will be undevelopable if the TLPI is introduced. This measure will be applicable to all residential forms of development including redevelopment of houses and dual occupancies in existing suburban areas, and will have significant adverse economic consequences to a large group of people who have not been consulted in any way about this matter.

CONCLUSION

Under the Minister's Guidelines and Rules (under the Planning Act), we respectfully urge you to take the following action in relation to this matter:

Under Part 2 (Temporary Local Planning Instrument), and specifically section 8.2;

'The Minister may request additional information from the local government after the Minister receives the proposed TLPI or TLPI amendment under Section 8.1'.

This submission demonstrates that there are numerous unanswered questions relating to this matter, for which you would be entitled to seek further information from Council.

Relevant information to seek from Council in relation to this matter would be:

- Are Council seeking to modify flood levels in the City, and if so to what extent do the changed flood levels have any relationship to the effects of the proposed TLPI?
- Has Council released any technical reports justifying how they arrived at new flood levels under the proposed City Plan amendment? If not, why not?
- Council is understood to currently require Flood Evacuation Management Plans to resolve issues of flood risk and safety for flood affected developments. Have Council lost confidence in FEMPs as a means of resolving flood risk issues and if so what events have prompted this loss of confidence?
- What are the economic consequences associated with preventing residential development in flood affected areas of the city with a flood depth exceeding 600mm as per the TLPI?
- If Council have concerns regarding podium development in the City, why does the TLPI not seek to regulate podiums for non-residential development in instances where subdivision of land is not required?
- Has Council examined the impact of the proposed TLPI and proposed higher flood levels on the ability of the City to accommodate the recently adopted SEQRP infill population targets for the City?
- How many residential properties in the City will be affected by the proposed TLPI changes, under both the current flood levels and the proposed flood levels being sought through the City Plan amendment?
- What are the significant adverse cultural, economic, environmental or social risks that Council are relying upon to justify the use of a TLPI to facilitate the proposed flood code amendments, as the Planning Act requirements?
- Given that all forms of podium development, including residential development have been approved in the City over the last 5 to 10 years, what has prompted the current urgency to regulate this development via a TLPI instead of a standard planning scheme amendment?

- Why are other Local Government Authorities such as Brisbane City Council supporting and promoting podium development while Gold Coast City Council's TLPI seeks to oppose such outcomes?

We contend that a detailed public consultation exercise is warranted in relation to a matter of such importance, and urge you to direct Council to undertake such consultation prior to this matter progressing any further via either the TLPI process or planning scheme amendment process.

We also respectfully urge you to direct Council to retract/abandon their position that the TLPI be applicable to current development applications retrospectively from December 8 pending your sign off of the TLPI.

Thank you for your consideration of this matter and feel free to contact us on [REDACTED] should you require any further information.

Yours sincerely

Sch. 4(4)(6) - Disclosing personal information

[REDACTED]
[REDACTED]
ZONE PLANNING GROUP

CC

1. Mr Tom Holmes
Gold Coast SARA
South East Queensland (South)
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Australia Fair
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ABN 36 607 362 238

15 November 2017

Chief Executive Officer
City of Gold Coast
PO Box 5042
GCMC QLD 9729

Via Email: cityplansubmissions@goldcoast.qld.gov.au

Dear Sir,

**SUBMISSION IN RELATION TO CITY PLAN MAJOR UPDATE – NOVEMBER 2017
FLOODING ISSUES**

This submission is provided to Council in response to the public advertising of the City Plan Major Update which closes on 15 November 2017 following a 30 business day advertising period.

This submission is made on behalf of Zone Planning Group.

We have reviewed the City Plan amendment submission as a whole, and have concluded that most of the proposed amendments will not have any significant impact on the broader community or the existing process for obtaining development approvals in the City.

The exception is the proposed amendments to the flood mapping contained in the draft City Plan amendment.

We have significant concerns about the process which has been followed by Council in relation to the adoption of new flood levels in the City, and further concerns about the impact these changes will have on the future direction of, and potential for development within the City.

INADEQUATE AND FLAWED CONSULTATION PROCESS

We note that Council considered this matter at the City Planning Committee meeting on 20 July 2016, and at full Council Meeting on 26 July 2016 (some 15 months ago) where the following resolution was made concerning an agenda item titled 'Update of the flood overlay map city plan major update 1 – PD113/1301(P1)'.

Committee recommendation CP16.0720.010, which was considered as a confidential item, was carried as the following resolution at the Council meeting held on 26 July 2016:

1. *That the report/attachment be deemed a confidential document and treated as such in accordance with sections 171(3) and 200(5) of the Local Government Act 2009 and that the document remain confidential unless Council decide otherwise by resolution.*
2. *That the flood overlay map in the City Plan be amended to include*
 - a) *State Government mandated 80cm sea level rise.*
 - b) *State Government mandated 10% increase in storm tide intensity.*
 - c) *MTAC recommended 10% increase in rainfall intensity.*
 - d) *Adoption of 50% of total wave setup at the mouth of the Tallebudgera and Currumbin Creeks.*
 - e) *The most up to date flood related topographic, landuse, technological and hydrological data.*
3. *That the proposed flood map be included as part of Council's submission to State Government for first State Interest check as part of City Plan Major update 1.*
4. *That officers continue investigations regarding wave setup at the mouth of the Tallebudgera and Currumbin Creeks.*

Of note, Section 171(3) of the Local Government Act and Section 200(5) of the Local Government Act relate to the treatment of confidential information by Councilors and Council staff. These sections of the Act do not provide any insight into the reasons why the item was made confidential by Council.

