
ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

A TLPI can be in effect for 2 years and may suspend or affect the operation of City Plan but does not amend or repeal. Further, a TLPI is not an adverse planning change (i.e. there is no liability to Council for compensation) and does not create a superseded planning scheme. The Minister has 20 days to approve a local government submission to make a TLPI.

It is recommended that as part of the proposed pathway for implementation: (a) Council amend the Flood overlay code to provide for a minimum of flood free land as part of Major Update 2 and (b) resolve to prepare a TLPI to implement the requirement for a minimum of flood free land as an interim measure.

6 ALIGNMENT TO THE CORPORATE PLAN, CORPORATE STRATEGIES AND OPERATIONAL PLAN

Gold Coast 2020 outcome 3.1, "Our City is Safe".

7 GOLD COAST 2018 COMMONWEALTH GAMES IMPACT

Not Applicable.

8 FUNDING AND RESOURCING REQUIREMENTS

No additional budget or resources will be required.

9 RISK MANAGEMENT

Risk No CO000644.

Natural Hazards Resilience – The City is not adequately resilient to natural hazards shocks resulting in loss of life, cessation of Council business, reputational damage and economic downturn.

10 STATUTORY MATTERS

This proposed update is required to address the State Planning Policy 2017, and in particular the Natural Hazards, Risk and Resilience interest.

Major update 2 commenced under the previous statutory guideline, *Making or amending a local planning instrument* (MALPI) and will continue to progress under this guideline.

11 COUNCIL POLICIES

Not Applicable.

12 DELEGATIONS

Not Applicable.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

13 COORDINATION & CONSULTATION

Name and/or Title of the Stakeholder Consulted	Directorate or Organisation	Is the Stakeholder Satisfied With Content of Report and Recommendations (Yes/No) (comment as appropriate)
Supervising Engineer Hydraulics & Water Quality	Planning and Environment	Yes
Coordinator City Plan	Planning and Environment	Yes
Executive Coordinator	Legal Services	Yes

14 STAKEHOLDER IMPACTS

External / community stakeholder Impacts

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

Internal (Organisational) Stakeholder Impacts

- This policy will assist the development assessment process.

15 TIMING

This matter will form part of the scope for the Major update 2 package as endorsed by Council on 30 May 2017. It is anticipated this body of work will be brought back to Council with the complete draft package prior to state interest review.

Council may resolve to make a TLPI immediately. Pursuant to this decision a TLPI package can be brought back to Council prior to submission to the Minister for Planning. A Minister has 20 days to either approve or not approve Council's submission.

16 CONCLUSION

The city's floodplains are critical to the flood resilience of the city. The policy and practice of sustainable flood risk management provides for community safety in balance with environmental and development outcomes.

The minimum flood free land policy position provides an acceptable solution to the abovementioned challenge of sustainable development within the city's floodplains.

The recommended policy framework is proposed to be implemented in the Flood overlay code as part of Major update 2. It is anticipated this body of work will be brought back to Council with the complete drafted package prior to state interest review.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

In response to the long-term amendment process via *Making or amending a local planning instrument* (MALPI) and the potential loss of city's flood resilience associated with building on platforms in high to extreme hazards areas, an interim TLPI approach is recommended.

17 RECOMMENDATION

It is recommended that Council resolves as follows:

- 1 That the report be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with section 171 (3) and 200 (5) of the *Local Government Act 2009*.**
- 2 To endorse the proposed minimum flood free land policy as identified in Attachment 1 to inform updates to the Flood overlay code as part of Major update 2 package.**
- 3 That the Mayoral Technical Advisory Committee be consulted on the proposed content prior to progressing to State interest review.**
- 4 Following review by the Mayoral Technical Advisory Committee, the Chief Executive Officer be authorised to make any administrative and consequential amendments prior to progressing to State interest review.**
- 5. To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.**

Author:
Hamid Mirfenderesk
Coordinator Natural Hazards Team

Authorised by:
Dyan Currie
Director Planning and Environment

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

Changed recommendation

COMMITTEE RECOMMENDATION **CP17.1011.008**
moved Cr Caldwell seconded Cr Gates

- 1 That the report be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with section 171 (3) and 200 (5) of the *Local Government Act 2009*.
- 2 To endorse the proposed minimum flood free land policy as identified to inform updates to the Flood overlay code as part of Major update 2 package.
- 3 To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.

CARRIED

RTI RELEASE - DODMIP



ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

Attachment 1 - REDACTED

RTI RELEASE - DSDMIP



Date: 7 February 2018
Contact: Pradesh Ramiah
Location: City Planning
Telephone: [REDACTED]
Your reference: MC18/175
Our reference: PD 113/1303 (P1) 68062478

Mr Adam Norris
Acting Manager, Planning and Development
Services (SEQ South)
PO Box 3290
Australia Fair Qld 4215

Dear Mr Norris

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

Notice of request for further information and to pause a timeframe

Thank you for your letter of 15 January 2018 responding to the Council's letter of 4 January 2018 submitting the proposed Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017 (**proposed TLPI**) to the Minister for State Development, Manufacturing, Infrastructure and Planning (**Minister**) for consideration under the Minister's Guidelines and Rules 2017 (**MGR**) and sections 23(1)(a) and (b) of the *Planning Act 2016 (Planning Act)*.

Prior to receiving your letter, the Council was in receipt of requests for Statements of Reasons (**SOR**) under the *Judicial Review Act 1991 (JRA)* relating to the Council's decisions pertaining to the proposed TLPI. Based on the correspondence which the Council has received, it is possible that proceedings under the JRA will be commenced against the Council and the Minister. The Council is mindful of:

- the mandatory considerations that are relevant to its decisions and those of the Minister concerning the TLPI;
- that only material that was considered by the Council in making its decision is relevant to the SOR; and
- the Council and the Minister have both received submissions in relation to proposed amendments to the Planning Scheme relating to flood levels and also with respect to the TLPI.

Having regard to the above matters, the Council responds to your request for further information by enclosing a copy of the SOR provided to Thomson Geer, who act on behalf of [REDACTED] and Palmer Leisure Australia Pty Ltd and Walker Robina Pty Ltd. The Council believes that the SOR adequately addresses the questions raised in your letter and requests that the SOR be treated as the Council's response to the letter.

Having regard to the potential for proceedings under the JRA, it should be noted that it is the Council's position that any submissions the Council has received do not amount to mandatory relevant considerations for the purposes of section 23 of the Planning Act. Copies of the submissions received by the Council are however **enclosed** for the Minister's information, in the interests of transparency. It suffices to say, for present purposes, that the Council does not agree with either the substance or conclusions in the submissions it has received, nor with respect to the substance or conclusions of the submission the Minister has recently received from the development industry, which was copied to the Council.

Copies of the report and presentation referred to in the SOR are also **enclosed** for the Minister's reference.

Please note that the interactive flood mapping that formed part of the Major Update 1 public exhibition will be made available on the Council website shortly. It is hoped this tool will better assist community members in addressing the impacts of this TLPI.

Lastly the Council wishes to address a matter which has come to its attention through communications with officers of the Department in relation to interpretation of the term "public meeting" for the purposes of footnote 9 to section 7.1 of the MGR.

The Council considered the recommendations of the Planning Committee in closed session but moved to open session for the purposes of adopting the recommendations, including the recommendation that there be a request to the Minister for an earlier effective day for the TLPI. A copy of the minutes to the meeting to that effect is **enclosed**.

Section 9(4) of the Planning Act requires any resolution to be made at a public meeting where there is a request for an earlier effective day for approval by the Minister. The term "public meeting" is not defined. The Council interprets it to mean a meeting that is open to the public. It is clear that at the point at which the resolution was made for the purposes of section 9(4) of the Planning Act, and section 7.1 of the MGR, the meeting was open to the public. In fact, as can be seen from section 275(3) of the *Local Government Regulation 2012*, the resolution could not have been made other than at a public meeting, which is exactly what happened. If it is the Department's view that the whole of the meeting at which the TLPI was considered was required to be open to the public, then the Council strongly disagrees with that view, because if correct, it would make the conduct of the Council's business at meetings unworkable.

It is noted that under section 275(1) of the *Local Government Regulation 2012*, specific provision is made for closing meetings to discuss any action to be taken by the local government under the Planning Act including applications made to it under that Act, or any other business for which a public discussion would be likely to prejudice the interests of the local government or someone else or enable a person to gain a financial advantage. The meeting was closed for the discussion but open for the making of the resolution which is consistent with section 275 of the Regulations and the requirements of the Planning Act and MGR.

The Council requests the Minister's urgent response.

Contacting us

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Mr Pradesh Ramiah telephone [REDACTED]

Yours faithfully

[REDACTED]
Kelli Adair
A/Manager City Planning
For the Chief Executive Officer
Council of the City of Gold Coast
Enc.:4

1. Statement of Reasons provided under the *Judicial Review Act 1991*
2. Copies of the submissions received by Council
3. Agenda item and minutes from the City Planning Committee meeting held on 11 October 2017
4. The agenda item and minutes from the City Planning Committee meeting held on 5 December 2017

Date: 18 January 2018
Contact: Amanda Tzannes
Location: City Planning
Telephone: [REDACTED]
Your reference: MFM:4016663
Our reference: PD113/1303

Mr Michael Marshall
Partner
Thomson Geer
GPO Box 169
BRISBANE QLD 4001

Dear Mr Marshall

Request for Statement of Reasons – Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction 2017)

Reference is made to your correspondence dated 20 December 2017, requesting a written Statement of Reasons for the decision in accordance with Section 32 and 34 of the *Judicial Review Act 1991*.

The Statement of Reasons for the decision to seek the Minister's approval for the abovementioned Temporary Local Planning Instrument is outlined in the attached document.

Contacting us

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Amanda Tzannes telephone [REDACTED]

Yours faithfully

Sch. 4(4)(6) - Disclosing personal information
[REDACTED]

Amanda Tzannes
Manager City Planning
For the Chief Executive Officer
Council of the City of Gold Coast

ML

Enc.: 1

STATEMENT OF REASONS

This statement of reasons of the Council of the City of Gold Coast (the "Council"), is provided under section 33 of the *Judicial Review Act 1991 (Qld)* in relation to a decision of Council with respect to Temporary Local Planning Instrument No. 5

Decisions

1. On 17 October 2017, the Council unanimously resolved at Council Meeting Number 737 (Resolution G17.1208.016) (the "**October Decision**") to adopt in full, amongst other things, the following recommendation in the Report of the Council's City Planning Committee dated 11 October 2017 (the "**October Report**"):

To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.

2. On 8 December 2017, the Council unanimously resolved at Council Meeting Number 748 (Resolution G17.1208.016) (the "**December Decision**") to adopt in full, amongst other things, the following recommendations in the Report of the Council's City Planning Committee dated 5 December 2017 (the "**December Report**"):
 - (a) to prepare a Temporary Local Planning Instrument to implement minimum flood free land;
 - (b) to endorse the proposed Temporary Local Planning Instrument No.5 (Flood Free Land and Risk Reduction) 2017 (**TLPI-5**) in the form of attached to the December Report;
 - (c) that the commencement date of TLPI-5 be 8 December 2017;
 - (d) that the Council write to the Minister to request approval of TLPI-5 and consideration of a 8 December 2017 commencement date;
 - (e) that the Council provide TLPI-5 and relevant supporting material in the form attached to the December Report in accordance with Schedule 3 of the Minister's Guidelines and Rules under the *Planning Act 2016*.
3. The Decision-Makers for the October Decision and the December Decision were the councillors of the full Council in attendance at the Council meetings on 17 October 2017 and 8 December 2017.

Material before the Council in making the Decisions

4. The material before the full Council in making the October Decision was:
 - (a) the October Report, including its attachments; and
 - (b) a presentation to the City Planning Committee of 11 October 2017 with respect to the need for a Temporary Local Planning Instrument (the "**October Presentation**").
5. The material before the full Council in making the December Decision was:
 - (a) the same material in making the October Decision as outlined in the preceding paragraph; and
 - (b) the December Report, including its attachments.

TLPI-5

6. Section 2 of TLPI-5 provides its objective as follows:

"The object of the temporary local planning instrument is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on land in flood affected areas in the planning scheme area by —

- (a) identifying land that is at or above the Designated Flood Level as minimum flood free land;
- (b) affecting the operation of the City Plan by including additional assessment benchmarks in the Flood Overlay Code so that:
 - (A) development for Residential Uses (including development elevated above Designated Flood Level) only occurs in areas that are exposed to flood inundation depths and velocities not exceeding those applicable to medium flood hazard and does not occur in areas that are exposed to a high flood hazard or extreme flood hazard; and
 - (B) lots have a sufficient area of land above the Designated Flood Level to effectively and adequately mitigate the risks and/or hazards associated with flooding."

Reasons for the Decisions

- 7. The Council's reasons for the Decision are outlined below.
- 8. The Council in making the October Decision adopted the facts and matters, and reasoning, as outlined in the October Report (including its attachments) and the October Presentation.
- 9. The Council in making the December Decision adopted the facts and matters, and reasoning, as outlined in the October Report (including its attachments), the October Presentation, and the December Report (including its attachments).
- 10. The management of flood hazards and risks is important to the Council and the Gold Coast community because vast areas of the city are located on floodplains. The city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements.
- 11. In response to the importance of the city's floodplains, in 1998, the Guragunbah (Merrimac/Carrara) Flood Plain Structure Plan and Hydraulic Master Plan (collectively "the Plans") were developed to provide an integrated approach for the planning and future management of the remaining undeveloped areas of the Merrimac/Carrara floodplain, the largest floodplain in the Gold Coast area. The overarching outcome of the Plans was to allow for clusters of development to occur in floodplains through balanced cut and fill, without compromising the function of the floodplain and the safety of residents.
- 12. The Plans were implemented in the City's superseded Planning Schemes. Consequently, the criteria for assessing development in the impacted areas require consideration of cumulative impacts and the use of a balanced cut and fill approach. The balanced cut and fill approach has the result that during a major flood event, the elevated portions of land within the floodplain would become islands of development within the floodplain, connected to each other and essential services.
- 13. However, this approach for the development of the City's floodplains is being compromised, because the current Flood Overlay Code under City Plan does not

regulate a minimum requirement of flood free land. This has led to the creation of highly engineered development proposals such as building on platforms, being located in the high and extreme flood hazard areas of the city's floodplains.

14. The highly engineered development proposals facilitate the unsustainable expansion of the development footprint within high and extreme hazard areas of the city's floodplains; thereby exposing residents to flood hazards and potentially compromising the long-term management, maintenance and safety of the city's floodplains.
15. The Council in making the October Decision and the December Decision considered, and adopted in its reasoning, the differences in the approaches to floodplain development as outlined at Section 5.2 of the October Report.
16. Emergency personnel provided information and feedback to the Council following the major flood events associated with ex-tropical cyclone Debbie in March 2017. This information and feedback revealed the following issues with the recent building on platform approach which provides for floodplain storage within void spaces between the natural ground level and habitable floor levels, namely:
 - (a) concerns by residents about their sense of safety in response to deep flood water under their buildings and debris impacting their house and the use of spaces beneath the buildings for storage or ancillary living space; and
 - (b) concerns raised by emergency services personnel about the potential for flooding of residential levels and a general misunderstanding about the building on platform design approach.

Issues and facts in relation to ex-tropical cyclone Debbie in March 2017 are outlined in the October 2017 Report (pages 6 and 8) and in the October Presentation.

17. The issues and matters considered and decided by the Council in relation to the building on platform approach included the following:

Table 1 - Building on platform discussion (Extract from October 2017 Report)

Issues	Discussion
Increase in development footprint in flood affected areas	The expansion of the development footprint across the city's floodplains impacts on the absorption capacity of the floodplain; waterways and environment; and the adaptive capacity of floodplains responding to future changes
Asset renewal	Similar to other assets, platforms have a design life and will need to be renewed over a 50 or 70 year cycle, resulting in substantial costs to the community.
Safety	Building on platform provides habitable floors that are normally only a few metres above ground level with potential of full inundation of land under the building even during minor floods. Experience from the most recent flood event (ex-cyclone Debbie in March 2017) highlighted the impact on the residents' sense of safety in response to deep flood water under their buildings and debris impacting their house.
Compliance ramifications	The use of building on platform requires that the area under the building will be maintained to function as floodplain storage and/or overland flow path (i.e. cannot be built in). Once built, this critical aspect will be difficult to verify to ensure the development is complying with the conditions of approval.
Potential environmental health impacts	Increased ponding of water and potential environmental health impacts. Based on the Guraganbah master plan vision, ponding of water would occur on the floodplain at a safe distance from buildings and not directly under the residential buildings.
Negative	Following ex-tropical cyclone Debbie, emergency personnel

perceptions on the City's flood resilience image	conveyed their concerns in regards to the designed inundation of new developments on the north east section of Emerald Lake (Figure 5 and Figure 6). Their concern related to not only residents fear of being flooded but their lack of understanding that the development had been designed to be inundated during an event.
---------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

18. As at the date of the October Decision and the December Decision, there were two approved and two undecided development applications employing the building on platform outcome, with the potential to place buildings on platforms on land the subject to high and extreme flood hazard areas of the city's floodplains. These applications are identified at Section 5.3 of the October Report and in the attachment to that report.
19. The Council considered the State interest with respect to natural hazards, risks and resilience. This is expressed in the State Planning Policy of July 2017 as follows:

"(4) Development in....flood..... natural hazard areas:

- (a) avoids the natural hazard area; or*
- (b) where it is not possible to avoid the natural hazard area, development mitigates the risks to people and property to an acceptable or tolerable level.*

(5) Development in natural hazard areas:

...

- (b) directly, indirectly and cumulatively avoids an increase in the exposure or severity of the natural hazard and the potential for damage on the site or to other properties;*

...

- (d) maintains or enhances the protective function of landforms and vegetation that can mitigate risk associated with the natural hazard."*

20. The Council considered and decided that the emerging development response of the building on platform approach increases the risk of damage and injury to persons and property during flood events, compromises the creation of a flood resilient city, and compromises the long-term function and resilience of the city's floodplain.
21. In order to prevent compromising the long-term function and resilience of the city's floodplains and to manage community expectations relating to development in a floodplain, the Council decided to make TLPI-5 in order to ensure that:
 - (a) residential development (including development elevated above the Designated Flood Level) only occurs in areas that are exposed to flood inundation depths and velocities not exceeding those applicable to medium flood hazard and does not occur in areas that are exposed to a high or extreme flood hazard;
 - (b) lots have a sufficient area of land above the Designated Flood Level to accommodate the intended use and effectively and adequately mitigate the risks and/or hazards associated with flooding.
22. Section 23(1) of the *Planning Act 2016* states:

"A local government may make a TLPI if the local government and Minister decide —

- (a) *there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; and*
 - (b) *the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and*
 - (c) *the making of the TLPI would not adversely affect State interests."*
23. The Council decided that each of the matters stated in section 23(1) of the *Planning Act 2016* is satisfied.
24. With respect to section 23(1)(a) of the *Planning Act 2016*, the Council decided that there is a significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area because:
- (a) the Council considered that the city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements;
 - (b) the Council considered that it is essential that the flood absorption capacity of floodplains be maintained;
 - (c) as outlined above, the Council considered that the highly engineered development approach of building on platforms facilitates the unsustainable expansion of the development footprint within high and extreme hazard areas of the city's floodplains, thereby exposing residents to increased flood hazards and potentially compromising the long-term management, maintenance and safety of the city's floodplains;
 - (d) there are negative impacts on residents' sense of safety and expectations relating to development in a floodplain by reason of the building on platform approach.
25. With respect to section 23(1)(b) of the *Planning Act 2016*, the Council decided that the delay involved in using the process in sections 18 to 22 of the *Planning Act 2016* to make or amend another local planning instrument would increase the risks identified in response to section 23(1)(a) because:
- (a) during the period of the delay, residential development would potentially be approved and / or take place in high and extreme flood hazard areas of the city's floodplains without implementation of TLPI-5, noting the matters identified at paragraph 17 above;
 - (b) during the period of delay, if residential development took place utilising the building on platform approach in flood affected areas, and a flood or inundation event occurred, then there would be a higher number of residents and property exposed to flood hazards and risk of injury or damage in contrast to a situation where such further development did not occur;
 - (c) without TLPI-5, during the period of delay, the Council would be unable to effectively manage the increased risks;
 - (d) given the importance of maintaining the long-term function and resilience of the city's floodplains, the Council decided that the immediate risks be addressed by way of TLPI-5 as an effective tool that can apply in the interim period while an amendment to the City Plan is progressed and finalised using the statutory process.
26. With respect to section 23(1)(c) of the *Planning Act 2016*, the Council decided that the making of TLPI-5 would not adversely affect State interests because:

- (a) the maintenance of the flood absorption capacity and the management of community expectations relating to development in a floodplain are matters currently regulated by the Flood Overlay Code in the City Plan 2016;
 - (b) TLPI-5 is consistent with the State interest guideline – Natural hazards, risk and resilience dated April 2016 – which contemplates local governments including development requirements in planning schemes with respect to development within an area affected by a natural hazard such as floods.
27. The Council resolved to seek an earlier effective date for TLPI-5 (namely, 8 December 2017):
- (a) in order to reduce the risks identified in considering section 23(1)(a) of the *Planning Act 2016*;
 - (b) because the Council considered an earlier effective date would allow it to better provide advice to applicants as to how TLPI-5 is to be addressed in development applications.
28. For the reasons outlined above, and in the October Report and the December Report, the Council made the Decisions.