The item in question continues to be a confidential item and no subsequent reason has been provided as to why the matter remains confidential despite enquiries being made on this issue.

As a general observation, it isn't immediately apparent as to why Council would require an item dealing with an important issue such as flood levels to be treated as a confidential item. If the applied methodology is robust and defensible, the matter should be treated as non-confidential to enable the general public to examine and consider the recommendations and findings of the report when reviewing the recently released flood mapping (including the rationale behind the need for the changes).

The fact that the item was made confidential, and remains confidential some 15 months after adoption, implies that Council has its own doubts about the methodology applied to flood levels in the City, or otherwise has concerns about the robustness of the work, or alternately may be concerned about any adverse reaction from the general public.

When we became aware that the City Plan amendment included a revision to flood levels within the City, we interrogated the document to determine upon what basis the changed flood levels had been adopted, and what methodology had been applied to conclude that varying changes needed to be made in different parts of the City.

Concurrent with this investigation, we also interrogated the interactive mapping facility on the City of Gold Coast website which, under a tab for 'Draft and Historic Content', identifies (for the first time),

existing Q100 flood levels under Council's current flooding regime and proposed flood levels under the proposed amendment.

This review broadly concluded that:

- 1) There are no supporting documents which have been made publicly available to the community to explain why flood levels have been changed in specific parts of the City.
- 2) The changes in flood level vary significantly in different catchments, but a broad observation is that Q100 flood levels decrease in the northern parts of the City, rise modestly in the central parts of the City (ie the Nerang River catchment), and rise significantly (by more than 70- 75 cm) in the southern creek catchments, namely Tallebudgera Creek and Currumbin Creek.

The only document forming part of the City Plan amendment package which attempts to explain the specific reasons for the changes in flood levels is an explanatory 'flyer' titled 'Flood Overlay Mapping' containing two A4 pages of information.

This document identifies that flood modelling has been utilized to inform the new levels and specifically states that:

'The draft maps were developed utilizing the latest topographic, land use, technological, hydrological data and the latest State Government and Council policies. As a result, Council can provide the community with more informed flood information to build the City's resilience.

The updated mapping considers future changes to climate, incorporating the projected increase in sea level of 0.8m above present day levels by 2100, established by the State Government in 2015. The updated mapping also includes the State Government's projected 10% storm tide intensity and 10% rainfall intensity based on advice from industry representatives.

As a result of increased accuracy in the mapping, some areas within the City have been removed from the mapped flood extent, while other areas have now been included'.

Clearly it is not possible to meaningfully comment on the revised flood levels without having some understanding of specifically how the decisions regarding these new flood levels were made. It is also not possible for affected property owners to seek their own expert advice from hydraulic engineers in relation to this matter, as the information is simply not available.

Every affected landowner in the City should be afforded the right to review the background reporting and if necessary to employ suitably qualified experts where necessary to provide a critical review of the assumptions made in those reports, given the significant adverse consequences associated with the changes.

Given that this information is not available to review, we contend that the current City Plan amendment advertising process is flawed and invalid, and that it should recommence with the necessary information being made available to all affected persons.

FLOOD MAPPING OBSERVATIONS

As stated earlier, the interactive flood mapping tool allows a comparison to be made between existing Q100 flood levels and proposed Q100 flood levels.

These levels are extremely important to the feasibility of any new development on flood affected sites as they:

- Determine the depth of flood waters during a Q100 event thus determining if a Flood Evacuation Management Plan is required.
- Determine the habitable floor level which is typically 300mm above the Q100 level for a standard residential development and 400mm above the Q200 level for a range of other more sensitive landuses and therefore have significant design ramifications.
- Determines the extent of works required to achieve a flood storage balance on a development site and consequently have a significant impact on the extent and design of a development footprint.
- Determine the flood depth for parking of vehicles in garages and therefore cause further design ramifications.

Whilst there is no explanation provided on the interactive mapping tool, it is assumed that the figure depicted in grey is a current Q100 RL, and the figure depicted in black is a proposed Q100 RL.

Assessing the difference between the current and proposed flood level figures allows the increase in flood level to be determined, however as Council have identified, there are instances in the City where the Q100 flood levels will decrease, particularly in the northern part of the City.

In terms of the central and southern parts of the City, a cross section of flood level differences is as follows:

Site	Current Q100 Level	Proposed Q100 Level	Difference (+/-)
Hope Island Canal	2.32	2.43	+0.11m
Paradise Point	2.32	2.35	+0.03m
Oxley Drive Biggera Waters	2.44	2.45	+0.01m
Frank Street Labrador	2.37	2.41	+0.04m
Loders Creek at Stevens Street	2.74	2.67	-0.07m
Chevron Island	2.75	2.95	+0.20m
Gold Coast Arts Centre	2.9	3.11	+0.21m
Peninsular Drive Surfers Paradise	2.97	3.11	+0.14m
Isle of Capri	2.97	3.11	+0.14m
Emerald Lakes Carrara	4.39	4.42	+0.03m
Carrara Stadium	4.54	4.65	+0.113m
Nerang Street, Nerang	6.33	5.87	-0.46m
All Saints School	4.31	4.37	+0.06m
Robina Stadium	4.29	4.35	+0.06m
Robina Hospital	4.33	4.4	+0.07m
Surfers Paradise Golf Club	4.22	4.33	+0.11m
Star Casino	3.73	3.84	+0.11m
Cottesloe Drive Pizze Park	3.91	4.08	+0.17m

Bond University	3.92	4.12	+ .20m
Azzura Island	3.92	4.12	+ .20m
Dunlop Drive Burleigh Waters	3.93	4.18	+ .25m
Elanora Drive Burleigh Heads	2.47	3.21	+ .74m
Tallebudgera Drive Palm Beach	2.47	3.22	+ .75m
Palm Beach State School	2.35	3.22	+ .75m
Guinness Ck Road at 19 th Ave	3.53	3.95	+ .42m
Elanora Sewer Treatment Plant	3.33	3.85	+ .52m
Eleventh Ave Palm Beach	2.46	3.22	+ .76m
PBC High School	2.47	3.05	+ .58m
Pines Shopping Centre	2.54	3.3	+ .76m
Currumbin RSL	2.48	3.07	+ .59m
Traders Way Currumbin	2.55	3.32	+ .76m
Currumbin Special School	2.64	3.4	+ .86m
Currumbin Ck Rd at Stackpole Street	4.99	5.9	+ .91m
Boyd Street at Inland Drive	5.97	6.00	+ .03m
Douglas Street Kirra	3.16	3.58	+ .42m

As mentioned previously, the interactive mapping generally indicates that there is a reduction in the Q100 level in the north of the City, a modest increase in the central part of the City and a significant increase in the southern part of the City.

Some high level questions arise from the observed changes, particularly in relation to the Tallebudgera Creek and Currumbin Creek catchments, where increases of 75 centimeters are apparent.

These questions are:

QUESTION 1

Is Council advocating a 'retreat' strategy in relation to future sea level rise, or does Council have a strategy to 'defend' the established parts of the City in the face of future sea level rise?

QUESTION 2

Does Council have information relating to the proportion of the new flood levels which consist of 'sea surge flooding' relative to the component which consists of 'Riverine flooding'? This is a relevant consideration in terms of compliance with A01 of the Flood overlay code which states that:

'The flood storage volume on the site is maintained up to the Designated Flood Level'.

If Council accepts that it is pointless to try and balance flood storage capacity associated with sea level rise, then the component of the new Q100 level associated with sea level rise needs to be clearly identified, so as to avoid unnecessary complexity associated with future development applications.

QUESTION 3

Have the insurance consequences associated with the new Q100 levels been taken into consideration by Council, in terms of increases in premiums associated with flood insurance and access to flood insurance? It is well known that lower lying parts of the City have experienced significant increases in

insurance premiums associated with flood events over the last decade. Will the insurance industry deny flood insurance to existing property owners who own dwellings in the nominated flood affected areas, where the new Q100 level exceeds the floor levels for those existing dwellings?

QUESTION 4

In light of increases in the Q100 level exceeding 75 cm in the Currumbin Creek and Tallebudgera Creek catchments, it is likely that the depth of flood waters on development sites in flood affected areas of Burleigh, Palm Beach and Currumbin will exceed a depth of 1 metre. If flood depth exceeds 1 metre as a consequence of the changes, will Council require flood evacuation management plans (FEMPs) to be undertaken by a nominated flood risk expert for every form of affected development (for example a dwelling house)? Such reports cost between \$5,000 and \$10,000 to prepare and are a significant cost impost to applicants.

QUESTION 5

In the event that Council do require FEMPs to be prepared for flood depths exceeding 1 metre based on the new Q100 flood level, will Council allow any suitably qualified engineer to undertake such a report? To date Council has only allowed a select few self proclaimed 'risk experts' to undertake such reports when there is no specific qualification that sets a risk expert apart from any other RPEQ engineer.

QUESTION 6

Has Council taken the new Q100 flood levels into account when determining the maximum code assessable building heights under the Cityplan? The 2 storey (9 metre)* height designation is commonly found in flood prone areas of the City. If the flood level increases significantly and a 300mm freeboard is required to be added to that level, it is highly likely that a standard 2 storey or partial third storey dwelling house will not physically fit within 9 metres and will hence be impact assessable. Is the 9 metre height limit still appropriate in areas which are subject to significant increases in the Q100 flood level?

QUESTION 7

The Flood Overlay code in A 06.1 requires that a flood storage balance is achieved for all forms of development in the City. Achieving a flood storage balance is a difficult and expensive thing to do on smaller sites, of which there are many in the flood affected areas of Burleigh, Palm Beach, Currumbin and elsewhere. Has Council undertaken any analysis of what effect the new Q100 flood levels will have on the ability to redevelop sites in terms of the practical ability to achieve a flood storage balance?

QUESTION 8

Has Council taken into consideration the potential for the new Q100 level to practically prevent redevelopment occurring on land affected by the new flood mapping, and the extent to which that may present Council achieving the residential density targets identified in the City Plan and the SEQRP?