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

Dale Dickson
Chief Executive Officer
Council of the City of Gold Coast
Dated 18 January 2018

OXMAR PROPERTIES

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office@oxmarproperties.com.au
www.oxmarproperties.com.au

Friday 22nd December 2017

Hon Cameron Dick MP
Minister for State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Minister

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

Submission Objecting to the Proposed Introduction of this Instrument

Reference is made to the City of Gold Coast's recent introduction of the *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017* (from herein, the TLPI), which was formally released to the public on Friday 8 December 2017.

We thank you for the opportunity to present a submission objecting to the contents of this TLPI.

By way of background, Oxmar Properties is a highly-credentialled property developer with over 30 years of experience delivering a range of projects across Queensland. For further information on our company, please feel free to visit the website, www.oxmarproperties.com.au/about-us/

We have recently acquired a site situated on the southern side of the Link Way at Mudgeeraba, which consists Lot 42 on SP184241, Lot 30 on SP270379, Lot 24 on SP868214 and Lot 25 on SP270379. The development site measures 60.44ha in size and is proposed to be improved through the construction of 1776 residential units and other residential accommodation facilities, which has a value of over \$350 million intended to be invested into the local development and construction sectors.

After extensive review of the contents of this TLPI, we are gravely concerned that the proposed regulatory controls for development projects within the floodplain will have an extremely adverse effect on the development prospects of this site, in addition to a range of other investment opportunities that we are presently considering across the City.

Specifically focusing on the Link Way Project, the following details the extensive work that we have undertaken to date to assure that the project satisfies our Company's pledge, being "to develop consistently high quality residential environments, which enhance the lives of the people who live there and the community as a whole":

1. Oxmar Properties have engaged extensively with Gold Coast City Council (GCCC) regarding the nature and style of development suitable for the site and to meet residential demands clearly expressed by the community.
2. Oxmar Properties have facilitated a number of pre-lodgement meetings with GCCC Officers and affected Local Area Councillors to discuss the Project.
3. Oxmar Properties have engaged a team of specialist technical consultants and are expected to be in a position to lodge a formal Development Application with the GCCC in January 2018. We have expended several hundred thousand dollars to date to get to this point.
4. In selecting their consulting team for the Project, Oxmar Properties engaged Burchills Engineering Solutions as their technical engineering services firm, whom have several decades of specialist experience working on development and planning in the floodplains across the City. Burchills has undertaken best practice Flood Emergency Management planning and design that has been the cornerstone of the iterative development of the Project's overall proposal scheme.
5. Oxmar Properties notes that construction of the Project will both enhance the local environment and will reduce the flood impacts on adjacent GCCC community infrastructure. Further, the proposed upgrade to Link Way will provide flood free access to the shopping centre for new residents and the broader community.

In summary, Oxmar Properties wishes to emphasise that the regulations contained within the TLPI would render approximately half of the likely development yield from the Link Way Project as not being achievable. This would result in a significant negative economic impact being felt on the local construction industry, whilst also exacerbating population growth and housing affordability issues being felt across the City.

Oxmar Properties' primary concerns brought about by the introduction of the TLPI relates to the process by which it has been introduced, specifically:

- Overall, the lack of consultation with industry stakeholders and affected parties regarding the contents and the release of the TLPI is of concern.
- No independent engineering or planning assessment appears to have been undertaken, with several potential unintended consequences of the TLPI being observed.
- The lack of transition period created by the introduction of the TLPI prejudices developers with significant financial exposure in current and pending development applications.
- No guidance on the application of the TLPI has been provided, which results in uncertainty surrounding how the instrument affects development projects across the floodplain.
- Council's information briefing (provided with only 24 hours' notice) was unclear in its guidance when numerous typical example development cases were discussed.

- There remains questions as to whether the State Government's 0.8m sea level rise figure has been used to support the introduction of the TLPI. This is a separate issue which will be addressed via updated flood mapping, which is yet to be released by Council.

Oxmar Properties firmly believe that the State Government, working with Council, should seek to establish a collaborative working group including government and industry stakeholders to advance discussions around how flood-resilient development should be sustainably located and designed across the City.

We kindly request that this submission is read in conjunction with other objections that have been presented from other industry stakeholders, including those from Burchills Engineering Solutions, whom we have engaged as our engineering consulting services firm for the Link Way Project. Their submission was issued on Tuesday, 19 December 2017.

We look forward to working in collaboration with government and industry stakeholders to advance discussions around how flood-resilient development should be sustainably located and designed across the City.

Should you have any queries or require any additional information relating to the above, please do not hesitate to contact [REDACTED] or via mobile, [REDACTED]

Yours faithfully

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

[REDACTED]

[REDACTED]

cc: Kim Kirstein
Manager Planning & Development Services – SEQ South
Department of Infrastructure, Local Government and Planning

Our Ref: Our Ref
Enquiries to: [REDACTED]

Tuesday, 19 December 2017

Hon Cameron Dick MP
Minister for State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Minister

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

Submission Objecting to the Proposed Introduction of this Instrument

Reference is made to the City of Gold Coast's recent introduction of the *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017* (from herein, the TLPI), which was formally released to the public on Friday 8 December 2017.

We thank you for the opportunity to present a submission objecting to the contents of this Instrument.

After extensive review of the contents of this TLPI, we are gravely concerned that the proposed regulatory controls for development projects within the floodplain will have an extremely adverse effect on the development and construction sectors across the City.

For example, we are confident that the TLPI's envisaged policy shift will render a range of pending projects as being unachievable. A selection of these key projects includes:

Project	Address	Land Size	Development Yield
67 Macadie Way, Merrimac	67 Macadie Way, Merrimac	3.6ha	56 Residential Units & 74 Town House Dwellings
The Italo Club Retirement Village	18 Fairway Drive, Clear Island Waters	3.86ha	94 Residential Units
Parkwood Golf Course	76-122 Napper Rd, Parkwood	56.49ha (Total lot area)	260 room Retirement Facility.
The Link Way, Mudgeeraba	lot 42 on SP184241, lot 30 on SP270379,	60.44ha	928 Units and 339 Townhouses

Project	Address	Land Size	Development Yield
	lot 24 on 868214 and lot 25 on SP270379		
Green Heart Gardens	153 Gooding Drive, Merrimac	75.95ha	5,000 multi-residential units and 8,000m ² of commercial floor space
Robina Transit (Palmer Colonial)	57 Paradise Springs Avenue, Robina	70ha	2,500 residential units

As can be seen from the scale of the abovementioned projects, extensive economic impacts on the construction industry will be felt if they do not proceed. Furthermore, population growth targets for the City of Gold Coast will become harder to realise, thus further accentuating housing affordability issues.

Table 1 has been prepared below, which provides a technical review of the perceived issues that appear to have guided the development of the *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017*. As you will read in our review, we firmly believe that resilient development in the floodplain is achievable, subject to adherence with suitable development controls.

Table 1 – Technical Review of Perceived Issues associated with Development in Flood Affected Areas

Perceived Issues	Discussion	Burchills' Feedback
<p>(a) Increase in development footprint in flood affected areas</p>	<p><i>The expansion of the development footprint across the city's floodplains impacts on the absorption capacity of the floodplain; waterways and environment; and the adaptive capacity of floodplains responding to future changes.</i></p>	<ul style="list-style-type: none"> • The proposed TLPI affects existing developed areas that experience flood event depths exceeding 0.6m and velocities exceeding 0.8m/s. This includes many suburbs that are earmarked for higher density "missing middle" redevelopment including many along the Light Rail corridor. Suburbs such as Budd's Beach, Chevron Island, Paradise Island, Carrara (namely the localities near Monaco St and Nerang Broadbeach Rd), Mermaid Beach, Miami, Burleigh are heavily impacted by this proposed regulatory shift. • The proposed TLPI fails to appreciate that new proposals for development within the floodplain are required to prepare rigorous Flood Emergency Management Plans (FEMP), with the activation of these Plans during flood events often resulting in these developments having very little to no impact on emergency services resources. In fact, these contemporary development proposals in the floodplain may in fact contribute to reducing risks in neighbouring flood prone areas. • The proposed Acceptable Outcome AO17.1 to PO17 from the TLPI may have an unintended consequence upon rural residential subdivisions, requiring 400m² or 50% of the site area (whichever is greater) to be at or above the Defined Flood Level for 'Residential' uses. Previous Rural Residential subdivisions required the provision of a 1,000m² building envelope to be provided at or above the DFL. This proposed Acceptable Outcome will require further refinement so that it does not affect specific zones. • The proposed TLPI is based purely upon only two (2) independent hydraulic variables (depth and velocity). It has become best practice both nationally and internationally to categorise flood hydraulic hazard based upon the velocity x depth product, of which is omitted from the instrument. Reference is made below to the NSW Floodplain Development Manual figures that outline a sensible approach that all NSW Councils (and several Councils in other states) have adopted for assessing hazardous conditions:



Perceived Issues	Discussion	Burchills' Feedback
		<div style="display: flex; justify-content: space-around;"> <div data-bbox="779 284 1258 737"> </div> <div data-bbox="1326 284 1809 737"> </div> </div> <p>Notes</p> <ol style="list-style-type: none"> At velocities in excess of 2.0 m/s, the stability of foundations and poles can be affected by scour. Also, grass and earth surfaces begin to scour and can become rough and unstable. The velocity of floodwaters passing between buildings can produce a hazard, which may not be apparent if only the average velocity is considered. For instance, the velocity of floodwaters in a model test has risen from an average of 1 m/sec to 3 m/sec between houses. Vehicle instability is initially by buoyancy. At floodwater depths in excess of 2.0 meters and even at low velocities, there can be damage to light-framed buildings from water pressure, flotation and debris impact. Derived from laboratory testing and flood conditions which caused damage. <p>FIGURE L1 - Velocity & Depth Relationships</p> <p>These categories are provisional because they</p> <ul style="list-style-type: none"> Council's current approach to hazard categorisation requires expert industry review and engagement. A peak flood depth of say 0.65m and velocity at that peak of <0.5m/s (typical of most of the lower Gold Coast floodplain) many experts would argue is not high hazard. Imposing such a constraint across the City's vast floodplain would unnecessarily sterilise development and force developers to assess their options in other local government authorities that have taken a more holistic approach to assessing applications in the floodplain (like Tweed Shire Council for example). <p>Notes</p> <p>The degree of hazard may be either -</p> <ul style="list-style-type: none"> reduced by establishment of an effective flood evacuation procedure. increased if evacuation difficulties exist. <p>In the transition zone highlighted by the median colour, the degree of hazard is dependent on site conditions and the nature of the proposed development.</p> <p>Example: If the depth of flood water is 1.2 m and the velocity of floodwater is 1.4 m/sec then the provisional hazard is high</p> <p>FIGURE L2 - Provisional Hydraulic Hazard Categories</p>



Perceived Issues	Discussion	Burchills' Feedback
		<ul style="list-style-type: none"> • Determining hazard needs to include other factors in addition to just depth and velocity. For any development application that has a proposed footprint within a 'high hazard' zone, whether the flow is being transferred over the design surface or underneath a platform, a proper risk assessment needs to be undertaken in conjunction with a Multi Criteria Analysis and Cost Benefit Assessment to ensure that a rigorous decision is made based on a range of factors and not just independent velocity and depth variables. • Flood mitigation measures (structural and non-structural) once assessed needs to be viewed in line with "what is the residual risk?" question and can the residual risk be adequately managed. A Flood Emergency Management Plan (FEMP) can greatly assist in reducing the risk such that the high hazard can be managed, as well as having a 'state of the art' flood warning and forecasting system in place. Developers that are seeking a development proposal within high flood hazard zones should commit to undertaking water level flood gauging at the sites upstream and downstream extents to confirm the actual flood mechanics that forms part of the hazard categorisation. <p>Summarising Comments</p> <p>Burchills submits that the introduction of a TLPI in this circumstance is not warranted. Any planning instrument should be informed and considered for implementation on after Council has developed a detailed hydraulic and land use master plan for the City's floodplains. The hydraulic and land use master plan can then be used to guide what is and is not possible on a particular site, subject to a site-specific hydraulic assessment being prepared to support a development proposal.</p> <p>Furthermore, our view is that based on the above feedback, a potential alternative policy approach would be to protect major flow paths and to allow controlled podium development in backwater/storage areas.</p>
<p>(b) Asset renewal</p>	<p><i>Similar to other assets, platforms have a design life and will need to be renewed over a 50 or 70 year cycle resulting in</i></p>	<ul style="list-style-type: none"> • Podiums and platforms are designed and constructed to have an equivalent design life as any other type of built form, therefore this perceived lifecycle issue does not appear to relevant. • Podiums and platform structures are designed by experienced and qualified engineers certified by the State Government under the Board of Professional Engineers. • The costs associated with maintenance and replacement obligations are borne by the property owner/s and are not borne by the community.

Perceived Issues	Discussion	Burchills' Feedback
	<p><i>substantial costs to the community.</i></p>	<p>Summarising Comments</p> <p>Burchills submits that the technical query regarding the design life of platform and podium assets has no technical basis and should therefore be rejected.</p>
<p>(c) Safety</p>	<p><i>Building on platform provides habitable floors that are normally only a few metres above ground level with potential of full inundation of land under the building even during minor floods</i></p>	<ul style="list-style-type: none"> • The Gold Coast floodplains are flooded by slow rising, longer duration events that provide ample warning time for people to move or evacuate and for moveable property to be relocated or moved to higher ground. Furthermore, platform and podium developments are designed to ensure that the structural integrity of the structure is maintained during flood events. Accordingly, we are unable to understand what risks humans are being exposed to by flood inundation under buildings. • Development with flood free access and evacuation routes – If fenced balconies overhang flood water, what is the safety issue? • Development proposals in medium flood hazard areas under the current planning requirements are required to be supported by a comprehensive Flood Emergency Management Plan which addresses matters such as refuge areas above flood, maintaining continuous power supply, water, food supply, medical needs, fire, communications evacuation, and security. Under the new planning instrument development will be allowed in flood affected areas that do not require these management measures to be considered. • Refuge in place provisions apply to new development where residents' access and egress can be cut-off by floodwaters, generally providing refuge areas above probable maximum flood (PMF) level. • High-rise balconies pose a greater risk to life from falls onto hard surfaces? • There is greater potential for scour to occur on unprotected properties (higher in the catchment) exposed to high velocity flows in close proximity to creek / river channels than podium developments set on floodplains (generally low velocity environments) during extreme weather events.



Perceived Issues	Discussion	Burchills' Feedback
		<p>Summarising Comments</p> <p>Burchills submits that based on the particular characteristics of flood events across the Gold Coast, that residents often receive extended warning periods to enable them to pack up and retreat to higher ground. Notwithstanding, the specific design criteria for developments within the floodplain, including the need to adhere to the requirements of Flood Emergency Management Plans, results in such projects being safe and resilient in cases of flood.</p>
<p>(d) Compliance ramifications</p>	<p><i>The use of building on platform requires that the area under the building will be maintained to function as floodplain storage and/or overland flow path (i.e. cannot be built in). Once built, this critical aspect will be difficult to verify to ensure the development is complying with the conditions of approval.</i></p>	<ul style="list-style-type: none"> • It is acknowledged that some developments may not maintain undercroft areas correctly, although it must be noted that non-compliance with development approval conditions is an issue that is confronted by Council with any development project. • Council already operates a canal maintenance team which provides surveillance of unlawful land uses and construction activities. It is expected that such a team will be able to expand their reach to also regularly examine compliance of development projects within the floodplain. <p>Summarising Comments</p> <p>Burchills submits that compliance ramifications are a potential issue needing to be managed, as they are with any development project. In order to remedy this perceived issue, Council may require via conditions of approval that developers prepare and submit annual reports demonstrating compliance with requirements relating to maintenance of these undercroft areas.</p>
<p>(e) Potential environmental health impacts</p>	<p><i>Increased ponding of water and potential environmental health impacts. Based on the Guraganbah master plan vision, ponding of water would occur on the floodplain at a</i></p>	<ul style="list-style-type: none"> • Compared to often unkempt nature of pre-development floodplains, we would expect less ponding and fewer potential health concerns arising from development projects being carried out in the floodplain. • The TLPI would allow podiums only up to 0.6m above the ground, which renders the ability to access and maintain these sites to be difficult and potentially dangerous.

Perceived Issues	Discussion	Burchills' Feedback
	<p><i>safe distance from buildings and not directly under the residential buildings.</i></p>	<ul style="list-style-type: none"> The issues that have been raised can be addressed by the preparation and implementation of an Undercroft Management Plan and a Groundwater Management Plan. Burchills has worked on several such Plans and are happy to present examples if sought. <p>Summarising Comments</p> <p>Burchills submits that a development project within the floodplain that is well-located, designed and managed will promote a style of development that reduces potential environmental health impacts on the surrounding ecosystem and on residents of the area.</p> <p>Through the preparation and implementation of technical reports such as Undercroft Management Plans and Groundwater Management Plans, an extensive range of environmental information is obtained which results in tailored mitigatory measures being employed for the life of the project.</p>
<p>Other Issues for Discussion</p>		
<p>(f) Land Use</p>		<ul style="list-style-type: none"> Areas being developed in the floodplain are typically close to existing infrastructure and represent efficient infill development opportunities. The majority of the subject sites seeking to be developed in the floodplain are generally privately-owned, are of low value and offer minimal use prospects. Development of such prospects offers Council the opportunity to collect headworks charges and ongoing payments of rates from new residents. Development of such prospects offers the opportunity to levy contributions to contribute to the proposed Green Heart open space initiative along with other Council initiatives in the future. As part of the preparation of the TLPI, we are unsure as to whether visual amenity considerations are applicable. If so, examples of particular attributes of examined projects should be nominated and presented to the industry for broader examination. The introduction of the TLPI may be seen as a strategic approach to Council seeking to acquire the land within the floodplain. If this is the case, this approach needs to be presented and discussed in further detail with affected stakeholders.