QUESTION 9

AO 3.1 and 3.2 of the Flood overlay code requires that garages are built at approximately the same level, and attached to the main dwelling above the Q100 level or alternately does not permit garages to be inundated to a depth which is greater than a medium hazard. A significant increase in the Q100 flood level will not practically allow the AO to be achieved for smaller scale developments. Will Council provide leniency in relation to this issue and allow garages to be inundated from the applicable ground level to the Q100 level?

QUESTION 10

Will Council maintain the current interactive flooding mapping tool permanently on the City of Gold Coast website or will it be removed following the public consultation period? We contend that this is important public information that will have a significant bearing on the redevelopment potential of many sites around the City. As such this information should be permanently displayed on Council's website, in lieu of the inefficient and expensive process of undertaking flood searches for individual sites. If Council is of the view that the mapping is correct, and it is known to exist, it should be permanently available to the general public.

QUESTION 11

Part 4 of Council's 26 July 2016 resolution, discussed previously, states:

- 4 *That officers continue investigations regarding wave setup at the mouth of the Tallebudgera and Currumbin Creeks.*

As these investigations have presumably been occurring for the past 15 months since the resolution was made, can Council advise of the result of those investigations and the extent to which they have changed the findings which have led to the recommendation to adopt the new Q100 levels shown in the City Plan amendment?

SUMMARY

There are a range of significant negative impacts for the redevelopment of flood affected sites, associated with modifications to the Q100 flood level.

This submission identifies that the new Q100 level is significantly higher than the existing Q100 level in many parts of the City but particularly in the Tallebudgera Creek and Currumbin Creek catchments. As the Flood overlay code is not proposed to be amended as part of this current City Plan amendment process, it is assumed that it will continue to be applied by Council's hydraulic engineers in a manner similar to that applicable to the current flood mapping.

This will pose a range of practical difficulties which may result in development being economically unviable or not possible at all. The public need to be assured that Council has taken adequate consideration of these issues before making a decision on the new Q100 flood levels and more importantly has been transparent in explaining the rationale behind the changes and their consequences.

Similarly, the insurance consequences for those residents living on flood affected land will be significant. Their premiums will rise, or alternately their insurers will decline to offer a flood policy. This will have a significant impact on the economy of the City and the general public need to know that Council has taken this consideration into account before making a decision.

Unfortunately, it is apparent that there is no publicly available background material demonstrating how the proposed Q100 levels have been arrived at, and hence there has been no opportunity for the general public to seek expert advice on this issue to interrogate Council's assumptions.

As such we have concluded that the flood mapping component of the current City Plan amendment process is incomplete and invalid and should be redone, by making the necessary information, including all reports considered by Council on July 26, 2016, publicly available for review by the general public.

Should you have any queries concerning the above please contact me on [REDACTED]

Yours sincerely

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[REDACTED]
[REDACTED]
ZONE PLANNING GROUP

RTI RELEASE - DSD

IP

MINISTER FOR STATE DEVELOPMENT, MANUFACTURING, INFRASTRUCTURE AND PLANNING
Executive correspondence action sheet

MO REF MO/18/	DEPT REF F18/	DEPT REF MC18/ 127	DEPT REF MBN18/
DATE RECEIVED MO 04/01/2018	DATE RECEIVED DEPT ___/___/2018		DATE DUE MO ___/___/2018

Response required		Other	
<input type="checkbox"/> Minister signatory	CONSTITUENT? <input type="checkbox"/>	<input type="checkbox"/> Decision brief	
<input type="checkbox"/> DG or CG signatory		<input type="checkbox"/> Noting brief	
<input type="checkbox"/> DDG signatory		<input type="checkbox"/> Meeting brief	
<input checked="" type="checkbox"/> Dept to respond		<input type="checkbox"/> Dot points	
<input type="checkbox"/> Referral to (agency).....		<input type="checkbox"/> Dept to call and resolve	
<input type="checkbox"/> No response necessary – file & note		<input type="checkbox"/> Other.....	

Contact person (for response) Minister COS Dept officer Other

Response time	Copy to (actioned by Minister's Office)		
<input type="checkbox"/> Urgent (5 days)	<input type="checkbox"/> Minister	<input type="checkbox"/> Chief of Staff	
<input type="checkbox"/> Standard (10 days)	<input type="checkbox"/> Senior Media Advisor	<input type="checkbox"/> Policy Advisor	
<input type="checkbox"/> Complex (15 days)	<input type="checkbox"/> Caucus Liaison	<input type="checkbox"/> Executive Assistant	
<input type="checkbox"/> Statutory / other.....	<input type="checkbox"/> DG/CG	<input type="checkbox"/> Other.....	

Minister's Office comments/drafting instructions
TO B.K.

Prepared by: *Joe 9-1*

DLO USE

BU	Allocate	Copy	BU	Allocate	Copy	DLO comments/drafting instructions
ODG	<input type="checkbox"/>	<input type="checkbox"/>	OCG	<input type="checkbox"/>	<input type="checkbox"/>	
EID	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Planning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
IP	<input type="checkbox"/>	<input type="checkbox"/>	IPP	<input type="checkbox"/>	<input type="checkbox"/>	
MPP	<input type="checkbox"/>	<input type="checkbox"/>	EDQ	<input type="checkbox"/>	<input type="checkbox"/>	
RED	<input type="checkbox"/>	<input type="checkbox"/>	BQ	<input type="checkbox"/>	<input type="checkbox"/>	
BSP	<input type="checkbox"/>	<input type="checkbox"/>	SB	<input type="checkbox"/>	<input type="checkbox"/>	

Prepared by.....

Approved by Director-General/Coordinator-General date:

20 December 2017

04 JAN 2018

To: Hon Cameron Dick MP
Minister for State Development, Infrastructure and Planning
PO Box 15009 City East QLD 4002

Subject: **City of Gold Coast Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017**

Dear Hon Cameron Dick,

In response to the recent Temporary Local Planning Instrument No. 5 (TLPI no. 5), which was submitted to you on the 8th of December 2017 by the City of Gold Coast Council.

We as industry professionals, do not support the proposed changes and request that you revoke the TLPI no 5 in its current form.

The proposed TLPI no 5 changes, as endorsed by City of Gold Coast, have not been provided for industry feedback prior to issue and are not supported by the industry professionals of the Gold Coast. The proposed changes will create significant and undue financial distress to many parties and will create negative repercussions to the Gold Coast development industry. The severity of the impacts from endorsement of this policy cannot be understated.

It is in our opinion that proposed changes of this magnitude to the Flood Overlay Code should follow normal process for changes to the City Plan. The technical content should be implemented in a format that is well considered, which follows normal process for changes to the City Plan, where submissions could be made and where superseded rights could be explored.

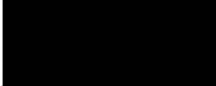
We have provided a technical memorandum attached which further demonstrates our objection to the proposed TLPI no 5 and the impacts associated with endorsement of the proposed changes to the Flood Overlay Code.

Yours sincerely,

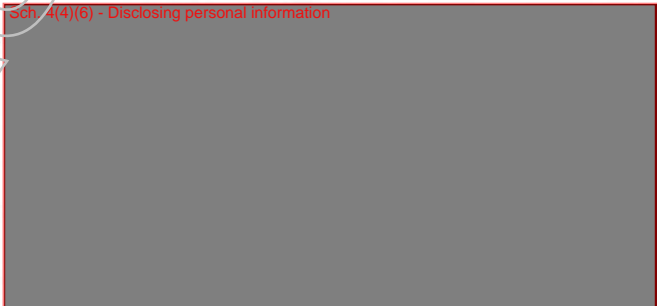
**Various Industry Professionals
for Gold Coast Development**

MICHAEL BALE & ASSOCIATES PTY LTD
(Structural, Civil & Coastal Engineers)

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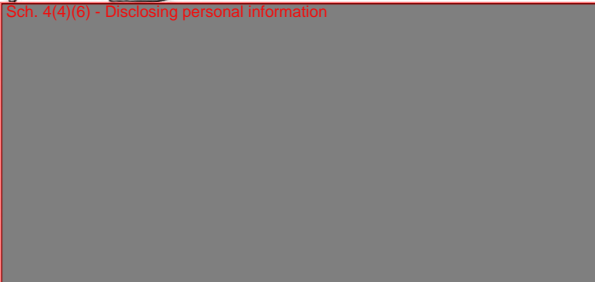
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Town Planner



20 December 2017

To: Minister for State Development, Infrastructure and Planning
Attention: Hon Cameron Dick

City of Gold Coast Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017

Dear Minister,

BACKGROUND

The City of Gold Coast (Council) resolved to prepare and endorse a Temporary Local Planning Instrument No.5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017 (TLPI No 5). Council has asked the Minister to approve an earlier commencement of TLPI No 5 from 8 December 2017.

The stated purpose of TLPI No 5 is to prevent the potential loss of the City's flood resilience and enable the sustainable mitigation of flood hazard on land included on City Plan's Flood overlay map. The provisions seek to strengthen Council's commitment to ensure development in flood affected areas is safe and resilient.

The development industry has not been consulted or advised regarding the preparation or endorsement of TLPI No 5 and its negative impacts on the City of Gold Coast cannot be understated.

The TLPI No 5 was issued to the Gold Coast development industry on 8 December 2017, with no notice of its intended content or prior opportunity for industry feedback. It is also proposed that Development Applications (DA) lodged prior to 8 December 2017 that have not yet reached the decision stage will be assessed with consideration of TLPI No 5.

Council conducted a TLPI No 5 industry briefing on 14 December 2017. It was apparent from this briefing that the industry (including Registered Professional Engineers Queensland (RPEQ), planners and developers) were united in their objections that the TLPI No 5 should not be adopted in its current form. We note that no representatives of the Council's Natural Hazards (Flood) Planning department nor relevant hydraulic DA officers were in attendance at this briefing.

This correspondence is indented to highlight a number of specific concerns that we wish to raise to the Minister that we hope will be considered as part of the decision to reject or modify TLPI No 5.

SPECIFIC COMMENTARY ON TIMING OF APPLICATION

Should the Minister approve the TLPI No 5, it will have a lifespan of two years from the commencement date of 8 December 2017 and will be considered in the assessment of all DAs:

- lodged on or after the 8 December 2017,

- made under the Planning Act 2016 currently being assessed; or
- made under the Sustainable Planning Act 2009 currently being assessed that have not reached the decision stage.