Perceived Issues	Discussion	Burchills' Feedback
		<ul style="list-style-type: none"> • Council policy relating to floodplain management and flood emergency management is flawed and the industry and community needs to be consulted to form a holistic masterplan that all parties are in agreement with. <p>Summarising Comments</p> <p>Burchills submits that Council should embark upon the development of a holistic masterplan relating to development projects in the floodplain. Such a project should be driven by a collaborative working group that includes government and industry stakeholders, with its initial piece of work being to examine and assess the various perceived issues detailed within this document.</p>
(g) Process		<ul style="list-style-type: none"> • Overall, the lack of consultation with industry stakeholders and affected parties regarding the contents and the release of the TLPI is of concern. • No independent engineering or planning assessment appears to have been undertaken, with several potential unintended consequences of the TLPI being observed. • The lack of transition period created by the introduction of the TLPI prejudices developers with significant financial exposure in current and pending development applications. • No guidance on the application of the TLPI has been provided, which results in uncertainty surrounding how the instrument affects development projects across the floodplain. • Council's information briefing (provided with only 24 hours' notice) was unclear in its guidance when numerous typical example development cases were discussed. • Questions remain as to whether the State Government's 0.8m sea level rise figure has been used to support the introduction of the TLPI. This is a separate issue which will be addressed via updated flood mapping, which is yet to be released by Council. <p>Summarising Comments</p> <p>Burchills submits that the process by which the TLPI has been prepared and introduced into the public sphere has not enabled the forms of rigorous discussion required to better understand the rationale behind its implementation and to better investigate the true implications of it becoming Council policy.</p>

The experience you deserve

Perceived Issues	Discussion	Burchills' Feedback
		We firmly believe that the State Government, working with Council, should seek to establish a collaborative working group including government and industry stakeholders to advance discussions around how flood-resilient development should be sustainably located and designed across the City.

RTI RELEASE - DSD/MP

The experience you have had

We kindly request the opportunity to meet with yourself and stakeholders from SARA and the Queensland State Government to discuss the abovementioned information in further detail.

Further, we look forward to working in collaboration with government and industry stakeholders to advance discussions around how flood-resilient development should be sustainably located and designed across the City.

Should you have any queries or require any additional information relating to the above, please do not hesitate to contact [redacted] or via mobile [redacted]

Yours faithfully

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

[redacted]

[redacted]

cc: **Kim Kirstein**
Manager Planning & Development Services – SEQ South
Department of Infrastructure, Local Government and Planning



FIGURE 3- 100 YR ARI EVENT - NERANG RIVER 2015 COGC MIKE MODEL COMBINATION CRITERIA - INDICATIVE NO GO ZONES FOR ELEVATED STRUCTURES OVER NATURAL GROUND SURFACE LEVEL

PROJECTION: MGA ZONE 56
 PROJECT: 2015 COGC MIKE MODEL RESULTS
 DATE: DEC 2017

- LEGEND**
 MDE Heavy Flood Event 2015
- Cadastral
 - Water Depth > 0.6m
 - Water Velocity > 0.8m/s

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Our Ref: Z17139



22 December 2017

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ABN 36 607 362 238

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

Dear Sir

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

We write to you as an industry stakeholder and on behalf of our client, Myall Group, regarding City of Gold Coast's recent TLPI No 5 which it is understood is currently with your office for your endorsement.

Firstly, we would like to make it very clear that we do not support development occurring in locations which place undue risk to persons and/or property. We also understand that the recent litigation cases occurring in relation to the Brisbane 2011 are fresh on everyone's mind.

However, we have concerns in regard to the proposed TLPI No 5 in that trying to achieve a certain outcome, decisions are being made in haste of which have had little (if any) peer review, or consultation with key external stakeholders, experts in the area of flooding and natural hazard risk management, or industry in general.

The purpose of the TLPI 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 provision seeks to strengthen Council's commitment to ensure development in flood affected areas is safe and resilient"* with proposed amendments to the Flood Overlay Code to ensure:

- a. Residential uses are only exposed to medium or less flood hazard; and
- b. ROL's provide sufficient land at or above the Designated Flood Level.

(Source: <http://www.goldcoast.qld.gov.au/planning-and-building/temporary-local-planning-instrument-no-5-2017-43294.html>)

Additionally, the amendments seek to *"...discourage the proliferation of Residential Uses constructed on platforms above Flood Affected Land"*.

This provision is clear in its intent that podium development does not occur in the City. However, no peer reviewed technical data has been made available to support that this type of development (construction method) is ineffective or that it creates a danger to persons or property in a severe weather event. In fact, local based hydraulic modelling data indicates otherwise and this type of development is supported by structural engineers and qualified natural hazard risk management experts.

Additionally, this type of development is considered a more sustainable construction method compared to traditional cut and fill processes (of which Council officers have confirmed they are supportive of) due to their limited impact on the environment – being piers/columns verses substantial earthworks and recontouring of the natural environment.

Furthermore, in seeking to introduce the term ‘flood resilience’ in to the TLPI, Council has offered no explanation as to what this means and how it can be achieved. The term resilience is a broadly used term and varies across different contexts; however, it is mostly referred to the ability to bounce back or recover from a significant event and / or the ability to adapt to different situations. In the context of disaster management, flood resilience can be explained as reducing the devastating impacts of floods before a flood event occurs. In the case of podium development, this type of development seeks to do just this – despite the TLPI seeking to “...discourage the proliferation of Residential Uses constructed on platforms above Flood Affected Land”.

Should the proposed TLPI be endorsed in its current form, Myall Group, as a local developer with international investment ties, will be directly affected by these changes. Myall Group lodged a development application into Council on 27 November 2017 with no knowledge of the impending release of the TLPI. In this specific situation, a prelodgement meeting was held with Council officers in August 2017 prior to lodging the development application; of which officers were supportive of the proposed podium residential development (which adjoins a Court approved podium residential development), giving Myall Group confidence to move forward with the development.

At the specific request of Council’s Hydraulic officers, substantial flood modelling was ‘required’ to be undertaken and Council’s Prelodgement Meeting Minutes did not indicate that the proposed development format was unacceptable. That is, there was no indication that a podium format would be unsupported by Council providing visual amenity and technical aspects could be achieved, including flood mitigation to a 500 year ARI flood event. As local flood data was not available from Council in relation to the subject site, detailed flood modelling was undertaken at considerable cost to Myall Group to ensure the development was technically sound – of which the hydraulic modelling data confirmed to be the case. In regard to the visual amenity, landscape buffers the full perimeter of the podium were proposed as requested by officers.

Discussion with Council officers, both within the Council’s policy and development assessment sections, indicate that they are not prepared in dealing with the TLPI and are unable to provide any advice in regard to applications currently being assessed through the development assessment process. Furthermore, the hundreds of thousands of dollars invested in the preparation of expert reports in support of the development (some ‘required’ by Council officers), along with tens of thousands of dollars in Council application fees should also be considered.

Again, we are not supporting inappropriate development in unsafe locations, podium development has proven to be a structurally and technically sound construction method in areas of inundation over many years, both locally and internationally.

It is respectfully requested that due consideration be given to the facts and peer reviewed technical evidence be sought prior to making a decision in regard to TLPI No 5.

Additionally, consideration is also requested in regard to the substantial investment that has been made by developers in preparing their development applications and expert reports for Council’s assessment, with no prior knowledge or consultation in regard to Council’s proposed TLPI No 5.

Should you have any queries concerning the above please contact myself or [REDACTED] of this office on [REDACTED]. We look forward to receiving your response to the items raised in this correspondence at your earliest convenience.

Yours sincerely

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

[REDACTED]

[REDACTED]

ZONE PLANNING GROUP

CC:

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20 December 2017

Mr Dale Dickson
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BY POST / EMAIL – ddickson@goldcoast.qld.gov.au

Dear Mr Dickson,

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

We note from the City of Gold Coast (City) Planning and Development Alert dated 8 December that the City has resolved to prepare and endorse a Temporary Local Planning Instrument No.5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017 (TLPI). We also note that Council has asked the Minister to approve backdated commencement of the TLPI from 8 December.

The Urban Development Institute of Australia (the Institute) has concerns regarding the detail and development of the TLPI, which are detailed below.

However, before detailing these concerns, we would like to take this opportunity as we come to the end of 2017 to express our thanks for Council's contribution to the productive working relationship that has existed between the Institute's Gold Coast Logan Branch and the Council throughout 2017. The year has been a successful year for the Institute and Gold Coast with a high number of development applications lodged and finalised by Council and progress on many policy issues. We look forward to continuing this relationship into 2018.

As you are aware, the Institute is a national not-for-profit organisation representing the property development industry and the Queensland office is the largest of the state bodies. The role of the Institute is to assist our members to deliver jobs, diverse housing, and thriving communities. In this context, we must indicate serious concerns of the industry with the TLPI. On the basis of the concerns outlined below, the Institute recommends the TLPI be withdrawn and that informational and other issues be resolved with industry.

The key concerns regarding the proposed TLPI are:

- Inadequate consultation has occurred with the industry
- The need for a TLPI has not been provided or satisfactorily justified
- The TLPI is not properly framed in that its provisions do not accord with its object and the definition of flood resilience is unclear
- The TLPI excludes cut and fill and podium style development in flood affected areas

- The impacts on supply of a diversity of housing and achievement of SEQ regional plan housing supply expectations
- Negative effect on the value of many land holdings and owners' financial situation if the TLPI is applied including potential loss of rights to compensation
- The TLPI has a range of unintended effects citywide (such as to redevelopment in existing areas)
- The unclear extent of external technical or professional engineering advice obtained during the preparation of the TLPI
- The issuing of the TLPI prior to the City Plan Major Update does not accurately portray the impact of the TLPI changes
- Issues with the City Plan Major Update that affect the TLPI impacts remain unresolved.

Regarding the recent City Plan Major Update, the Institute provided a submission and material which identified serious concerns with the included flood modelling, specifically:

- Inadequate information including:
 - Material for professionals to review the assumptions of the modelling
 - The basis for both the 10% increase in rainfall intensity and adoption of 50% of total wave setup at the mouth of the Tallebudgera and Currumbin Creeks
 - Whether November 2016 revision of Australian Rainfall and Runoff was considered
 - Inclusion of the flood mitigation benefits of Hinze Dam Stage 3
 - The reason for the use of 2100 as the year for the 80cm sea level increase
 - The lack of detail on any peer review of materials that may have been undertaken
 - Indication of the designated flood level
 - Identification of areas that are likely affected by the designated flood level
 - Identification of areas that are likely to be greater than 0.6 metres in depth to the designated flood level.
- Inadequate consideration of the effects of the Hinze Dam stage 3 project on flood levels.

Further information and recommendations on these points are provided below.

Inadequate consultation

The TLPI has appeared without prior notice in the industry's busiest season. No consultation period was included in the notice on 8 December and the proposals indicate a very substantial change that will have very substantial impacts upon existing and intended projects.

While TLPIs do not require consultation, we consider this creates a greater moral obligation that they are only rarely, justifiably used. The Institute is not aware of any issue that justifies a departure from standard consultation requirements regarding planning scheme amendments nor any emergency or new evidence of serious risk of harm to persons or property from flooding that warrants this change.

We also note that the recent planning scheme amendment, City Plan Major Update, proposed significant changes to Council flood mapping. The Institute flagged in its submission on 15 November a number of concerns and questions. To date, we have not received clarification on those issues that are relevant to this TLPI. Adequate consultation regarding the City Plan Major Update has not yet occurred to resolve its inherent issues. The TLPI is relevant to that work and compounds our concerns that consultation has been insufficient.

The Institute recommends that, at the least, the assumptions and modelling that have resulted in the TLPI proposals should be subject to an independent technical review. The Institute would, of course, cooperatively involve itself in any review of material.

Inadequate information

The Institute, in its submission on 15 November regarding the City Plan Major Update scheme amendment, indicated concerns with:

- Lack of transparency of the material available and the lack of supporting and background information
- Inadequate material for professionals to review the assumptions that underpin the flood modelling
- The basis for both the 10% increase in rainfall intensity and adoption of 50% of total wave setup at the mouth of the Tallebudgera and Currumbin Creeks
- Whether November 2016 revision of Australian Rainfall and Runoff was considered in the material
- The non-inclusion of the flood mitigation benefits of Hinze Dam Stage 3 to preserve and improve the City's flood resilience
- Use of 2100 as the year for the 80cm sea level increase
- The lack of any detail on any peer review of materials that may have been undertaken.

The draft City Plan Major Update planning scheme included flood levels that resulted in sites being indicated as liable to flooding that previously were not. We note that Council has removed this information from the interactive website mapping. This is a significant concern for the industry as it seeks to ensure development is well based and raises duty of care concerns.

The flood modelling issues of the previous City Plan Major Update remain outstanding. The Institute recommends that these issues be resolved prior to progress of the TLPI as they affect understanding of the impact of the TLPI and indeed its necessity. The Institute recommends that the TLPI is paused and relevant information distributed with a view to achieving greater agreement on the assumptions. This would underpin a robust and more widely accepted action on flood resilience for the region. The Institute considers the following additional critical information on flood modelling should be made available for review:

- Indication of the new defined Q100 level
- Updated defined Q100 flood level mapping
- Mapping of areas that would be deeper than 0.6 metres under the new level.

In addition to the underlying flood modelling information, the Institute seeks further information that is critical to enable understanding of the impact of the TLPI changes.

A statement was made by officers at the information session on 14 December that less than 2,500 properties in total are expected to be affected by the changes. However, it is clear to the Institute that the affect would most likely be more significant if the new flood levels are imposed as per the recent City Plan Major Update.

Our view on the available information is that it is likely the TLPI will affect most sites in the Gurangunbah Flood Plain, Mudgeeraba, Currumbin Creek, Tallebudgera Creek, Coomera River, and other areas that are subject to flooding. Also, the TLPI specifically lacks adequate information to clarify that some existing development approaches are permitted (further information on this is provided in the next section). The lack of resolved information is a critical shortcoming of the TLPI.

TLPI provisions and technical issues

The Institute is concerned that the TLPI would remove the ability to continue cut and fill and podium style development in flood affected areas. This type of development has been accepted on the Gold Coast for at least a decade, with cutting and filling in the flood plain facilitating an increase in the area of flood free land, whilst maintaining flood storage. Also, in recent times, podiums have

been built above the flood level (not impacting flood storage) to allow for apartments and/or townhouses.

Podium style development places dwellings completely above flood level, often with access that is maintained in a flood event. We also note that in some cases there are 'remain in place' facilities that provide refuge whilst the flood passes. Members advise that in the Cyclone Debbie floods earlier this year, the latest podium style developments maintained safety, as well as power, water, sewerage, and access.

Podium style developments have been conceived and certified by Registered Professional Engineers who are registered by the Board of Professional Engineers Queensland. The standards to which these designs and certifications are undertaken are some of the most stringent in existence.

Council Officers have indicated that cut and fill and podiums may still be permitted under the TLPI. However, the TLPI is strongly worded and leads to the conclusion that this development would not be supported. Performance Outcome (PO) 16 of the TLPI is clearly against development in areas with a flood inundation depth exceeding 0.6 metres and has no Acceptable Outcomes (AO). The Institute recommends the TLPI be redrafted to clearly provide for ongoing cut and fill and podium development approaches.

TLPI object and definition issues

We note the City has used the term 'flood resilience' in the TLPI and elsewhere, and that this is a foundation term for the TLPI. The Institute considers that this term should be better defined as, at present, there is uncertainty regarding this term.

Also, the statement included in the TLPI, '*The object of the temporary local planning instrument is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on land in flood affected areas...*' is considered at odds with the TLPI controls. Current scheme provisions do not permit impact on flood resilience and mitigation of flood hazard, and the proposed detailed changes will only have the impact of reducing development activity and the number of residential lots that may be created. Additional consequences could include devaluing property and impacting flood free area per lots. The Institute recommends the TLPI be reviewed to clarify the purpose and effects of the document.

Impact of changes to Hinze Dam stage 3

The draft City Plan Major Update indicated flood levels without adequately accounting for the flood retention effects of the Hinze Dam stage 3 project. This is a major omission that undermines the City Plan Major Update and the need for or area of impact of the TLPI.

The Institute recommends the TLPI be withdrawn until peer reviewed consideration is given to the appropriate role of effects of the Hinze Dam stage 3 project on flood levels.

Consequences for the Planning Scheme

The TLPI would prevent infill development within existing urban areas of the Gold Coast. In particular, our members have identified areas such as Paradise Point, Mermaid Beach, Palm Beach, and Burleigh Waters where many existing houses are affected by a water depth of greater than 0.6m. When combined with the updated flood levels in the City Plan Major Update, substantial areas of these redevelopment locations will be precluded from redevelopment.

These sites were often developed by either a small cut and fill operation or a suspended floor above the flood plain. A suspended floor lifting the house above the flood level is a Queensland staple and has been an acceptable outcome for nearly a century.

The TLPI will substantially impact otherwise developable properties and will significantly reduce potential additional dwelling supply in the City. This could have critical impacts on diversity of housing options and housing supply in some locations as many City lot development and key infill locations are subject to flooding. A serious reduction of housing supply would exacerbate already concerning affordability levels in the region.

It is also expected the TLPI may impact achievement of SEQ regional plan housing supply expectations, particularly for consolidating development, in the region. We note infill makes up a very large proportion of the SEQ Regional Plan and City Plan's housing supply intention for the Gold Coast. It appears that the TLPI is premature and needs to be reviewed in terms of its effect on housing development. The Institute recommends the City give further consideration to the housing supply impacts of the TLPI, particularly the significant population growth demands being made on the region.

Compensation

The TLPI has substantial implications for the value of many land holdings and their owners' financial situations as it is not an adverse planning change for which compensation is payable. This would not be the case in a such a sudden and irrevocable manner if the changes were included in an ordinary planning scheme amendment. The Institute considers it is inappropriate to seek removal of compensation rights without well resolved background information. Also, if proposed, the community should well understand the need for such an action. The Planning Act in Section 23 (7)(b) indicates that a TLPI is not an adverse planning scheme change that would otherwise trigger rights for compensation by affected land owners.

23 Making or amending TLPIs

(7) A TLPI—

(a) does not create a superseded planning scheme; and

(b) is not an adverse planning change.

The Institute considers that the TLPI should not be approved in its present form as it can have severe impacts on land holders without adequate justification. The Institute does not consider there is sufficient available evidence that there is significant risk of serious adverse environmental or other conditions that require this urgent action.

The Institute considers that the TLPI planning scheme policy changes are preemptive and poorly based. The changes should not proceed without resolution of the issues raised in the Institute's submission to the City Plan Major Update or the issues raised in this submission.

Conclusion

In summary, the Institute recommends Council withdraw or pause the proposed TLPI. The Institute considers that there are a number of issues that should be resolved, including:

- Lack of supporting information
- Construction of the TLPI
- Incorporation of Hinze Dam stage 3 and other factors in the flood modelling
- Impact on housing supply
- Impact on land owners' assets and rights for compensation.

The lack of resolved information is a critical shortcoming of the TLPI. Developers may commit to a site today based on current designated flood level, but following City Plan amendments will then be precluded from developing it. This type of uncertainty has the direct result of preventing the industry from delivering economic stimulus and creating jobs on the Gold Coast. It may also cause unnecessary fear and alarm amongst new and existing residents and impact on the ability of developers within the region to acquire financing.

As indicated above, the Institute places a high value on the productive working relationship between Council and its members and would welcome the opportunity to discuss this issue further. If you have any questions relating to the detail of this submission, please contact [REDACTED]

[REDACTED] or [REDACTED]
Yours sincerely
Urban Development Institute of Australia Queensland

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

[REDACTED]

[REDACTED]

President Gold Coast Logan Branch

RTI RELEASE - DS

Pages 355 through 361 redacted for the following reasons:

Daniel Park

From: Thomas Holmes
Sent: Tuesday, 9 January 2018 2:43 PM
To: Daniel Park
Subject: FW: Objection to City of Gold Coast's Introduction of Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017
Attachments: Burchills CoGC TLPI No. 5 Submission Objection.pdf



**Queensland
Government**

Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Kim Kirstein
Sent: Tuesday, 19 December 2017 3:12 PM
To: Thomas Holmes <Thomas.Holmes@dilgp.qld.gov.au>
Cc: Tim Pearson <Tim.Pearson@dilgp.qld.gov.au>; Dominique Gallagher <Dominique.Gallagher@dilgp.qld.gov.au>; Isaac Harslett <Isaac.Harslett@dilgp.qld.gov.au>
Subject: FW: Objection to City of Gold Coast's Introduction of Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017

FYA and inclusion in the AR once the Planning Minister receives the instrument for approval.

Kim

Kim Kirstein
Manager – Planning and Development Services (SEQ South) (Mon, Tues, Thurs, Fri)
Department of Infrastructure, Local Government and Planning
Level 1, 7 Short Street, Southport
p [REDACTED] | m [REDACTED] | e, kim.kirstein@dilgp.qld.gov.au

Please consider the environment before printing this email.

From: [REDACTED] <[REDACTED]@burchills.com.au>
Sent: Tuesday, 19 December 2017 2:56 PM
To: Kim Kirstein <Kim.Kirstein@dilgp.qld.gov.au>
Cc: [REDACTED] <[REDACTED]@burchills.com.au>
Subject: Objection to City of Gold Coast's Introduction of Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017

Good afternoon Kim,

I trust that all is well.

Reference is made to the City of Gold Coast's recent introduction of the *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017*, which was formally released to the public on Friday 8 December 2017. After extensive review of the contents of this new Instrument, we are gravely concerned that the proposed regulatory controls for development projects within the floodplain will have an extremely adverse effect on the development and construction sectors across the City.

On behalf of Burchills Engineering Solutions' [REDACTED] please find attached a submission that we have compiled objecting to this new piece of legislation.

We kindly request that yourself and your colleagues in the Queensland Government review the contents of this submission, and in due course, provide us with feedback on how the points raised within our submission have been considered.

Please feel free to give me a call if you would like to discuss any aspects of the submission in further detail. Also, we are more than happy to meet with yourself and your colleagues to discuss the contents of our submission in further detail.

We look forward to hearing from you.

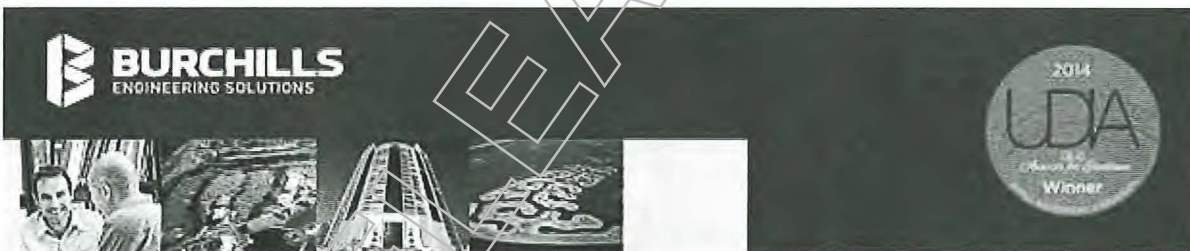
Many regards,



PO Box 3766, Australia Fair, Southport Qld 4215
Level 2, 26 Marine Parade, Southport Qld 4215



Please note the Burchills Office will be closed from midday on Friday 22nd December 2017 and reopens on Monday 8th January 2018. Our team look forward to partnering with you again in the year ahead. Wishing you and your family a very Merry Christmas!



Our Ref: Our Ref
Enquiries to: [REDACTED]

Tuesday, 19 December 2017

Hon Cameron Dick MP
Minister for State Development, Manufacturing, Infrastructure and Planning
PO Box 15009
CITY EAST QLD 4002

Dear Minister

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

Submission Objecting to the Proposed Introduction of this Instrument

Reference is made to the City of Gold Coast's recent introduction of the *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017* (from herein, the TLPI), which was formally released to the public on Friday 8 December 2017.

We thank you for the opportunity to present a submission objecting to the contents of this Instrument.

After extensive review of the contents of this TLPI, we are gravely concerned that the proposed regulatory controls for development projects within the floodplain will have an extremely adverse effect on the development and construction sectors across the City.

For example, we are confident that the TLPI's envisaged policy shift will render a range of pending projects as being unachievable. A selection of these key projects includes:

Project	Address	Land Size	Development Yield
67 Macadie Way, Merrimac	67 Macadie Way, Merrimac	3.6ha	56 Residential Units & 74 Town House Dwellings
The Italo Club Retirement Village	18 Fairway Drive, Clear Island Waters	3.86ha	94 Residential Units
Parkwood Golf Course	76-122 Napper Rd, Parkwood	56.49ha (Total lot area)	260 room Retirement Facility.
The Link Way, Mudgeeraba	lot 42 on SP184241, lot 30 on SP270379,	60.44ha	928 Units and 339 Townhouses



Project	Address	Land Size	Development Yield
	lot 24 on 868214 and lot 25 on SP270379		
Green Heart Gardens	153 Gooding Drive, Merrimac	75.95ha	5,000 multi-residential units and 8,000m ² of commercial floor space
Robina Transit (Palmer Colonial)	57 Paradise Springs Avenue, Robina	70ha	2,500 residential units

As can be seen from the scale of the abovementioned projects, extensive economic impacts on the construction industry will be felt if they do not proceed. Furthermore, population growth targets for the City of Gold Coast will become harder to realise, thus further accentuating housing affordability issues.

Table 1 has been prepared below, which provides a technical review of the perceived issues that appear to have guided the development of the *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017*. As you will read in our review, we firmly believe that resilient development in the floodplain is achievable, subject to adherence with suitable development controls.

RTI RELEASE



Table 1 – Technical Review of Perceived Issues associated with Development in Flood Affected Areas

Perceived Issues	Discussion	Burchills' Feedback
<p>(a) Increase in development footprint in flood affected areas</p>	<p><i>The expansion of the development footprint across the city's floodplains impacts on the absorption capacity of the floodplain; waterways and environment; and the adaptive capacity of floodplains responding to future changes.</i></p>	<ul style="list-style-type: none"> • The proposed TLPI affects existing developed areas that experience flood event depths exceeding 0.6m and velocities exceeding 0.8m/s. This includes many suburbs that are earmarked for higher density "missing middle" redevelopment including many along the Light Rail corridor. Suburbs such as Budd's Beach, Chevron Island, Paradise Island, Carrara (namely the localities near Monaco St and Nerang Broadbeach Rd), Mermaid Beach, Miami, Burleigh are heavily impacted by this proposed regulatory shift. • The proposed TLPI fails to appreciate that new proposals for development within the floodplain are required to prepare rigorous Flood Emergency Management Plans (FEMP), with the activation of these Plans during flood events often resulting in these developments having very little to no impact on emergency services resources. In fact, these contemporary development proposals in the floodplain may in fact contribute to reducing risks in neighbouring flood prone areas. • The proposed Acceptable Outcome AO17.1 to PO17 from the TLPI may have an unintended consequence upon rural residential subdivisions, requiring 400m² or 50% of the site area (whichever is greater) to be at or above the Defined Flood Level for 'Residential' uses. Previous Rural Residential subdivisions required the provision of a 1,000m² building envelope to be provided at or above the DFL. This proposed Acceptable Outcome will require further refinement so that it does not affect specific zones. • The proposed TLPI is based purely upon only two (2) independent hydraulic variables (depth and velocity). It has become best practice both nationally and internationally to categorise flood hydraulic hazard based upon the velocity x depth product, of which is omitted from the instrument. Reference is made below to the NSW Floodplain Development Manual figures that outline a sensible approach that all NSW Councils (and several Councils in other states) have adopted for assessing hazardous conditions:

Perceived Issues	Discussion	Burchills' Feedback
		<div style="display: flex; justify-content: space-around;"> <div data-bbox="757 252 1249 726"> </div> <div data-bbox="1332 252 1825 726"> </div> </div> <p>Notes</p> <ol style="list-style-type: none"> At velocities in excess of 2.0 m/s, the stability of foundations and poles can be affected by scour. Also, grass and earth surfaces begin to scour and can become rough and unstable. The velocity of floodwaters passing between buildings can produce a hazard, which may not be apparent if only the average velocity is considered. For instance, the velocity of floodwaters in a model test has risen from an average of 1 m/sec to 3 m/sec between houses. Vehicle instability is initially by buoyancy. All floodwater depths in excess of 2.0 meters and even at low velocities, there can be damage to light-framed buildings from water pressure, flotation and debris impact. Derived from laboratory testing and flood conditions which caused damage. <p>FIGURE L1 - Velocity & Depth Relationships</p> <p>These categories are provisional because they</p> <ul style="list-style-type: none"> Council's current approach to hazard categorisation requires expert industry review and engagement. A peak flood depth of say 0.65m and velocity at that peak of <0.5m/s (typical of most of the lower Gold Coast floodplain) many experts would argue is not high hazard. Imposing such a constraint across the City's vast floodplain would unnecessarily sterilise development and force developers to assess their options in other local government authorities that have taken a more holistic approach to assessing applications in the floodplain (like Tweed Shire Council for example). <p>Notes</p> <p>The degree of hazard may be either -</p> <ul style="list-style-type: none"> reduced by establishment of an effective flood evacuation procedure. increased if evacuation difficulties exist. <p>In the transition zone highlight by the median colour, the degree of hazard is dependant on site conditions and the nature of the proposed development.</p> <p>Example:</p> <p>If the depth of flood water is 1.2 m and the velocity of floodwater is 1.4 m/sec then the provisional hazard is high</p> <p>FIGURE L2 - Provisional Hydraulic Hazard Categories</p>

Perceived Issues	Discussion	Burchills' Feedback
		<ul style="list-style-type: none"> Determining hazard needs to include other factors in addition to just depth and velocity. For any development application that has a proposed footprint within a 'high hazard' zone, whether the flow is being transferred over the design surface or underneath a platform, a proper risk assessment needs to be undertaken in conjunction with a Multi Criteria Analysis and Cost Benefit Assessment to ensure that a rigorous decision is made based on a range of factors and not just independent velocity and depth variables. Flood mitigation measures (structural and non-structural) once assessed needs to be viewed in line with "what is the residual risk?" question and can the residual risk be adequately managed. A Flood Emergency Management Plan (FEMP) can greatly assist in reducing the risk such that the high hazard can be managed, as well as having a 'state of the art' flood warning and forecasting system in place. Developers that are seeking a development proposal within high flood hazard zones should commit to undertaking water level flood gauging at the sites upstream and downstream extents to confirm the actual flood mechanics that forms part of the hazard categorisation. <p>Summarising Comments</p> <p>Burchills submits that the introduction of a TLPI in this circumstance is not warranted. Any planning instrument should be informed and considered for implementation on after Council has developed a detailed hydraulic and land use master plan for the City's floodplains. The hydraulic and land use master plan can then be used to guide what is and is not possible on a particular site, subject to a site-specific hydraulic assessment being prepared to support a development proposal.</p> <p>Furthermore, our view is that based on the above feedback, a potential alternative policy approach would be to protect major flow paths and to allow controlled podium development in backwater/storage areas.</p>
(b) Asset renewal	<i>Similar to other assets, platforms have a design life and will need to be renewed over a 50 or 70 year cycle resulting in</i>	<ul style="list-style-type: none"> Podiums and platforms are designed and constructed to have an equivalent design life as any other type of built form, therefore this perceived lifecycle issue does not appear to relevant. Podiums and platform structures are designed by experienced and qualified engineers certified by the State Government under the Board of Professional Engineers. The costs associated with maintenance and replacement obligations are borne by the property owner/s and are not borne by the community.

Perceived Issues	Discussion	Burchills' Feedback
	<p><i>substantial costs to the community.</i></p>	<p>Summarising Comments</p> <p>Burchills submits that the technical query regarding the design life of platform and podium assets has no technical basis and should therefore be rejected.</p>
<p>(c) Safety</p>	<p><i>Building on platform provides habitable floors that are normally only a few metres above ground level with potential of full inundation of land under the building even during minor floods</i></p>	<ul style="list-style-type: none"> • The Gold Coast floodplains are flooded by slow rising, longer duration events that provide ample warning time for people to move or evacuate and for moveable property to be relocated or moved to higher ground. Furthermore, platform and podium developments are designed to ensure that the structural integrity of the structure is maintained during flood events. Accordingly, we are unable to understand what risks humans are being exposed to by flood inundation under buildings. • Development with flood free access and evacuation routes – If fenced balconies overhang flood water, what is the safety issue? • Development proposals in medium flood hazard areas under the current planning requirements are required to be supported by a comprehensive Flood Emergency Management Plan which addresses matters such as refuge areas above flood, maintaining continuous power supply, water, food supply, medical needs, fire, communications evacuation, and security. Under the new planning instrument development will be allowed in flood affected areas that do not require these management measures to be considered. • Refuge in place provisions apply to new development where residents' access and egress can be cut-off by floodwaters, generally providing refuge areas above probable maximum flood (PMF) level. • High-rise balconies pose a greater risk to life from falls onto hard surfaces? • There is greater potential for scour to occur on unprotected properties (higher in the catchment) exposed to high velocity flows in close proximity to creek / river channels than podium developments set on floodplains (generally low velocity environments) during extreme weather events.



Perceived Issues	Discussion	Burchills' Feedback
		<p>Summarising Comments</p> <p>Burchills submits that based on the particular characteristics of flood events across the Gold Coast, that residents often receive extended warning periods to enable them to pack up and retreat to higher ground. Notwithstanding, the specific design criteria for developments within the floodplain, including the need to adhere to the requirements of Flood Emergency Management Plans, results in such projects being safe and resilient in cases of flood.</p>
<p>(d) Compliance ramifications</p>	<p><i>The use of building on platform requires that the area under the building will be maintained to function as floodplain storage and/or overland flow path (i.e. cannot be built in). Once built, this critical aspect will be difficult to verify to ensure the development is complying with the conditions of approval.</i></p>	<ul style="list-style-type: none"> • It is acknowledged that some developments may not maintain undercroft areas correctly, although it must be noted that non-compliance with development approval conditions is an issue that is confronted by Council with any development project. • Council already operates a canal maintenance team which provides surveillance of unlawful land uses and construction activities. It is expected that such a team will be able to expand their reach to also regularly examine compliance of development projects within the floodplain. <p>Summarising Comments</p> <p>Burchills submits that compliance ramifications are a potential issue needing to be managed, as they are with any development project. In order to remedy this perceived issue, Council may require via conditions of approval that developers prepare and submit annual reports demonstrating compliance with requirements relating to maintenance of these undercroft areas.</p>
<p>(e) Potential environmental health impacts</p>	<p><i>Increased ponding of water and potential environmental health impacts. Based on the Guraganbah master plan vision, ponding of water would occur on the floodplain at a</i></p>	<ul style="list-style-type: none"> • Compared to often unkempt nature of pre-development floodplains, we would expect less ponding and fewer potential health concerns arising from development projects being carried out in the floodplain. • The TLPI would allow podiums only up to 0.6m above the ground, which renders the ability to access and maintain these sites to be difficult and potentially dangerous.



Perceived Issues	Discussion	Burchills' Feedback
	<p><i>safe distance from buildings and not directly under the residential buildings.</i></p>	<ul style="list-style-type: none"> The issues that have been raised can be addressed by the preparation and implementation of an Undercroft Management Plan and a Groundwater Management Plan. Burchills has worked on several such Plans and are happy to present examples if sought. <p>Summarising Comments</p> <p>Burchills submits that a development project within the floodplain that is well-located, designed and managed will promote a style of development that reduces potential environmental health impacts on the surrounding ecosystem and on residents of the area.</p> <p>Through the preparation and implementation of technical reports such as Undercroft Management Plans and Groundwater Management Plans, an extensive range of environmental information is obtained which results in tailored mitigatory measures being employed for the life of the project.</p>
<p>Other Issues for Discussion</p>		
<p>(f) Land Use</p>		<ul style="list-style-type: none"> Areas being developed in the floodplain are typically close to existing infrastructure and represent efficient infill development opportunities. The majority of the subject sites seeking to be developed in the floodplain are generally privately-owned, are of low value and offer minimal use prospects. Development of such prospects offers Council the opportunity to collect headworks charges and ongoing payments of rates from new residents. Development of such prospects offers the opportunity to levy contributions to contribute to the proposed Green Heart open space initiative along with other Council initiatives in the future. As part of the preparation of the TLPI, we are unsure as to whether visual amenity considerations are applicable. If so, examples of particular attributes of examined projects should be nominated and presented to the industry for broader examination. The introduction of the TLPI may be seen as a strategic approach to Council seeking to acquire the land within the floodplain. If this is the case, this approach needs to be presented and discussed in further detail with affected stakeholders.





Perceived Issues	Discussion	Burchills' Feedback
		<ul style="list-style-type: none"> • Council policy relating to floodplain management and flood emergency management is flawed and the industry and community needs to be consulted to form a holistic masterplan that all parties are in agreement with. <p>Summarising Comments</p> <p>Burchills submits that Council should embark upon the development of a holistic masterplan relating to development projects in the floodplain. Such a project should be driven by a collaborative working group that includes government and industry stakeholders, with its initial piece of work being to examine and assess the various perceived issues detailed within this document.</p>
<p>(g) Process</p>		<ul style="list-style-type: none"> • Overall, the lack of consultation with industry stakeholders and affected parties regarding the contents and the release of the TLPI is of concern. • No independent engineering or planning assessment appears to have been undertaken, with several potential unintended consequences of the TLPI being observed. • The lack of transition period created by the introduction of the TLPI prejudices developers with significant financial exposure in current and pending development applications. • No guidance on the application of the TLPI has been provided, which results in uncertainty surrounding how the instrument affects development projects across the floodplain. • Council's information briefing (provided with only 24 hours' notice) was unclear in its guidance when numerous typical example development cases were discussed. • Questions remain as to whether the State Government's 0.8m sea level rise figure has been used to support the introduction of the TLPI. This is a separate issue which will be addressed via updated flood mapping, which is yet to be released by Council. <p>Summarising Comments</p> <p>Burchills submits that the process by which the TLPI has been prepared and introduced into the public sphere has not enabled the forms of rigorous discussion required to better understand the rationale behind its implementation and to better investigate the true implications of it becoming Council policy.</p>





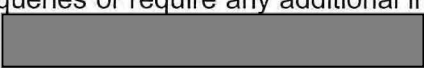

Perceived Issues	Discussion	Burchills' Feedback
		We firmly believe that the State Government, working with Council, should seek to establish a collaborative working group including government and industry stakeholders to advance discussions around how flood-resilient development should be sustainably located and designed across the City.

RTI RELEASE - DSDMP

The experience you deserve 

We kindly request the opportunity to meet with yourself and stakeholders from SARA and the Queensland State Government to discuss the abovementioned information in further detail.

Further, we look forward to working in collaboration with government and industry stakeholders to advance discussions around how flood-resilient development should be sustainably located and designed across the City.

Should you have any queries or require any additional information relating to the above, please do not hesitate to contact  or via mobile 

Yours faithfully




cc: Kim Kirstein
Manager Planning & Development Services – SEQ South
Department of Infrastructure, Local Government and Planning

Daniel Park

From: Adam Norris
Sent: Tuesday, 16 January 2018 11:58 AM
To: Daniel Park; Thomas Holmes
Subject: FW: Submission made to Hon Cameron Dick - City of Gold Coast TLPI No 5
Attachments: Letter to Minister - TLPI No 5.pdf

From: GC SARA
Sent: Friday, 22 December 2017 2:32 PM
To: Isaac Harslett <Isaac.Harslett@dilgp.qld.gov.au>
Cc: Adam Norris <Adam.Norris@dilgp.qld.gov.au>
Subject: FW: Submission made to Hon Cameron Dick - City of Gold Coast TLPI No 5

FYI

From: [REDACTED] <[REDACTED]@zoneplanning.com.au>
Sent: Friday, 22 December 2017 2:29 PM
To: Kim Kirstein <Kim.Kirstein@dilgp.qld.gov.au>; atzannes@goldcoast.qld.gov.au
Cc: [REDACTED] <[REDACTED]@goldcoast.qld.gov.au>; GC SARA <GCSARA@dilgp.qld.gov.au>
Subject: Submission made to Hon Cameron Dick - City of Gold Coast TLPI No 5

Hi Kim and Amanda

Please find attached correspondence submitted to Hon Cameron Dick in regard to City of Gold Coast's TLPI No 5 for your information.