We, as RPEQs, planners and specialist consultants in the development industry, routinely provide our clients with services that aim to ensure that development projects are planned and designed to be compliant with the relevant codes, acts and guidelines that are in force at the time.

We collectively have many projects in the planning stages with major investment occurring by a diverse range of clients. These projects have been responsibly planned with consideration for Council's current City Plan. The implementation of TLPI No 5 may result in the unforeseeable refusal of many of these projects, which we consider to be unreasonable and likely to result in significant undue financial distress to local developers.

There are many DAs currently under assessment with Council that will have no acceptable outcome available to them due to TLPI No 5 criteria. In many instances, these developments have been secured with pre-purchase due diligence completed with respect to flooding and planning requirements. These DAs have progressed and lodged with specialist planning reports completed from a suite of consultants in accordance with Council's current City Plan requirements. The costs of the specialist reporting from various consultants to prepare a compliant DA often summates to hundreds of thousands of dollars of financial expenditure by the developer to achieve lodgement.

If the TLPI No 5 is used as a mechanism to refuse an application (with no acceptable outcome available), the developer is potentially in a situation where not only has their land has been devalued by the TLPI No 5, they are left with significant expenses of both DA lodgement and professional fees, despite submitting a DA in accordance with Council's City Plan at the time of lodgement.

If TLPI No 5 is to proceed, we would expect to the process to follow that of a normal change to the Planning Scheme where submissions could be made and superseded rights could be explored.

SPECIFIC COMMENTARY ON PERFORMANCE OUTCOME PO16

Performance Outcome 16 (PO16) is a new addition to Council's Flood Overlay Code that seeks to ensure that development for Residential Uses is located so as to effectively mitigate risks to life and property, *'such development must not occur on land that is exposed to either'*:

- (a) Flood inundation depth exceeding 0.6 m; and/or
- (b) Flood water velocity exceeding 0.8 m/s.

Note: This also applies to development elevated above Designated Flood Level (DFL).

Our concern is implementation of PO16 will result in the rejection of DAs where Council can identify any portion of the development site which is exposed to flooding exceeding the above criteria, of which there are no acceptable outcomes provided.

We agree that the future inhabitants of developments for residential use should not be subject to undue risk. We do not agree that the presence of isolated areas of flooding in excess of this criteria at any location on a land parcel should be means for DA rejection. Rather, we believe that the wording of the code should state (or similar):

'Such development must not result in the unavoidable exposure of future residents to either:'

Additionally, our concern is that defined flood velocity is not currently included in the Flood Search Reports available from Council. If TLPI No 5 is to proceed with specific requirements that exclude

development on land with specific flood velocity, we would expect to have this to be included on a Flood Search Report, as they are with flood levels.

We note that based on PO16 criteria, most properties fronting the hundreds of City's rivers, canals and waterways would be non-compliant, with no acceptable outcomes for future Reconfiguration of Lot (RoL) DAs.

SPECIFIC COMMENTARY ON PERFORMANCE OUTCOME PO17

Performance Outcome 17 (PO17) is a new addition to the code that seeks to ensure that development for creation of lots for residential and commercial uses has a sufficient area of land above the DFL to effectively accommodate the associated intended use while mitigating the risks and/or hazards associated with flooding.

- For residential lots 500 m² or greater, 50% of the area or 400 m² of each lot (whichever is greater) must be above the DFL.
- For residential lots less than 500 m², 70% of the area or 300 m² of each lot (whichever is greater) must be above the DFL.
- For commercial or industrial land uses, 60% of the area of each lot must be above the DFL.

We do not object to residential and commercial land uses achieving safe and sustainable development though mitigating the risks associated with flooding. We do object to the broad-scale assessment criteria imposed by TLPI No 5 which limits the potential use of a lot through a % based approach which has not received industry feedback nor been tested with regards to acceptable sustainable development.

Examples of developments that would not be compliant based on the criteria imposed by PO17:

- A 25 ha golf course could not be developed to achieve a clubhouse on a raised flood free platform. The minimum 60% of area above DFL is very onerous on large lots where sustainable development can be achieved as safe and without risk and/or hazards;
- Many areas of the city which are zoned for higher density commercial or residential use, such as Chevron Island, Bundall, Currumbin, etc.; and
- The Gold Coast Convention Centre.

It is our opinion that the PO17 requirements should be retracted and reconsidered with the respect to safe and acceptable outcomes which achieve sustainable development for the City. The acceptable outcomes should be amended to address all of the various residential and commercial land uses as defined in the City Plan and acceptable outcomes which are not overly onerous with % based performance on large development allotments.

SPECIFIC COMMENTARY ON OVERALL OUTCOMES

TLPI No 5 affects the operation of the Flood Overlay Code in the City Plan by inserting the following additional overall outcomes in Section 8.2.8.2(3) of the Flood Overlay Code:

(l) avoiding development of Residential Uses on land that is exposed to high and extreme flood hazards;

(m) avoiding the development of lots that do not have a sufficient area of land above the Designated Flood Level; and

(n) discouraging the proliferation of Residential Uses constructed on platforms above Flood Affected Land.

It is our strong opinion that development for Residential Uses constructed on platforms above flood affected land can be undertaken safely and without exposing future inhabitants to unacceptable risk.