Please do not hesitate to contact me should you have any questions or would like to discuss further.

Kindly

[REDACTED]



Zone Planning Group wish you and your family a very Merry Christmas and a Happy New Year!

Please note that our office will be closed from 5.00pm, 21st December 2017 and will be reopening on the 8th of January 2018.

Emails will only be checked periodically throughout this time and whilst we will attempt to reply as soon as possible, there could be a delay. For urgent matters, you can try the mobile number listed below.

[REDACTED] w zoneplanning.com.au

Gold Coast 1638 Tweed Street, Burleigh Heads QLD 4220 | PO Box 3805, Burleigh Town QLD 4220 | Ph 07 5562 2303.



Gladstone 2/172 Goonoon St | PO Box 5332 | Gladstone, QLD 4680 | Ph 07 4972 3831.

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RTI RELEASE - DSDMIP

Our Ref: Z17139



22 December 2017

GOLD COAST | GLADSTONE

p 07 5562 2303

info@zoneplanning.com.au

zoneplanning.com.au

ABN 36 607 362 238

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

Dear Sir

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

We write to you as an industry stakeholder and on behalf of our client, Myall Group, regarding City of Gold Coast's recent TLPI No 5 which it is understood is currently with your office for your endorsement.

Firstly, we would like to make it very clear that we do not support development occurring in locations which place undue risk to persons and/or property. We also understand that the recent litigation cases occurring in relation to the Brisbane 2011 are fresh on everyone's mind.

However, we have concerns in regard to the proposed TLPI No 5 in that trying to achieve a certain outcome, decisions are being made in haste of which have had little (if any) peer review, or consultation with key external stakeholders, experts in the area of flooding and natural hazard risk management, or industry in general.

The purpose of the TLPI 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 provision seeks to strengthen Council's commitment to ensure development in flood affected areas is safe and resilient"* with proposed amendments to the Flood Overlay Code to ensure:

- a. Residential uses are only exposed to medium or less flood hazard; and
- b. ROL's provide sufficient land at or above the Designated Flood Level.

(Source: <http://www.goldcoast.qld.gov.au/planning-and-building/temporary-local-planning-instrument-no-5-2017-43294.html>)

Additionally, the amendments seek to *"...discourage the proliferation of Residential Uses constructed on platforms above Flood Affected Land"*.

This provision is clear in its intent that podium development does not occur in the City. However, no peer reviewed technical data has been made available to support that this type of development (construction method) is ineffective or that it creates a danger to persons or property in a severe weather event. In fact, local based hydraulic modelling data indicates otherwise and this type of development is supported by structural engineers and qualified natural hazard risk management experts.

Additionally, this type of development is considered a more sustainable construction method compared to traditional cut and fill processes (of which Council officers have confirmed they are supportive of) due to their limited impact on the environment – being piers/columns versus substantial earthworks and recontouring of the natural environment.

Furthermore, in seeking to introduce the term ‘flood resilience’ in to the TLPI, Council has offered no explanation as to what this means and how it can be achieved. The term resilience is a broadly used term and varies across different contexts; however, it is mostly referred to the ability to bounce back or recover from a significant event and / or the ability to adapt to different situations. In the context of disaster management, flood resilience can be explained as reducing the devastating impacts of floods before a flood event occurs. In the case of podium development, this type of development seeks to do just this – despite the TLPI seeking to “...discourage the proliferation of Residential Uses constructed on platforms above Flood Affected Land”.

Should the proposed TLPI be endorsed in its current form, Myall Group, as a local developer with international investment ties, will be directly affected by these changes. Myall Group lodged a development application into Council on 27 November 2017 with no knowledge of the impending release of the TLPI. In this specific situation, a prelodgement meeting was held with Council officers in August 2017 prior to lodging the development application; of which officers were supportive of the proposed podium residential development (which adjoins a Court approved podium residential development), giving Myall Group confidence to move forward with the development.

At the specific request of Council’s Hydraulic officers, substantial flood modelling was ‘required’ to be undertaken and Council’s Prelodgement Meeting Minutes did not indicate that the proposed development format was unacceptable. That is, there was no indication that a podium format would be unsupported by Council providing visual amenity and technical aspects could be achieved, including flood mitigation to a 500 year ARI flood event. As local flood data was not available from Council in relation to the subject site, detailed flood modelling was undertaken at considerable cost to Myall Group to ensure the development was technically sound – of which the hydraulic modelling data confirmed to be the case. In regard to the visual amenity, landscape buffers the full perimeter of the podium were proposed as requested by officers.

Discussion with Council officers, both within the Council’s policy and development assessment sections, indicate that they are not prepared in dealing with the TLPI and are unable to provide any advice in regard to applications currently being assessed through the development assessment process. Furthermore, the hundreds of thousands of dollars invested in the preparation of expert reports in support of the development (some ‘required’ by Council officers), along with tens of thousands of dollars in Council application fees should also be considered.

Again, we are not supporting inappropriate development in unsafe locations, podium development has proven to be a structurally and technically sound construction method in areas of inundation over many years, both locally and internationally.

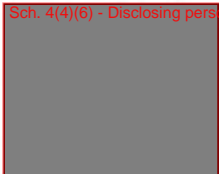
It is respectfully requested that due consideration be given to the facts and peer reviewed technical evidence be sought prior to making a decision in regard to TLPI No 5.

Additionally, consideration is also requested in regard to the substantial investment that has been made by developers in preparing their development applications and expert reports for Council’s assessment, with no prior knowledge or consultation in regard to Council’s proposed TLPI No 5.

Should you have any queries concerning the above please contact myself or [REDACTED] of this office on [REDACTED]. We look forward to receiving your response to the items raised in this correspondence at your earliest convenience.

Yours sincerely

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



[REDACTED]
ZONE PLANNING GROUP

CC:

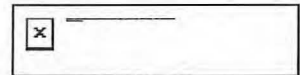
1. Kim Kirstein
Manager, Gold Coast SARA
South East Queensland (South)
Department of
PO Box 3290
Australia Fair
Southport Qld 4215
Email: GCSARA@dilgp.qld.gov.au
2. Amanda Tzannes
Manager, City Planning
City of Gold Coast
PO Box 5042
GCMC QLD 9729
Email: atzannes@goldcoast.qld.gov.au / mail@goldcoast.qld.gov.au

Daniel Park

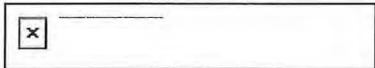
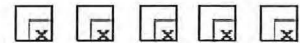
From: GC SARA
Sent: Monday, 11 December 2017 10:04 AM
To: Gold Coast Planning Team
Subject: FW: Temporary Local Planning Instrument No 5

FYI

From: Planning and Environment [mailto:planning&developmentalert=goldcoast.qld.gov.au@cmail19.com] **On Behalf Of** Planning and Environment
Sent: Friday, 8 December 2017 1:43 PM
To: GC SARA <GCSARA@dilgp.qld.gov.au>
Subject: Temporary Local Planning Instrument No 5



8 December 2017 Web version



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



The City of Gold Coast (City) 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 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.

TLPI No 5 amends the operation of the Flood overlay code by ensuring:

- (a) residential uses are only exposed to medium or less flood hazard; and
- (b) ROL's provide sufficient land at or above the Designated flood level.

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

- 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.

Further information please contact the City Plan unit on 1300 151 267.

[View TLPI No 5](#)

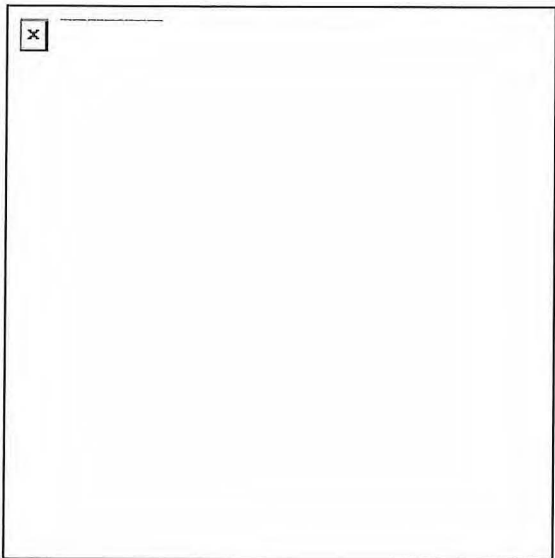
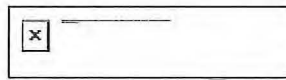
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RTI RELEASE - DSDMIP



Daniel Park

From: Daniel Park
Sent: Friday, 12 January 2018 3:03 PM
To: Adam Norris
Subject: FW: TLIP No.5 Standard response
Attachments: TLPI No.5 - standard response.docx

Hi Adam,

For you to review prior to it going up to Planning Corro.



**Queensland
Government**

Daniel Park
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P 07 5644 3214
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Daniel Park
Sent: Friday, 12 January 2018 9:06 AM
To: Thomas Holmes <Thomas.Holmes@dilgp.qld.gov.au>
Subject: TLIP No.5 Standard response

Let me know what you think.

Regards,



**Queensland
Government**

Daniel Park
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P 07 5644 3214
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

Pages 254 through 256 redacted for the following reasons:

Sch. 4(4)(4) - Disclosing deliberative processes

RTI RELEASE - DSDMIP

Daniel Park

From: Kim Kirstein
Sent: Tuesday, 30 January 2018 4:40 PM
To: Thomas Holmes; Daniel Park
Subject: FW: TLPI No. 5 - Notice to pause a timeframe
Attachments: TLPI No. 5 - Notice to pause a timeframe.docx

So are we extending or repausing? Perhaps we need the first version which has the complicated links...surely it can't be that complicated?? Should there just be a provision allowing it to be extended??



**Queensland
Government**

Kim Kirstein
Manager
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P 07 5644 3213 M Sch. 4(4)(6) - Discla
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Daniel Park
Sent: Tuesday, 30 January 2018 4:37 PM
To: Kim Kirstein <Kim.Kirstein@dilgp.qld.gov.au>
Subject: RE: TLPI No. 5 - Notice to pause a timeframe

Hi Kim,

Friendlier version attached.

Let me know which one you want sent out.

Regards,



**Queensland
Government**

Daniel Park
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P 07 5644 3214
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Kim Kirstein
Sent: Tuesday, 30 January 2018 4:33 PM
To: Daniel Park <Daniel.Park@dilgp.qld.gov.au>; Thomas Holmes <Thomas.Holmes@dilgp.qld.gov.au>
Subject: TLPI No. 5 - Notice to pause a timeframe

Approved as attached.

I still don't like that last para but run with it if it is templated.

Also, don't forget to keep dates to one line and not break across 2 lines.

Thanks

Kim

RTI RELEASE - DSDMIP





Queensland
Government

Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

Our reference: MC18/175
Your reference: PD113/1303(P1)

30 January 2018

Mr Dale Dickson
Chief Executive Officer
Gold Coast City Council
PO Box 5042
GCMC QLD 9729

Dear Mr Dickson

Notice to pause a timeframe

(Given under and chapter 3, part 3, section 10.1 and pursuant to chapter 3, part 2, section 8.3 and chapter 3, part 3, section 10.2 of the Minister's Guidelines and Rules)

Thank you for submitting the proposed Temporary Local Planning Instrument No.5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017 (the proposed TLPI) to the Honourable Cameron Dick MP, Minister for State Development, Manufacturing, Infrastructure and Planning on 4 January 2018 for consideration under chapter 3 of the *Minister's Guidelines and Rules 2017* (MGR).

On 15 January 2018, the Department of State Development, Manufacturing, Infrastructure and Planning (the department) sent the Gold Coast City Council (the council) a notice requesting additional information on the proposed TLPI and pausing the assessment timeframe under the MGR until 30 January 2018.

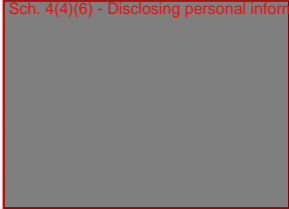
On 30 January 2018, the department received an email from the council requesting that the current pause period be extended until 16 February 2018. The department has considered this request and agrees to extend the duration of the pause period.

This notice pauses the timeframe for the proposed TLPI until 16 February 2018. The department's assessment of the proposed TLPI will resume on 19 February 2018.

If you require further information, I encourage you to contact Daniel Park, Senior Planning Officer, of the department on [REDACTED] or by email at bestplanning-SEQS@dilgp.qld.gov.au.

Yours sincerely

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



Kim Kirstein
Manager, Planning and Development Services (SEQ South)

RTI RELEASE - DSDMIP

Daniel Park

From: Thomas Holmes
Sent: Thursday, 8 February 2018 9:35 AM
To: Rebecca De Vries
Cc: Daniel Park
Subject: FW: TLPI No. 5 (Flood) - GCCC council response 7/02/2018

FYI



**Queensland
Government**

Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P 07 5644 3217
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Nathan Rule
Sent: Wednesday, 7 February 2018 5:39 PM
To: Kim Kirstein <Kim.Kirstein@dilgp.qld.gov.au>
Cc: Thomas Holmes <Thomas.Holmes@dilgp.qld.gov.au>
Subject: RE: TLPI No. 5 (Flood) - GCCC council response 7/02/2018

Kim – this is the Statement of Reasons request that legal already know about.

It's not a full JR yet.

N



**Queensland
Government**

Nathan Rule
Director, Planning (Southern Region)
Planning and Development Services
Department of State Development,
Manufacturing, Infrastructure and Planning
P [REDACTED] M [REDACTED] Sch 47 (a) - Disc
Level 4, 117 Brisbane Street, Ipswich QLD 4305
www.dsdmip.qld.gov.au

From: Kim Kirstein
Sent: Wednesday, 7 February 2018 5:06 PM
To: Nathan Rule <Nathan.Rule@dilgp.qld.gov.au>
Cc: Thomas Holmes <Thomas.Holmes@dilgp.qld.gov.au>
Subject: FW: TLPI No. 5 (Flood) - GCCC council response 7/02/2018

Hi Nathan,

As discussed, please see below for progression to Legal for an update on the status of the TLPI No. 5 process, given the action taken under the Judicial Review Act.

Kim



Kim Kirstein
Manager
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P 07 5644 3213 M [Redacted] Sch. 4(4)(6) - Disclos
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Thomas Holmes
Sent: Wednesday, 7 February 2018 4:52 PM
To: Kim Kirstein <Kim.Kirstein@dilgp.qld.gov.au>
Cc: Daniel Park <Daniel.Park@dilgp.qld.gov.au>; Rebecca De Vries <Rebecca.DeVries@dilgp.qld.gov.au>
Subject: TLPI No. 5 (Flood) - GCCC council response 7/02/2018

Hi Kim,

As discussed,

Background

- On 7 February 2018, Gold Coast City Council (the council) responded to the department's request for further information and notice to pause the assessment timeframe on 15 January 2018.
- On 19 February 2018, the department's assessment timeframe re-commences, unless the department gives notice recommencing the timeframe early.
- The council responded via Ezi-scheme and included the four attached documents.

Council response 7/02/2018

- The council are in receipt of requests for a Statements of Reasons under the *Judicial Review Act 1991*. The council has provided these 'requests'.
- The council identified the Councillor's resolution for an earlier effective date was made at a public meeting, and therefore the Minister should approve the council's request for an earlier effective date of 8 December 2017.
- The council provided some further justification to the existing arguments for why the amendment should be enacted as a TLPI, which includes:
 - development application examples
 - concerns with residents sense of safety
 - issues in relation to compliance of pylon development
 - absorption capacity of the flood plain.

The department is now considering the further information and whether there is sufficient to support the TLPI.

Regards,



Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
[Redacted]
Level 1, 7 Short Street, Southport QLD 4215

RTI RELEASE - DSDMIP



Daniel Park

From: Daniel Park
Sent: Friday, 12 January 2018 3:20 PM
To: Thomas Holmes
Subject: FW: TLPI No.5 - standard response
Attachments: TLPI No.5 - standard response.docx



Daniel Park
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P 07 5644 3214
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Daniel Park
Sent: Friday, 12 January 2018 3:19 PM
To: Adam Norris <Adam.Norris@dilgp.qld.gov.au>
Subject: FW: TLPI No.5 - standard response



Daniel Park
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
P 07 5644 3214
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Isaac Harslett
Sent: Friday, 12 January 2018 2:52 PM
To: Daniel Park <Daniel.Park@dilgp.qld.gov.au>
Subject: FW: TLPI No.5 - standard response



**Queensland
Government**

Isaac Harslett
A/Manager
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Thomas Holmes
Sent: Friday, 12 January 2018 2:46 PM
To: Isaac Harslett <Isaac.Harslett@dilgp.qld.gov.au>
Cc: Adam Norris <Adam.Norris@dilgp.qld.gov.au>
Subject: TLPI No.5 - standard response

Hi Isaac/Adam,

This email is seeking your approval to use the attached word document as a standard response to the Correspondence received on the TLPI.

I have also attached Dan's version if you want to see the difference.

thanks,



**Queensland
Government**

Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au



Pages 266 through 268 redacted for the following reasons:

Sch. 4(4)(4) - Disclosing deliberative processes

RTI RELEASE - DSDMIP

Daniel Park

From: Isaac Harslett
Sent: Friday, 12 January 2018 2:52 PM
To: Daniel Park
Subject: FW: TLPI No.5 - standard response
Attachments: TLPI No.5 - standard response.docx; TLPI No.5 Standard response



Isaac Harslett
A/Manager
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Thomas Holmes
Sent: Friday, 12 January 2018 2:46 PM
To: Isaac Harslett <Isaac.Harslett@dilgp.qld.gov.au>
Cc: Adam Norris <Adam.Norris@dilgp.qld.gov.au>
Subject: TLPI No.5 - standard response

Hi Isaac/Adam,

This email is seeking your approval to use the attached word document as a standard response to the Correspondence received on the TLPI.

I have also attached Dan's version if you want to see the difference.

thanks,



Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

Pages 270 through 272 redacted for the following reasons:

Sch. 4(4)(4) - Disclosing deliberative processes

RTI RELEASE - DSDMIP

Daniel Park

From: Daniel Park
Sent: Friday, 12 January 2018 9:06 AM
To: Thomas Holmes
Subject: TLPI No.5 Standard response
Attachments: TLPI No.5 - standard response.docx

Let me know what you think.

Regards,



**Queensland
Government**

Daniel Park
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au



Daniel Park

From: Thomas Holmes
Sent: Thursday, 8 February 2018 5:04 PM
To: Daniel Park
Subject: FW: Gold Coast City Council - Proposed TLPI No.5 (minimum land above designated flood level and residential risk reduction) - Response to information request
Attachments: 5 December item and report.pdf; 11 October 2017 item presentation report.pdf; Letter and statement of reasons.pdf; submissions.pdf

Dan,

Can you source.

**Queensland Government**
Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning
[REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

From: Thomas Holmes
Sent: Thursday, 8 February 2018 5:01 PM
To: Natural Hazards <NaturalHazards@dilgp.qld.gov.au>; hich@oir.qld.gov.au; HSCATownPlanning@hpw.qld.gov.au; bcqstateinterest@hpw.qld.gov.au
Cc: Rebecca De Vries <Rebecca.DeVries@dilgp.qld.gov.au>; Daniel Park <Daniel.Park@dilgp.qld.gov.au>; Kim Kirstein <Kim.Kirstein@dilgp.qld.gov.au>; Best Planning SEQ South <bestplanning-SEQS@dilgp.qld.gov.au>
Subject: Gold Coast City Council - Proposed TLPI No.5 (minimum land above designated flood level and residential risk reduction) - Response to information request

Good afternoon,

Your state agency recently provided an assessment of the Gold Coast City Council's (the council) Temporary Local Planning Instrument (minimum land above designated flood level and residential risk reduction) No.5 (the proposed TLPI).

- On 15 January 2018, the Department of State Development, Manufacturing, Infrastructure and Planning (the department) requested further justification from the council.
- On 7 February 2018, the council provided further information (attached) on the proposed TLPI in response to the department's request. The department is requesting your agency's assessment of the proposed TLPI, including the additional information provided by the council. All documents have been attached to this email and are also available through the Ezi-Scheme online portal (reference TLPI-00046).

Can you please email your response to bestplanning-SEQS@dilgp.qld.gov.au AND daniel.park@dilgp.qld.gov.au AND thomas.holmes@dilgp.qld.gov.au by **COB Wednesday, 14 February 2018**. If you have any concerns with achieving this timeframe, please do not hesitate to contact me to discuss.

If you are not the appropriate contact in your department, can you please contact either myself, or Daniel Park on [REDACTED] as soon as possible to confirm the correct contact.

Thank you, should you have any further queries please do not hesitate to call.

Regards,



**Queensland
Government**

Thomas Holmes
Senior Planning Officer
Planning and Development Services (SEQ South)
Department of State Development,
Manufacturing, Infrastructure and Planning

P [REDACTED]
Level 1, 7 Short Street, Southport QLD 4215
PO Box 3290, Australia Fair QLD 4215
www.dsdmip.qld.gov.au

RTI RELEASE - DSDMIP



Refer 11 page attachments

1 BASIS FOR CONFIDENTIALITY

- 1.1 I recommend that this report be considered in Closed Session pursuant to section 275 (1) of the *Local Government Regulation 2012* for the reason that the matter involves
- (h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.
- 1.2 I recommend that the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the *Local Government Act 2009*.

2 EXECUTIVE SUMMARY

This report seeks Council's endorsement of the proposed Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 (TLPI No.5 2017). The proposed TLPI No.5 2017 has been prepared further to a Council resolution G17.1017.013 endorsing a new flood policy to ensure residential development is not exposed to:

- a flood inundation depth greater than 0.6 metres; and
- a flood water velocity greater than 0.8 metres per second.

In addition, the proposed TLPI No.5 2017 will also require Reconfiguring a Lot applications for residential, commercial and industrial uses to provide a sufficient area of land at or above the Designated Flood Level (DFL).

The purpose of the proposed TLPI No.5 2017 is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on flood affected land. As such, the TLPI No.5 2017 will amend the operation of the Flood overlay code provided in City Plan by including new overall outcomes and assessment benchmarks to be applied during development assessment. It is envisaged that the TLPI No.5 2017 will have a life span of 2 years from the following proposed commencement date of 8 December 2017.

Section 9(4) of the *Planning Act 2016* allows Council, with the Minister's agreement, to make the TLPI take effect from the day Council resolved to give the TLPI and the request for an earlier effective day to the Minister for approval.

Council is requested to endorse the proposed TLPI No.5 2017 included in **Attachment A** which will allow Council to write to the Minister seeking its approval. Further to the Minister's approval, Council will be required to adopt the draft TLPI No.5 2017.

3 PURPOSE OF REPORT

The purpose of this report is to:

UNAUTHORISED RELEASE OF CONFIDENTIAL REPORTS OR INFORMATION may be an offence under the Local Government Act 2009 and other legislation and could result in disqualification from office and a penalty of up to 100 units.

CONFIDENTIAL

- (a) seek Council's endorsement of Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 provided in **Attachment A** of this report; and
- (b) seek permission for Council to write to the Minister:
 - a. seeking approval of the Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 (TLPI No.5 2017);
 - b. providing the TLPI No.5 2017 and relevant supporting material identified in Schedule 3 of the Minister's Guidelines and Rules; and
 - c. seeking approval for the commencement of the TLPI No.5 2017, to be 8 December 2017.

Once the Minister provides a response, a further report will be presented to Council to seek endorsement to adopt the TLPI No.5 2017.

4 PREVIOUS RESOLUTIONS

On the 11 October 2017, Council resolved to (G17.1017.013):

2. *To endorse the proposed minimum flood free land policy as identified in Attachment 1 to inform updates to the Flood overlay code as part of Major update 2 package.*
5. *To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.*

On the 22 November 2017, City Planning Committee resolved the Design for Flood package to be progressed to State Interest review. This package includes approval of the necessary changes to the proposed wording of the Flood overlay code to make it consistent with TLPI.

5 DISCUSSION

5.1 Background

Council resolved on 11 October 2017 (G17.1017.013) to prepare a Temporary Local Planning Instrument (TLPI) to implement the flood policy position described as 'Minimum flood free land'.

The 'Minimum flood free land' policy aims to ensure that development in flood affected areas of the city are exposed to no more than a medium flood hazard. A medium flood hazard includes, among other elements, development exposed to:

- a flood inundation depth of up to and less than 0.6 metres; and
- a flood water velocity of no more than 0.8 metres per second.

The City Plan Major update 2 amendment package includes updates to the Flood overlay code to implement the 'Minimum flood free land' policy. However, at the time of preparing this report, Major 2 update is in the process of being sent to the minister for the State Interest

review. Given that the plan making process is a long-term process, it is considered that enacting the policy through a TLPI will provide for the maintenance of the City's flood resilience while Major update 2 is being processed through the required statutory process.

5.2 Proposed TLPI

The resolution (G17.1017.013) to prepare the TLPI, included proposed wording to implement the 'Minimum flood free land' policy. In preparing the TLPI, this wording was refined. It is therefore necessary under s 9(4) of the *Planning Act 2016* for Council to again resolve to make the TLPI with the proposed commencement date of the 8 December 2017

Attachment A contains the proposed *Temporary Local Planning Instrument No.5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017* and supporting Explanatory Statement.

The proposed TLPI will affect the operation of City Plan (version 4) Flood overlay code through:

- a) Inserting additional assessable development criteria PO16 and PO17 to ensure that a Reconfiguring a Lot application provides sufficient land above the designated flood level (DFL) for residential, commercial and industrial uses. In addition, ensuring land is above the DFL reduces flood risks to users of the site by minimising the possibility of a high flood hazard occurring adjacent to the developments building footprint.
- b) Amending PO9/AO9 to remove any inconsistency that may arise in the assessment of residential uses under the proposed PO16; and
- c) Inserting new additional overall outcomes (l), (m) and (n) to the Flood overlay code to ensure:
 - i) Residential development is not of a type or design nor occurs on land that is exposed to high or extreme flood hazards;
 - ii) Avoiding the development of lots on land which does not have a sufficient area of land above the DFL; and
 - iii) Discouraging of the proliferation of multi dwelling development on constructed platforms above flood affected land.

5.3 The need for a TLPI

Attachment B contains the Explanatory Statement that Council is required to provide to the Minister with our request to (a) approve the TLPI and (b) seek a commencement date from the 8 December 2017. In the Explanatory Statement the following points are made in support of making the TLPI.

'Section 23(1) of the Planning Act 2016 says that a local government may make a TLPI if the local government and Minister decide —

- (a) there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; and;*
- (b) the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and*
- (c) the making of the TLPI would not adversely affect State interests.*

The proposed TLPI is considered to satisfy each of these requirements.

(a) The city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements. It is essential that the flood absorption capacity of floodplains is maintained. As discussed above in section 2 of this statement, there are significant risks if the local government does not implement a requirement for a sufficient area of land above the Designated Flood Level and does not regulate building on platforms on highly flood affected land, namely:

- i. an increase in the extent of the development footprint across the floodplain beyond the natural yield of the land required for flood protection; and*
- ii. negative impacts on residents' sense of safety and expectations relating to development in a floodplain.*

(b) Given the importance of maintaining the long-term function and resilience of the city's floodplains, it is proposed that this immediate risk be addressed by way of the proposed TLPI as an effective tool that can apply in the interim period while an amendment to the City Plan is finalised.

(c) The proposed TLPI would not adversely affect State interests as the maintenance of the flood absorption capacity and the management of community expectations relating to development in a floodplain are matters currently regulated by the Flood Overlay Code in the City Plan. The proposed TLPI is consistent with the State interest guideline – Natural hazards, risk and resilience dated April 2016 which contemplates local government including development requirements in planning schemes with respect to development within an area affected by a natural hazard such as flood. '

By seeking the Minister's support for a commencement date being the 8 December 2017, Council will be better able to provide advice to applicants as to how the TLPI is to be addressed in development applications. The alternative to commencing the TLPI on the 8 December is to await the following steps to be completed:

1. The Minister considers our proposal to make a TLPI and issues a letter of approval;
2. Upon receiving a letter of approval, Council resolves to adopt the TLPI; and
3. The TLPI commences on the day it is gazetted (estimated to be early to mid 2018).

Notwithstanding the above the Minister may decide to approve the TLPI and not support our request for an earlier commencement date.

6 ALIGNMENT TO THE CORPORATE PLAN, CORPORATE STRATEGIES AND OPERATIONAL PLAN

Gold Coast 2022 outcome 3.1, "Our City is Safe".

UNAUTHORISED RELEASE OF CONFIDENTIAL REPORTS OR INFORMATION may be an offence under the Local Government Act 2009 and other legislation and could result in disqualification from office and a penalty of up to 100 units.

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7 GOLD COAST 2018 COMMONWEALTH GAMES IMPACT

No impact

8 FUNDING AND RESOURCING REQUIREMENTS

Budget/Funding Considerations

No additional budget or resources will be required.

9 RISK MANAGEMENT

Risk No CO000644.

Natural Hazards Resilience – The City is not adequately resilient to natural hazards shocks resulting in loss of life, cessation of Council business, reputational damage and economic downturn.

10 STATUTORY MATTERS

Section 23 of the *Planning Act 2016* provides the statutory basis for making or amending TLPIs.

This TLPI is required to address the State Planning Policy 2017, and in particular the Natural Hazards, Risk and Resilience interest.

11 COUNCIL POLICIES

Not applicable.

12 DELEGATIONS

Not Applicable.

13 COORDINATION & CONSULTATION

Name and/or Title of the Stakeholder Consulted	Directorate or Organisation	Is the Stakeholder Satisfied With Content of Report and Recommendations (Yes/No) (comment as appropriate)
Supervising Engineer Hydraulics & Water Quality	Planning and Environment	Yes
Coordinator City Plan	Planning and Environment	Yes
A/City Solicitor, Legal Services	Office of the Chief Operating Officer	Yes

14 STAKEHOLDER IMPACTS

External / community stakeholder Impacts

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- The intention of this TLPI is to improve community safety through the provision of a viable solution for flood-cognisant development.

Internal (Organisational) Stakeholder Impacts

- This TLPI will assist the development assessment process, in the interim until Major update 2 to be adopted

15 TIMING

Upon Council resolving to adopt the TLPI, the proposed instrument and explanatory document will be forwarded to the Minister for approval. It is recommended that Council adopt the TLPI, with a commencement date of 8 December 2017.

16 CONCLUSION

Council have endorsed a flood policy position 'Minimum flood free land' and have resolved to prepare a TLPI. The TLPI No.5 2017 will amend the City Plan (version 4) Flood overlay code to ensure the abovementioned policy will be in place until City Plan Major update 2 is approved.

The proposed TLPI No.5 2017 is provided in **Attachment A** and it is recommended that Council endorse the adoption of the TLPI and sending it to the Minister for approval **with the material in Attachment B**. It is also recommended that the TLPI No.5 2017 has a commencement date of 8 December 2017.

17 RECOMMENDATION

It is recommended that Council resolves as follows:

- 1 That the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the *Local Government Act 2009*.
- 2 To prepare a Temporary Local Planning Instrument to implement minimum flood free land.
- 3 To endorse the proposed *Temporary Local Planning Instrument No.5 (Flood Free Land and Risk Reduction) 2017*, in the form of Attachment 1.
- 4 That the commencement date of *Temporary Local Planning Instrument No.5 (Flood Free Land and Risk Reduction) 2017* be 8 December 2017.
- 5 That Council writes to the Minister to request approval of the *Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017* and consideration of a 8 December 2017 commencement date.
- 6 That Council provide the *Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017* and relevant supporting material in the form of Attachment B in accordance with Schedule 3 of the Minister's Guidelines and Rules.

- 7 Further to the Minister's response, a report will be brought back to Council seeking adoption of the *Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017*.

Author:
Pradesh Ramiah
Supervising Planner
29 November 2017

Authorised by:
Dyan Currie
Director Planning and Environment

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Temporary Local
Planning Instrument
Explanatory
Statement

**No. 5 (Minimum Land Above
Designated Flood Level and
Residential Risk Reduction) 2017**

CITY OF
GOLD COAST.

Division 1 – Written statement as to why the local government proposes to make the TLPI and how the proposed TLPI complies with section 23(1) of the Planning Act 2016

As required by *Minister's Guidelines and Rules – July 2017, Schedule 3*

1 Description of the proposed TLPI

The proposed temporary local planning instrument is cited as *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017 (proposed TLPI)*.

The proposed TLPI applies to all of the City of Gold Coast planning scheme area.

The proposed TLPI seeks to affect the current Planning Scheme being the City Plan 2016 Version 4.

The proposed TLPI creates new assessment benchmarks that will apply to the assessment of development applications against the Flood overlay code to reduce risk for residential development and require development to have a sufficient area of land above the Designated Flood Level to mitigate the risks and/or hazards associated with flooding.

Under the *Planning Act 2016 (the Act)* section 23(6), a temporary local planning instrument operates for up to two years. It is intended that the proposed TLPI will be repealed by adoption of an amendment of the City Plan that specifically repeals the TLPI, in accordance with section 24.

2 Why the local government has proposed to make the TLPI

The current Flood Overlay Code in the City Plan is unclear in relation to the level of acceptable risk for residential development and does not identify a minimum requirement for flood free land. This has led to the creation of highly engineered development solutions, such as buildings on platforms, in high and extreme flood hazard areas of the city's floodplains.

Information provided to the local government following the major flood events associated with ex-tropical cyclone Debbie in March 2017 revealed issues with the recent emergence of the building on platform approach which provides for floodplain storage within void spaces between the natural ground level and habitable floor levels, namely:

- (1) concerns by residents about their sense of safety in response to deep flood water under their buildings and debris impacting their house and the use of spaces beneath the buildings for storage or ancillary living space; and
- (2) concerns raised by emergency services personnel about the potential for flooding of residential levels and a general misunderstanding about the building on platform design approach.

To prevent compromising the long-term function and resilience of the city's floodplains and to manage community expectations relating to development in a floodplain, the local government has decided to make the proposed TLPI to seek to ensure that:

- (1) Residential development (including development elevated above Designated Flood Level) only occurs in areas that are exposed to flood inundation depths and velocities not exceeding those applicable to medium flood hazard and does not occur in areas that are exposed to a high or extreme flood hazard.
- (2) Lots have a sufficient area of land above the Designated Flood Level to accommodate the intended use and effectively and adequately mitigate the risks and/or hazards associated with flooding.

3 How the proposed TLPI complies with the Act section 23(1)

Section 23(1) of the Act says that a local government may make a TLPI if the local government and Minister decide —

- (a) *there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; and;*



-
- (b) *the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and*
 - (c) *the making of the TLPI would not adversely affect State interests.*

The proposed TLPI is considered to satisfy each of these requirements.

- (a) The city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements. It is essential that the flood absorption capacity of floodplains is maintained. As discussed above in section 2 of this statement, there are significant risks if the local government does not implement a requirement for a sufficient area of land above the Designated Flood Level and does not regulate building on platforms on highly flood affected land, namely:
 - (i) an increase in the extent of the development footprint across the floodplain beyond the natural yield of the land required for flood protection; and
 - (ii) negative impacts on residents' sense of safety and expectations relating to development in a floodplain.
- (b) Given the importance of maintaining the long-term function and resilience of the city's floodplains, it is proposed that this immediate risk be addressed by way of the proposed TLPI as an effective tool that can apply in the interim period while an amendment to the City Plan is finalised.
- (c) The proposed TLPI would not adversely affect State interests as the maintenance of the flood absorption capacity and the management of community expectations relating to development in a floodplain are matters currently regulated by the Flood Overlay Code in the City Plan. The proposed TLPI is consistent with the State interest guideline – Natural hazards, risk and resilience dated April 2016 which contemplates local government including development requirements in planning schemes with respect to development within an area affected by a natural hazard such as flood.

RTI RELEASE



For more information
P 1300 GOLDCOAST (1300 465 326)
W cityofgoldcoast.com.au

CITY OF
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Temporary Local
Planning Instrument

**No. 5 (Minimum Land Above
Designated Flood Level and
Residential Risk Reduction) 2017**

CITY OF
GOLD COAST.

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Part 1 – Preliminary

1 Short title

This temporary local planning instrument may be cited as *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017*.

2 Object

The object of the temporary local planning instrument is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on land in flood affected areas in the planning scheme area by —

- (a) identifying land that is at or above the Designated Flood Level as minimum flood free land;
- (b) affecting the operation of the City Plan by including additional assessment benchmarks in the Flood Overlay Code so that:
 - (A) development for Residential Uses (including development elevated above Designated Flood Level) only occurs in areas that are exposed to flood inundation depths and velocities not exceeding those applicable to medium flood hazard and does not occur in areas that are exposed to a high flood hazard or extreme flood hazard; and
 - (B) lots have a sufficient area of land above the Designated Flood Level to effectively and adequately mitigate the risks and/or hazards associated with flooding.

3 Dictionary

The dictionary in Schedule 1 defines particular words used in this temporary local planning instrument.

4 Interpretation

Where a term used in this temporary local planning instrument is not defined under section 3 (Dictionary), the term shall, unless the context otherwise indicates or requires, have the meaning assigned to it by—

- (a) The *Planning Act 2016*;
- (b) the City Plan, where the term is not defined in the *Planning Act 2016*.

5 Duration of temporary local planning instrument

This temporary local planning instrument will have effect in accordance with section 23(6) of the *Planning Act 2016* for a period not exceeding two years from the commencement of this temporary local planning instrument.

The commencement date of this temporary local planning instrument is 8th December 2017.

Part 3 – Application of the temporary local planning instrument

6 Area to which temporary local planning instrument applies

This temporary local planning instrument applies to all of the planning scheme area.

7 Relationship with City Plan

If the City Plan is inconsistent with this temporary local planning instrument, this temporary local planning instrument—

- (a) prevails to the extent of the inconsistency; and
- (b) has effect in place of the City Plan, but only to the extent of the inconsistency.



8 Application of Temporary Local Planning Instrument

This temporary local planning instrument applies to development applications being assessed against the assessment benchmarks in Part B of the Flood Overlay Code for assessable development pursuant to the City Plan.