We liken these types of developments to any canal or waterfront development that would present high water levels in the designated flood event within the allotment, however away from the habitable floor levels or pathways for emergency access or egress.

In our opinion, development for Residential Uses that are constructed on platforms above flood affected land are an effective way of utilising constrained land whilst respecting the need for flood storage and conveyance, without major earthworks operations. There have been a number of successfully planned and developed residential communities that have been implemented on the Gold Coast to this detail.

There are also a large number of commercial land uses where a podium suspended structure has resulted in a positive outcome for the city (i.e. Bunnings Burleigh Waters, Jupiter's Casino, Gold Coast Convention Centre, Carrara Commonwealth Games structures), making use of flood affected land through suspended structures to achieve safe and sustainable development.

In our collective opinion, and in the opinion of our industry peers (as demonstrated at the Council briefing), the TLPI No 5 should be revoked in its current form.

We are of the opinion that the content of the proposed planning scheme amendment needs to be further rationalised and allow opportunity for industry feedback from professional engineers, planners, developers and other specialist consultants prior to its endorsement. We are of the opinion that the amendment to the Flood Overlay Code should follow that of a normal change to the Planning Scheme where submissions could be made and superseded rights could be explored, to limit the financial impact on existing proposed developments, and the Gold Coast development industry.

Yours faithfully
MICHAEL BALE & ASSOCIATES PTY LTD

Sch. 4(4)(6) - Disclosing pers

Sch. 4(4)(6) - Disclosing pers



MINISTER FOR STATE DEVELOPMENT, MANUFACTURING, INFRASTRUCTURE AND PLANNING
Executive correspondence action sheet

DATE RECEIVED MO ___/___/2018	DATE RECEIVED DEPT ___/___/2018	DATE DUE MO ___/___/2018	DEPT REF MC18/..... ²¹⁴
Response required		Other	
<input type="checkbox"/> Minister signatory	<input type="checkbox"/> CONSTITUENT?	<input type="checkbox"/> Decision brief	
<input type="checkbox"/> DG or CG signatory	<input type="checkbox"/> Draft to MO first for approval?	<input type="checkbox"/> Noting brief	
<input type="checkbox"/> DDG signatory		<input type="checkbox"/> Meeting brief	
<input checked="" type="checkbox"/> Dept to respond		<input type="checkbox"/> Dot points	
<input type="checkbox"/> Dept for appropriate action		<input type="checkbox"/> Dept to call and resolve	
<input type="checkbox"/> Referral to (agency).....(DLO to action)		<input type="checkbox"/> Other.....	
<input type="checkbox"/> No response necessary – file & note		<input type="checkbox"/>	
Contact person (for response)	Min <input type="checkbox"/>	COS <input type="checkbox"/>	Dept officer <input checked="" type="checkbox"/> Other <input type="checkbox"/>
Response time	5 days <input type="checkbox"/>	10 days <input type="checkbox"/>	15 days <input type="checkbox"/> MALPI <input type="checkbox"/> business days from receipt. Note Planning responsible for due date

Minister's Office comments/drafting instructions

9/11 J-C.

Approved by:.....*Joe*..... Date:.....*9/11*...../18

DLO USE						DLO comments/drafting instructions <i>Department to respond. -signatory as appropriate</i>
BU	Lead	Copy/consult	BU	Lead	Copy/consult	
ODG	<input type="checkbox"/>	<input type="checkbox"/>	Planning	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
EID	<input type="checkbox"/>	<input type="checkbox"/>	IPP	<input type="checkbox"/>	<input type="checkbox"/>	
IP	<input type="checkbox"/>	<input type="checkbox"/>	EDQ	<input type="checkbox"/>	<input type="checkbox"/>	
MPP	<input type="checkbox"/>	<input type="checkbox"/>	BQ	<input type="checkbox"/>	<input type="checkbox"/>	
RED	<input type="checkbox"/>	<input type="checkbox"/>	SB	<input type="checkbox"/>	<input type="checkbox"/>	
BSP	<input type="checkbox"/>	<input type="checkbox"/>	QRA	<input type="checkbox"/>	<input type="checkbox"/>	
OCCG	<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input type="checkbox"/>	<input type="checkbox"/>	
<small>Lead area must ensure consultation occurs with other business units and departments if/as necessary to ensure a 'whole of portfolio' brief or response is provided.</small>						Approved by:..... <i>L Kloyd</i> Date:..... <i>9/11</i>/18

Approved by Director-General/Coordinator-General signature & date:/...../18

Linda Lloyd

From: Woodridge Electorate Office <Woodridge@parliament.qld.gov.au>
Sent: Monday, 8 January 2018 2:33 PM
To: State Development
Subject: FW: Proposed TLPI No.5 Gold Coast City Council
Attachments: 180103 - Arcadis Australia Pacific Pty Ltd letter to Hon Cameron Dick.pdf

Hi V

This one is for you.

☺ Kyles

[REDACTED]
Electorate Officer
Office of Hon Cameron Dick MP
State Member for Woodridge
Minister for State Development, Manufacturing, Infrastructure and Planning
P O Box 2486
LOGAN DC QLD 4114
P: (07) 3445 4100
E: woodridge@parliament.qld.gov.au



From: [REDACTED]@arcadis.com]
Sent: Wednesday, 3 January 2018 10:29 AM
To: Woodridge Electorate Office <Woodridge@parliament.qld.gov.au>
Subject: Proposed TLPI No.5 Gold Coast City Council

Dear Hon Mr Dick,

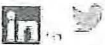
Please find attached letter in relation to a proposed Temporary Local Instrument that is being considered for adoption by the City of Gold Coast. I would welcome any further discussions / clarification on any of the matters relating to this topic.