Part 4 – Effect on the City Plan

9 Affected provisions of the City Plan

This temporary local planning instrument affects the operation of the Flood Overlay Code in the City Plan by:

- (a) 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."*
- (b) Replacing the assessable development benchmarks PO9 and AO9 in Part B Table 8.2.8-2 Flood overlay code – for assessable development with the following:

Table 8.2.8-2: Flood overlay code – for assessable development

Performance outcomes	Acceptable outcomes
Hazard considerations for development	
<p>PO9</p> <p>Development for land uses listed in Table 8.2.8-4 must be designed and constructed to avoid causing undue exposure to flood hazard.</p> <p>The application of this performance outcome to Residential Uses is subject to the application of performance outcome PO16, which is to prevail.</p>	<p>AO9</p> <p>Development is to be designed and constructed so that the development does not give rise, or cause exposure, to more than the degree of flood hazard specified in Table 8.2.8-4 determined by applying the criteria and standards set out in Table 8.2.8-5.</p> <p>The application of this acceptable outcome to Residential Uses is subject to the application of performance outcome PO16, which is to prevail.</p>

- (c) Inserting the following additional assessable development benchmarks into Part B Table 8.2.8-2 Flood overlay code – for assessable development:

Table 8.2.8-2: Flood overlay code – for assessable development

Performance outcomes	Acceptable outcomes
Hazard considerations for residential development	
<p>PO16</p> <p>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:</p> <ul style="list-style-type: none"> (a) Flood inundation depth exceeding 0.6 metres; and (b) Flood water velocity exceeding 0.8 metres per second. <p>Note: This also applies to development elevated above Designated Flood Level.</p>	<p>AO16</p> <p>No acceptable outcome is provided.</p>

Performance outcomes	Acceptable outcomes
Minimum area above Designated Flood Level	
<p>PO17</p> <p>Development involving reconfiguring 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.</p>	<p>AO17.1</p> <p>Where development associated with reconfiguring a lot is for a Residential Use and involves lot sizes of 500m² or greater, 50% of the area of each lot or 400m² of each lot (whichever is greater) must be at or above the Designated Flood Level.</p> <p>AO17.2</p> <p>Where development associated with reconfiguring a lot, is for a Residential Use and involves lot sizes of less than 500m², 70% of the area of each lot or 300m² of each lot (whichever is greater) must be at or above the Designated Flood Level.</p> <p>AO17.3</p> <p>Where development associated with reconfiguring a lot, is for a Commercial Use or an Industrial Use, 60% of the area of each lot must be at or above the Designated Flood Level.</p>

Schedule 1 – Dictionary (Section 2)

"**Commercial Use**" means the same as commercial use defined in the Planning Regulation 2017

"**Flood Affected Land**" means land any part of which is below the Designated Flood Level.

"**Industrial Use**" means activities listed in Schedule 1 Table SC1.1.2: Defined Activity Group, Column 1 Activity Group Industrial activities, Column 2 Uses

"**Residential Use**" means the use of land for a Dwelling House, Dwelling Unit, Multiple Dwelling or Dual Occupancy.

For more information

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CITY OF

GOLD COAST.

ITEM 9
FLOOD FREE LAND TLPI
PD113/1303(P1)

CITY PLANNING

Refer 11 page attachments

1 BASIS FOR CONFIDENTIALITY

- 1.1 I recommend that this report be considered in Closed Session pursuant to section 275 (1) of the *Local Government Regulation 2012* for the reason that the matter involves
- (h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.
- 1.2 I recommend that the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the *Local Government Act 2009*.

2 EXECUTIVE SUMMARY

This report seeks Council's endorsement of the proposed Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 (TLPI No.5 2017). The proposed TLPI No.5 2017 has been prepared further to a Council resolution G17.1017.013 endorsing a new flood policy to ensure residential development is not exposed to:

- a flood inundation depth greater than 0.6 metres; and
- a flood water velocity greater than 0.8 metres per second.

In addition, the proposed TLPI No.5 2017 will also require Reconfiguring a Lot applications for residential, commercial and industrial uses to provide a sufficient area of land at or above the Designated Flood Level (DFL).

The purpose of the proposed TLPI No.5 2017 is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on flood affected land. As such, the TLPI No.5 2017 will amend the operation of the Flood overlay code provided in City Plan by including new overall outcomes and assessment benchmarks to be applied during development assessment. It is envisaged that the TLPI No.5 2017 will have a life span of 2 years from the following proposed commencement date of 8 December 2017.

Section 9(4) of the *Planning Act 2016* allows Council, with the Minister's agreement, to make the TLPI take effect from the day Council resolved to give the TLPI and the request for an earlier effective day to the Minister for approval.

Council is requested to endorse the proposed TLPI No.5 2017 included in **Attachment A** which will allow Council to write to the Minister seeking its approval. Further to the Minister's approval, Council will be required to adopt the draft TLPI No.5 2017.

3 PURPOSE OF REPORT

The purpose of this report is to:

- (a) seek Council's endorsement of Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 provided in **Attachment A** of this report; and

ITEM 9
FLOOD FREE LAND TLPI
PD113/1303(P1)

CITY PLANNING

Refer 11 page attachments

1 BASIS FOR CONFIDENTIALITY

1.1 I recommend that this report be considered in Closed Session pursuant to section 275 (1) of the *Local Government Regulation 2012* for the reason that the matter involves

- (h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.

1.2 I recommend that the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the *Local Government Act 2009*.

2 EXECUTIVE SUMMARY

This report seeks Council's endorsement of the proposed Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 (TLPI No.5 2017). The proposed TLPI No.5 2017 has been prepared further to a Council resolution G17.1017.013 endorsing a new flood policy to ensure residential development is not exposed to:

- a flood inundation depth greater than 0.6 metres; and
- a flood water velocity greater than 0.8 metres per second.

In addition, the proposed TLPI No.5 2017 will also require Reconfiguring a Lot applications for residential, commercial and industrial uses to provide a sufficient area of land at or above the Designated Flood Level (DFL).

The purpose of the proposed TLPI No.5 2017 is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on flood affected land. As such, the TLPI No.5 2017 will amend the operation of the Flood overlay code provided in City Plan by including new overall outcomes and assessment benchmarks to be applied during development assessment. It is envisaged that the TLPI No.5 2017 will have a life span of 2 years from the following proposed commencement date of 8 December 2017.

Section 9(4) of the *Planning Act 2016* allows Council, with the Minister's agreement, to make the TLPI take effect from the day Council resolved to give the TLPI and the request for an earlier effective day to the Minister for approval.

Council is requested to endorse the proposed TLPI No.5 2017 included in **Attachment A** which will allow Council to write to the Minister seeking its approval. Further to the Minister's approval, Council will be required to adopt the draft TLPI No.5 2017.

3 PURPOSE OF REPORT

The purpose of this report is to:

- (a) seek Council's endorsement of Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 provided in **Attachment A** of this report; and

ITEM 9 (Continued)
FLOOD FREE LAND TLPI
PD113/1303(P1)

- (b) seek permission for Council to write to the Minister:
- a. seeking approval of the Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017 (TLPI No.5 2017);
 - b. providing the TLPI No.5 2017 and relevant supporting material identified in Schedule 3 of the Minister's Guidelines and Rules; and
 - c. seeking approval for the commencement of the TLPI No.5 2017, to be 8 December 2017.

Once the Minister provides a response, a further report will be presented to Council to seek endorsement to adopt the TLPI No.5 2017.

4 PREVIOUS RESOLUTIONS

On the 11 October 2017, Council resolved to (G17.1017.013):

- ...
2. *To endorse the proposed minimum flood free land policy as identified in Attachment 1 to inform updates to the Flood overlay code as part of Major update 2 package.*

...

 5. *To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.*

On the 22 November 2017, City Planning Committee resolved the Design for Flood package to be progressed to State Interest review. This package includes approval of the necessary changes to the proposed wording of the Flood overlay code to make it consistent with TLPI.

5 DISCUSSION

5.1 Background

Council resolved on 11 October 2017 (G17.1017.013) to prepare a Temporary Local Planning Instrument (TLPI) to implement the flood policy position described as 'Minimum flood free land'.

The 'Minimum flood free land' policy aims to ensure that development in flood affected areas of the city are exposed to no more than a medium flood hazard. A medium flood hazard includes, among other elements, development exposed to:

- a flood inundation depth of up to and less than 0.6 metres; and
- a flood water velocity of no more than 0.8 metres per second.

The City Plan Major update 2 amendment package includes updates to the Flood overlay code to implement the 'Minimum flood free land' policy.

REDACTED

5.2 Proposed TLPI

ITEM 9 (Continued)
FLOOD FREE LAND TLPI
PD113/1303(P1)

[REDACTED]

Attachment A contains the proposed *Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017* and supporting Explanatory Statement.

The proposed TLPI will affect the operation of City Plan (version 4) Flood overlay code through:

- a) Inserting additional assessable development criteria PO16 and PO17 to ensure that a Reconfiguring a Lot application provides sufficient land above the designated flood level (DFL) for residential, commercial and industrial uses. In addition, ensuring land is above the DFL reduces flood risks to users of the site by minimising the possibility of a high flood hazard occurring adjacent to the developments building footprint.
- b) Amending PO9/AO9 to remove any inconsistency that may arise in the assessment of residential uses under the proposed PO16; and
- c) Inserting new additional overall outcomes (l), (m) and (n) to the Flood overlay code to ensure:
 - i) Residential development is not of a type or design nor occurs on land that is exposed to high or extreme flood hazards;
 - ii) Avoiding the development of lots on land which does not have a sufficient area of land above the DFL; and
 - iii) Discouraging of the proliferation of multi dwelling development on constructed platforms above flood affected land.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ITEM 9 (Continued)
FLOOD FREE LAND TLPI
PD113/1303(P1)

REDACTED

6 ALIGNMENT TO THE CORPORATE PLAN, CORPORATE STRATEGIES AND OPERATIONAL PLAN

Gold Coast 2022 outcome 3.1, "Our City is Safe".

7 GOLD COAST 2018 COMMONWEALTH GAMES IMPACT

No impact

8 FUNDING AND RESOURCING REQUIREMENTS

Budget/Funding Considerations

No additional budget or resources will be required.

9 RISK MANAGEMENT

Risk No CO000644.

Natural Hazards Resilience – The City is not adequately resilient to natural hazards shocks resulting in loss of life, cessation of Council business, reputational damage and economic downturn.

ITEM 9 (Continued)
FLOOD FREE LAND TLPI
PD113/1303(P1)

10 STATUTORY MATTERS

Section 23 of the *Planning Act 2016* provides the statutory basis for making or amending TLPIs.

This TLPI is required to address the State Planning Policy 2017, and in particular the Natural Hazards, Risk and Resilience interest.

11 COUNCIL POLICIES

Not applicable.

12 DELEGATIONS

Not Applicable.

13 COORDINATION & CONSULTATION

Name and/or Title of the Stakeholder Consulted	Directorate or Organisation	Is the Stakeholder Satisfied With Content of Report and Recommendations (Yes/No) (comment as appropriate)
Supervising Engineer Hydraulics & Water Quality	Planning and Environment	Yes
Coordinator City Plan	Planning and Environment	Yes
A/City Solicitor, Legal Services	Office of the Chief Operating Officer	Yes

14 STAKEHOLDER IMPACTS

External / community stakeholder Impacts

- The intention of this TLPI is to improve community safety through the provision of a viable solution for flood-cognisant development.

REDACTED

15 TIMING

Upon Council resolving to adopt the TLPI, the proposed instrument [REDACTED] will be forwarded to the Minister for approval. It is recommended that Council adopt the TLPI, with a commencement date of 8 December 2017.

16 CONCLUSION

Council have endorsed a flood policy position 'Minimum flood free land' and have resolved to prepare a TLPI. The TLPI No.5 2017 will amend the City Plan (version 4) Flood overlay code to ensure the abovementioned policy will be in place until City Plan Major update 2 is approved.

ITEM 9 (Continued)
FLOOD FREE LAND TLPI
PD113/1303(P1)

The proposed TLPI No.5 2017 is provided in **Attachment A** and it is recommended that Council endorse the adoption of the TLPI and sending it to the Minister for approval. **REDACTED** It is also recommended that the TLPI No.5 2017 has a commencement date of 8 December 2017.

17 RECOMMENDATION

It is recommended that Council resolves as follows:

- 1 That the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the *Local Government Act 2009*.
- 2 To prepare a Temporary Local Planning Instrument to implement minimum flood free land.
- 3 To endorse the proposed *Temporary Local Planning Instrument No.5 (Flood Free Land and Risk Reduction) 2017*, in the form of Attachment 1.
- 4 That the commencement date of *Temporary Local Planning Instrument No.5 (Flood Free Land and Risk Reduction) 2017* be 8 December 2017.
- 5 That Council writes to the Minister to request approval of the *Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017* and consideration of a 8 December 2017 commencement date.
- 6 That Council provide the *Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017* and relevant supporting material in the form of Attachment B in accordance with Schedule 3 of the Minister's Guidelines and Rules.
- 7 Further to the Minister's response, a report will be brought back to Council seeking adoption of the *Temporary Local Planning Instrument No.5 (Flood Free Land and Residential Risk Reduction) 2017*.

Author:
Pradesh Ramiah
Supervising Planner
29 November 2017

Authorised by:
Dyan Currie
Director Planning and Environment

Pages 19 through 50 redacted for the following reasons:

Sch. 3(8)(1) - Breach of confidence

RTI RELEASE - DSDMIP

ITEM 8 **CITY PLANNING**
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

ATTACHMENT 1 – EXAMPLE OF APPLICATION EMPLOYING THE BUILDING ON PLATFORM OUTCOME

1 BASIS FOR CONFIDENTIALITY

- 1.1 It is recommended that this report be considered in Closed Session pursuant to section 275 (1) of the *Local Government Regulation 2012* for the reason that the matter involves
- (h) other business for which a public discussion would be likely to prejudice the interests of the local government or someone else, or enable a person to gain a financial advantage.
- 1.2 It is recommended that the report/attachment be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with sections 171 (3) and 200 (5) of the *Local Government Act 2009*.

2 EXECUTIVE SUMMARY

The city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements. Previously the Guragunbah (Merrimac/Carrara) Flood Plain Structure Plan and Hydraulic Master Plans were developed to provide an integrated approach for the planning and future management of the remaining undeveloped areas of the Merrimac/Carrara floodplain.

The overarching outcome of these two plans, which were implemented in the City's superseded Planning Schemes, was to allow for clusters of development to occur in floodplains through balanced cut and fill, without compromising the function of the floodplain and the safety of residents.

However, the current Flood overlay code under City Plan does not regulate a minimum requirement of flood free land. This has led to the creation of highly engineered development solutions, such as building on platforms, [REDACTED]

To address this policy issue, it is recommended that the minimum requirement for flood free land policy is introduced in the Flood overlay code as part of Major update 2 and through a Temporary Local Planning Instrument. This policy is proposed to be triggered by the lodgment of both Material Change of Use (MCU) and Reconfiguring a Lot (ROL) development applications.

The introduction of the proposed policy will ensure that:

- i. a portion of the land for all development remains at or above the relevant design flood planning level; and
- ii. the potential risks associated with extensive platform development within [REDACTED]

This matter was identified as part of the 'Designing for Flood' item endorsed as part of the scope for the Major 2 update.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

3 PURPOSE OF REPORT

The purpose of this report is to seek Council's endorsement to introduce the "minimum flood free land" policy into the City Plan's Flood overlay code and to prepare a (Temporary Local Planning Instrument) TLPI.

4 PREVIOUS RESOLUTIONS

On 28 March 2017, Council resolved that the introductory paper, "update on natural hazard project" be noted. This report provided Council with an outline of the proposed updates to Council's flood free access policy set out in the Flood overlay code in City Plan (G17.0328.025).

On 30 May 2017, Council resolved to include 'Designing for Flood' updates within the scope for City Plan Major update 2 (G17.0530.018). This item included the investigation of flood free access, minimum requirement of flood free land and other administrative amendments to improve the workability of the code.

5 DISCUSSION

5.1 Background

The city's floodplains are critical to the flood resilience of the city and have been subject to extensive research, most notably the development of the Guragunbah (Merrimac/Carrara) Structure Plan and Hydraulic Master Plan in 1998. The Merrimac Carrara Floodplain Structure Plan produced planning measures for incorporation into the City of Gold Coast's planning instruments. The extent of the Merrimac/Carrara floodplain is illustrated in Figure 1.



Figure 1: Extent of the Merrimac/Carrara floodplain.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

The outcome of these two strategic studies was to allow clusters of development to occur within the Merrimac/Carrara floodplain. This was to be achieved through the use of a balanced cut-and-fill approach to elevate land within the floodplain without adversely impacting on the functionality of the floodplain and the safety of residents.

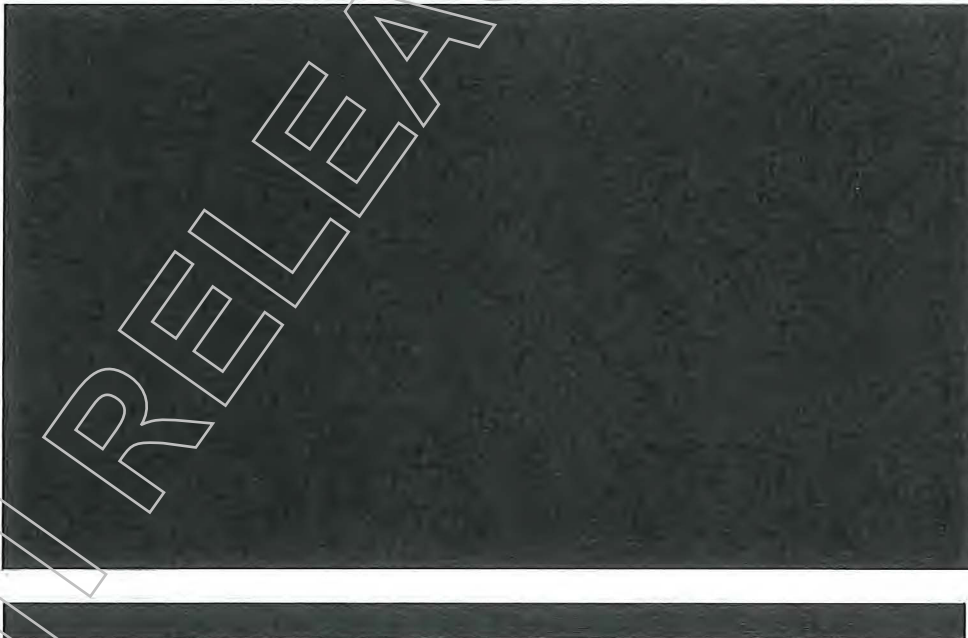
Consequently, the criteria for assessing development in these locations require consideration of cumulative impacts and the use of a balanced cut-and-fill approach. This approach meant that during a major flood event, the elevated portions of land within the floodplain would become islands of development within the floodplain, connected to each other and essential services.

There is a lack of clarity regarding minimum requirements for flood free land in City Plan, and more specifically in the Flood overlay code, which has led to highly engineered development solutions in the floodplain, such as building on platforms [REDACTED]

Such solutions facilitate the expansion of the development footprint across the city's floodplains [REDACTED]

5.2 Key differences in floodplain development approaches

The use of minimum flood free land and building on platform has been employed [REDACTED] Each of these approaches is discussed in detail below.



5.2.1 Type 1 - Minimum flood free land approach

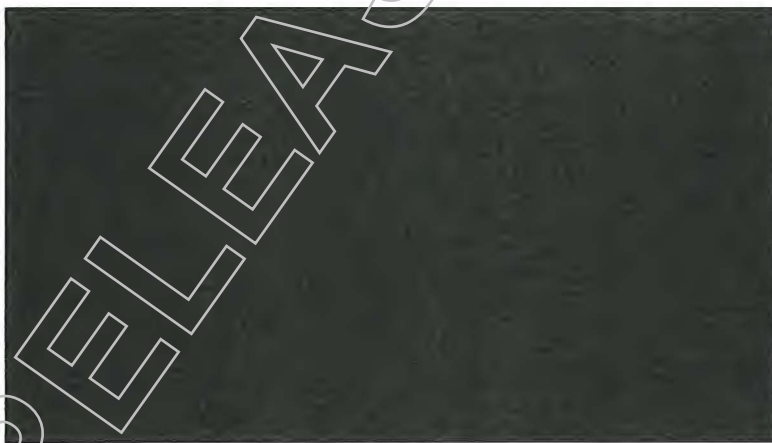
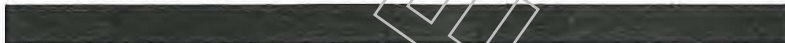
The area shown as Type 1 in Figure 2 is the manifestation of the Guragunbah Hydraulic Master Plan, and as such, development has been designed as a cluster of islands, connected to each other and surrounded by an extensive waterbody, created through a




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MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

balance cut-and-fill approach, to protect the functionality of the floodplain and safety of residents.