Regards,

[REDACTED]



Be green, leave it on the screen.



Registered office: Level 16, 580 George Street, Sydney NSW 2060, Australia ABN 76 104 485 289

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Hon Cameron Dick
Minister for State Development, Infrastructure and Planning

Woodridge@parliament.qld.gov.au

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3/01/2018

Proposed Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017

Dear Minister

It has been advised through a notification issued by the City of Gold Coast via a Planning and Development Alert dated 8th December that the City had resolved to introduce a Temporary Local Planning Instrument No.5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction).

I wish to raise concerns in relation to both the process of implementation of this TLPI as well as the content of the proposed Instrument and its effects on the development industry of the Gold Coast.

The City of Gold Coast has introduced the TLPI with disregard to the effects on the ability for good quality development land to be provided to the industry, has not provided any community/industry consultation and the TLPI does not provide for sound engineering or risk management justification.

On 14th December 2017, Council conducted an industry briefing to the Gold Coast Development Industry. This briefing was held with limited notice and no formal advice on its content prior to the briefing. At this briefing the development industry was united in its objection to the TLPI and it was apparent that the objectives in implementing the TLPI was not clear or adequate justification provided.

It is recommended that the Minister reject the implementation of the TLPI in its current form and direct the City of Gold Coast to undertake formal public consultation with the industry.

The following are the key concerns of the TLPI in its current form;

- The TLPI was introduced without any industry consultation and has a great bearing on the ability of Council to meet its target housing needs. At the Industry Briefing it was advised that approximately 2,500 lots would be affected by this change. It was not clear as to the number of potential dwellings that would be lost for development potential or how existing infill development targets would be met due to this change. It is also not clear how the latest flood modelling undertaken by Council (yet to be implemented) will affect the number of properties mentioned, as any increase in flood levels will increase the number of properties affected by this planning instrument. Attached to this letter is a series of maps illustrating the flood depth >0.6m for a select number of areas

Incorporating



within the city that are currently zoned for residential use, some in medium and high density corridors.

- The TLPI is to be introduced retrospective to 8th December 2017. Many significant developments are currently in the planning or assessment phases of applications with significant costs expended by developers and industry professions. Implementing significant changes to planning controls retrospective will result in significant impost onto existing applications and land values
- The TLPI (PO16) does not provide any acceptable outcome for the development of land that has existing levels of flood inundation depth greater than 0.6m and flood water velocity exceeding 0.8 meters per second. This provision does not allow for cut to fill operations to occur over land to balance flood plain storage and / or mitigate flood impacts. This type of constraint inhibits good quality developments that have been created on the Gold Coast such as Emerald Lakes, Royal Pines Resort and Residential, Lakelands, Palm Meadows etc.
- The TLPI (PO16) specifically notes that development elevated above the Designated Flood Level is not permitted and the proposed changes to the Flood Overlay Code recommend "discouraging the proliferation of Residential Uses constructed on platforms above flood Affected Land". There is no engineering justification or reasonable risk management explanation as to the reasoning as to why this type of development is not a suitable outcome for development. In fact, developments that are elevated above the designated flood level are generally Community Title developments which incorporate a higher level of Flood Risk Management through the provision of Flood Emergency Management Plans.
- The TLPI (PO16) and its specific recommendation to discourage residential uses constructed on existing land inundated by greater than 0.6m of flood depth has an unintended consequence of preventing infill development in areas of the Gold Coast that are zoned for medium and / or high density. Areas such as Surfers Paradis, Budds Beach, Labrador, Paradise Point, Chevron Island are proposed in the City Plan for increased density not only for medium or high density by also for low density development. Existing houses and duplex sites will not be permitted for development in areas that can be suitably managed through the provision of onsite refuge and or flood emergency management provisions

Based upon the above major concerns it is recommended that the Minister consider the following recommendations;

- Reject the TLPI in its current form and seek the City of Gold Coast to engage a professional (Registered Professional Engineer of Queensland) to undertake a review of the engineering and risk management effects of the instrument and advise on the suitability of the proposed changes.
- That the City of Gold Coast undertake a comprehensive review of the land affected by the proposed TLPI and its effects on housing supply.
- That a review to be undertaken on the effects of land owner rights for compensation due to diminished asset values.
- That any new policy give consideration to sufficient timing for implementation that allows for existing developments that are in the development application stages.

Yours sincerely

Sch. 4(4)(6) - Disclosing personal



Enc. Flood Maps

RTI RELEASE

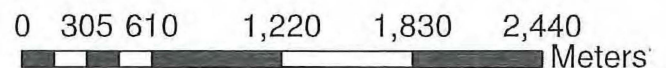
GENERAL BROADBEACH/ MERMAID/ MIAMI AREA FLOOD HAZARD DEPTHS 100 YEAR ARI STORM EVENT



Legend

NERANG 100YEAR DEPTH (m)

	0.6<
	0.6>



Nerang MIKE Flood v2016 Model