An aerial view of the development within the identified Type 1 area is presented in Figure 3. It shows that buildings are on flood free land during defined flood events.



5.2.2 Type 2 - Building on Platform approach

The area shown as Type 2 in Figure 2 represents the building on platform solution which avoids the balance cut-and-fill approach to earthworks. 

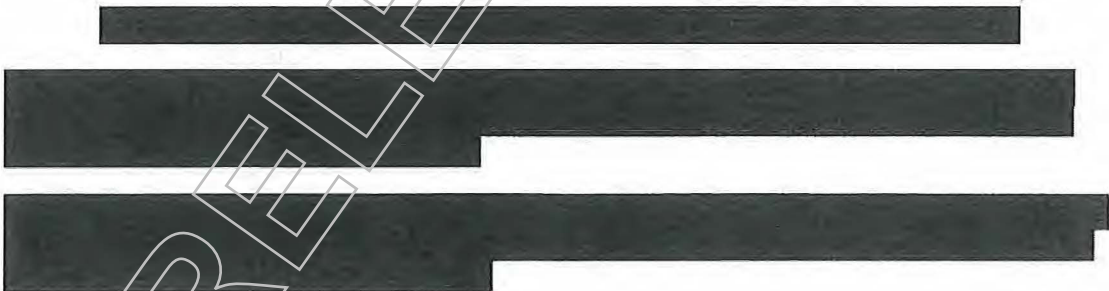
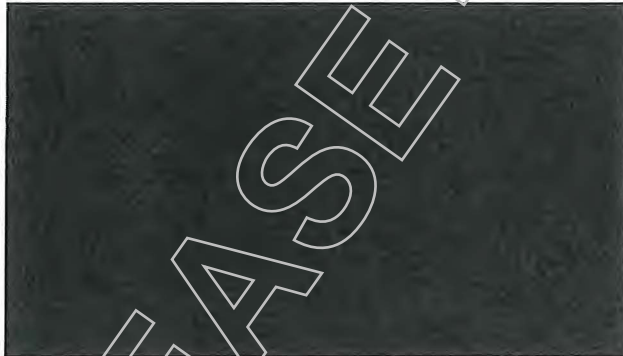
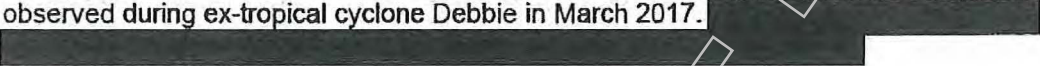


ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)



To avoid the need to balance cut-and-fill, typically these developments create void spaces between the natural ground level and habitable floor levels, which serves as the required floodplain storage.

During major storm events, these void spaces become inundated as the floodplain performs its storage function. The use of the allowable floodplain storage within the void spaces was observed during ex-tropical cyclone Debbie in March 2017.



It is further noted that the development [redacted] has buildings that are only partially on platform. However, Council is now in receipt of a number of applications that indicate a much greater extent of platform development as illustrated in Figure 7 with the location of the proposed development shown in Figure 8 below.



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MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5.4 Minimum flood free land policy drivers

The drivers for this policy include:

- 1) supporting sustainable development within city's floodplains to accommodate projected population growth;

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

- 2) ensuring the flood absorption capacity of floodplains are maintained; and
- 3) managing community expectation relating to development in a floodplain.

In addition and in response to the building on platform approach, the following issues are summarised in Table 1.

Table 1 – Building on platform discussion

Issues	Discussion
Increase in development footprint in flood affected areas	The expansion of the development footprint across the city's floodplains impacts on the absorption capacity of the floodplain; waterways and environment; and the adaptive capacity of floodplains responding to future changes.
Asset renewal	Similar to other assets, platforms have a design life and will need to be renewed over a 50 or 70 year cycle, resulting in substantial costs to the community.
Safety	Building on platform provides habitable floors that are normally only a few meters above ground level with potential of full inundation of land under the building even during minor floods [REDACTED]
Compliance ramifications	The use of building on platform requires that the area under the building will be maintained to function as floodplain storage and/or overland flow path (i.e. cannot be built in). Once built, this critical aspect will be difficult to verify to ensure the development is complying with the conditions of approval.
Potential environmental health impacts	Increased ponding of water and potential environmental health impacts. Based on the Guraganbah master plan vision, ponding of water would occur on the floodplain at a safe distance from buildings and not directly under the residential buildings.
[REDACTED]	[REDACTED]

A key driver for the recent emergence of the building on platform approach is associated with land valuation. As a result, it is becoming more economically feasible to engineer solutions on highly flood affected land.

It is important to note however, that these locations are also zoned limited development. This allows for concentrated development potential, where density outcomes and yield can be attained without extensive expansion into the flood plain (building on platform).

5.5 Proposed policy framework for “minimum flood free land”

Complying with the key intents of the State interest (with respect to natural hazards), it is considered that a policy position on the provision of minimum flood free land for development provides an appropriate solution that addresses the drivers and challenges identified in Section 5.4 of this report, reducing these risks to an acceptable and tolerable level.

In addition, the proposed reinstatement of the policy does not restrict land use intensification, but minimises an increase in the extent of development footprint across the floodplain, beyond the natural yield of land required for flood protection – the primary purpose. The natural yield of a parcel of land is defined as the maximum flood free building footprint, which can be created through balance cut and fill within the boundaries of the property.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
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A TLPI can be in effect for 2 years and may suspend or affect the operation of City Plan but does not amend or repeal. Further, a TLPI is not an adverse planning change (i.e. there is no liability to Council for compensation) and does not create a superseded planning scheme. The Minister has 20 days to approve a local government submission to make a TLPI.

It is recommended that as part of the proposed pathway for implementation: (a) Council amend the Flood overlay code to provide for a minimum of flood free land as part of Major Update 2 and (b) resolve to prepare a TLPI to implement the requirement for a minimum of flood free land as an interim measure.

6 ALIGNMENT TO THE CORPORATE PLAN, CORPORATE STRATEGIES AND OPERATIONAL PLAN

Gold Coast 2020 outcome 3.1, "Our City is Safe".

7 GOLD COAST 2018 COMMONWEALTH GAMES IMPACT

Not Applicable.

8 FUNDING AND RESOURCING REQUIREMENTS

No additional budget or resources will be required.

9 RISK MANAGEMENT

Risk No CO000644.

Natural Hazards Resilience – The City is not adequately resilient to natural hazards shocks resulting in loss of life, cessation of Council business, reputational damage and economic downturn.

10 STATUTORY MATTERS

This proposed update is required to address the State Planning Policy 2017, and in particular the Natural Hazards, Risk and Resilience interest.

Major update 2 commenced under the previous statutory guideline, *Making or amending a local planning instrument* (MALPI) and will continue to progress under this guideline.

11 COUNCIL POLICIES

Not Applicable.

12 DELEGATIONS

Not Applicable.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
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13 COORDINATION & CONSULTATION

Name and/or Title of the Stakeholder Consulted	Directorate or Organisation	Is the Stakeholder Satisfied With Content of Report and Recommendations (Yes/No) (comment as appropriate)
Supervising Engineer Hydraulics & Water Quality	Planning and Environment	Yes
Coordinator City Plan	Planning and Environment	Yes
Executive Coordinator	Legal Services	Yes

14 STAKEHOLDER IMPACTS

External / community stakeholder Impacts

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

Internal (Organisational) Stakeholder Impacts

- This policy will assist the development assessment process.

15 TIMING

This matter will form part of the scope for the Major update 2 package as endorsed by Council on 30 May 2017. It is anticipated this body of work will be brought back to Council with the complete draft package prior to state interest review.

Council may resolve to make a TLPI immediately. Pursuant to this decision a TLPI package can be brought back to Council prior to submission to the Minister for Planning. A Minister has 20 days to either approve or not approve Council's submission.

16 CONCLUSION

The city's floodplains are critical to the flood resilience of the city. The policy and practice of sustainable flood risk management provides for community safety in balance with environmental and development outcomes.

The minimum flood free land policy position provides an acceptable solution to the abovementioned challenge of sustainable development within the city's floodplains.

The recommended policy framework is proposed to be implemented in the Flood overlay code as part of Major update 2. It is anticipated this body of work will be brought back to Council with the complete drafted package prior to state interest review.

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

In response to the long-term amendment process via *Making or amending a local planning instrument* (MALPI) and the potential loss of city's flood resilience associated with building on platforms in high to extreme hazards areas, an interim TLPI approach is recommended.

17 RECOMMENDATION

It is recommended that Council resolves as follows:

- 1 That the report be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with section 171 (3) and 200 (5) of the *Local Government Act 2009*.**
- 2 To endorse the proposed minimum flood free land policy as identified in Attachment 1 to inform updates to the Flood overlay code as part of Major update 2 package.**
- 3 That the Mayoral Technical Advisory Committee be consulted on the proposed content prior to progressing to State interest review.**
- 4 Following review by the Mayoral Technical Advisory Committee, the Chief Executive Officer be authorised to make any administrative and consequential amendments prior to progressing to State interest review.**
- 5. To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.**

Author:
Hamid Mirfenderesk
Coordinator Natural Hazards Team

Authorised by:
Dyan Currie
Director Planning and Environment

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

Changed recommendation

COMMITTEE RECOMMENDATION **CP17.1011.008**
moved Cr Caldwell seconded Cr Gates

- 1 That the report be deemed non-confidential except for those parts deemed by the Chief Executive Officer to remain confidential in accordance with section 171 (3) and 200 (5) of the *Local Government Act 2009*.
- 2 To endorse the proposed minimum flood free land policy as identified to inform updates to the Flood overlay code as part of Major update 2 package.
- 3 To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.

CARRIED

RTI RELEASE - DSD/MIP

ITEM 8 (Continued)
MAJOR UPDATE 2 – DESIGNING FOR FLOOD - MINIMUM FLOOD FREE LAND POLICY
PD113/1303(P1)

Attachment 1 - REDACTED

RTI RELEASE - DSDMIP

Date: 7 February 2018
Contact: Pradesh Ramiah
Location: City Planning
Telephone: [REDACTED]
Your reference: MC18/175
Our reference: PD 113/1303 (P1) 68062478

Mr Adam Norris
Acting Manager, Planning and Development
Services (SEQ South)
PO Box 3290
Australia Fair Qld 4215

Dear Mr Norris

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

Notice of request for further information and to pause a timeframe

Thank you for your letter of 15 January 2018 responding to the Council's letter of 4 January 2018 submitting the proposed Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction) 2017 (**proposed TLPI**) to the Minister for State Development, Manufacturing, Infrastructure and Planning (**Minister**) for consideration under the Minister's Guidelines and Rules 2017 (**MGR**) and sections 23(1)(a) and (b) of the *Planning Act 2016 (Planning Act)*.

Prior to receiving your letter, the Council was in receipt of requests for Statements of Reasons (**SOR**) under the *Judicial Review Act 1991 (JRA)* relating to the Council's decisions pertaining to the proposed TLPI. Based on the correspondence which the Council has received, it is possible that proceedings under the JRA will be commenced against the Council and the Minister. The Council is mindful of:

- the mandatory considerations that are relevant to its decisions and those of the Minister concerning the TLPI;
- that only material that was considered by the Council in making its decision is relevant to the SOR; and
- the Council and the Minister have both received submissions in relation to proposed amendments to the Planning Scheme relating to flood levels and also with respect to the TLPI.

Having regard to the above matters, the Council responds to your request for further information by enclosing a copy of the SOR provided to Thomson Geer, who act on behalf of [REDACTED] and Palmer Leisure Australia Pty Ltd and Walker Robina Pty Ltd. The Council believes that the SOR adequately addresses the questions raised in your letter and requests that the SOR be treated as the Council's response to the letter.

Having regard to the potential for proceedings under the JRA, it should be noted that it is the Council's position that any submissions the Council has received do not amount to mandatory relevant considerations for the purposes of section 23 of the Planning Act. Copies of the submissions received by the Council are however **enclosed** for the Minister's information, in the interests of transparency. It suffices to say, for present purposes, that the Council does not agree with either the substance or conclusions in the submissions it has received, nor with respect to the substance or conclusions of the submission the Minister has recently received from the development industry, which was copied to the Council.

Copies of the report and presentation referred to in the SOR are also **enclosed** for the Minister's reference.

Please note that the interactive flood mapping that formed part of the Major Update 1 public exhibition will be made available on the Council website shortly. It is hoped this tool will better assist community members in addressing the impacts of this TLPI.

Lastly the Council wishes to address a matter which has come to its attention through communications with officers of the Department in relation to interpretation of the term "public meeting" for the purposes of footnote 9 to section 7.1 of the MGR.

The Council considered the recommendations of the Planning Committee in closed session but moved to open session for the purposes of adopting the recommendations, including the recommendation that there be a request to the Minister for an earlier effective day for the TLPI. A copy of the minutes to the meeting to that effect is **enclosed**.

Section 9(4) of the Planning Act requires any resolution to be made at a public meeting where there is a request for an earlier effective day for approval by the Minister. The term "public meeting" is not defined. The Council interprets it to mean a meeting that is open to the public. It is clear that at the point at which the resolution was made for the purposes of section 9(4) of the Planning Act, and section 7.1 of the MGR, the meeting was open to the public. In fact, as can be seen from section 275(3) of the *Local Government Regulation 2012*, the resolution could not have been made other than at a public meeting, which is exactly what happened. If it is the Department's view that the whole of the meeting at which the TLPI was considered was required to be open to the public, then the Council strongly disagrees with that view, because if correct, it would make the conduct of the Council's business at meetings unworkable.

It is noted that under section 275(1) of the *Local Government Regulation 2012*, specific provision is made for closing meetings to discuss any action to be taken by the local government under the Planning Act including applications made to it under that Act, or any other business for which a public discussion would be likely to prejudice the interests of the local government or someone else or enable a person to gain a financial advantage. The meeting was closed for the discussion but open for the making of the resolution which is consistent with section 275 of the Regulations and the requirements of the Planning Act and MGR.

The Council requests the Minister's urgent response.

Contacting us

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Mr Pradesh Ramiah telephone [REDACTED]

Yours faithfully

Sch. 4(4)(b) - Disclosing
[REDACTED]

Kelli Adair

A/Manager City Planning

For the Chief Executive Officer

Council of the City of Gold Coast

Enc.:4

1. Statement of Reasons provided under the *Judicial Review Act 1991*
2. Copies of the submissions received by Council
3. Agenda item and minutes from the City Planning Committee meeting held on 11 October 2017
4. The agenda item and minutes from the City Planning Committee meeting held on 5 December 2017

Date: 18 January 2018
Contact: Amanda Tzannes
Location: City Planning
Telephone: [REDACTED]
Your reference: MFM:4016663
Our reference: PD113/1303

Mr Michael Marshall
Partner
Thomson Geer
GPO Box 169
BRISBANE QLD 4001

Dear Mr Marshall

Request for Statement of Reasons – Temporary Local Planning Instrument No. 5 (Minimum Land Above Designated Flood Level and Residential Risk Reduction 2017)

Reference is made to your correspondence dated 20 December 2017, requesting a written Statement of Reasons for the decision in accordance with Section 32 and 34 of the *Judicial Review Act 1991*.

The Statement of Reasons for the decision to seek the Minister's approval for the abovementioned Temporary Local Planning Instrument is outlined in the attached document.

Contacting us

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Amanda Tzannes telephone [REDACTED]

Yours faithfully

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

Amanda Tzannes
Manager City Planning
For the Chief Executive Officer
Council of the City of Gold Coast

ML

Enc.: 1

STATEMENT OF REASONS

This statement of reasons of the Council of the City of Gold Coast (the "Council"), is provided under section 33 of the *Judicial Review Act 1991 (Qld)* in relation to a decision of Council with respect to Temporary Local Planning Instrument No. 5

Decisions

1. On 17 October 2017, the Council unanimously resolved at Council Meeting Number 737 (Resolution G17.1208.016) (the "**October Decision**") to adopt in full, amongst other things, the following recommendation in the Report of the Council's City Planning Committee dated 11 October 2017 (the "**October Report**"):

To prepare a Temporary Local Planning Instrument to implement minimum flood free land and return a TLPI package for endorsement before making a submission to the Minister for Planning.

2. On 8 December 2017, the Council unanimously resolved at Council Meeting Number 748 (Resolution G17.1208.016) (the "**December Decision**") to adopt in full, amongst other things, the following recommendations in the Report of the Council's City Planning Committee dated 5 December 2017 (the "**December Report**"):
 - (a) to prepare a Temporary Local Planning Instrument to implement minimum flood free land;
 - (b) to endorse the proposed Temporary Local Planning Instrument No.5 (Flood Free Land and Risk Reduction) 2017 (**TLPI-5**) in the form of attached to the December Report;
 - (c) that the commencement date of TLPI-5 be 8 December 2017;
 - (d) that the Council write to the Minister to request approval of TLPI-5 and consideration of a 8 December 2017 commencement date;
 - (e) that the Council provide TLPI-5 and relevant supporting material in the form attached to the December Report in accordance with Schedule 3 of the Minister's Guidelines and Rules under the *Planning Act 2016*.
3. The Decision-Makers for the October Decision and the December Decision were the councillors of the full Council in attendance at the Council meetings on 17 October 2017 and 8 December 2017.

Material before the Council in making the Decisions

4. The material before the full Council in making the October Decision was:
 - (a) the October Report, including its attachments; and
 - (b) a presentation to the City Planning Committee of 11 October 2017 with respect to the need for a Temporary Local Planning Instrument (the "**October Presentation**").
5. The material before the full Council in making the December Decision was:
 - (a) the same material in making the October Decision as outlined in the preceding paragraph; and
 - (b) the December Report, including its attachments.

TLPI-5

6. Section 2 of TLPI-5 provides its objective as follows:

"The object of the temporary local planning instrument is to prevent the potential loss of the city's flood resilience and enable the sustainable mitigation of flood hazard on land in flood affected areas in the planning scheme area by —

- (a) identifying land that is at or above the Designated Flood Level as minimum flood free land;
- (b) affecting the operation of the City Plan by including additional assessment benchmarks in the Flood Overlay Code so that:
 - (A) development for Residential Uses (including development elevated above Designated Flood Level) only occurs in areas that are exposed to flood inundation depths and velocities not exceeding those applicable to medium flood hazard and does not occur in areas that are exposed to a high flood hazard or extreme flood hazard; and
 - (B) lots have a sufficient area of land above the Designated Flood Level to effectively and adequately mitigate the risks and/or hazards associated with flooding."

Reasons for the Decisions

- 7. The Council's reasons for the Decision are outlined below.
- 8. The Council in making the October Decision adopted the facts and matters, and reasoning, as outlined in the October Report (including its attachments) and the October Presentation.
- 9. The Council in making the December Decision adopted the facts and matters, and reasoning, as outlined in the October Report (including its attachments), the October Presentation, and the December Report (including its attachments).
- 10. The management of flood hazards and risks is important to the Council and the Gold Coast community because vast areas of the city are located on floodplains. The city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements.
- 11. In response to the importance of the city's floodplains, in 1998, the Guragunbah (Merrimac/Carrara) Flood Plain Structure Plan and Hydraulic Master Plan (collectively "the Plans") were developed to provide an integrated approach for the planning and future management of the remaining undeveloped areas of the Merrimac/Carrara floodplain, the largest floodplain in the Gold Coast area. The overarching outcome of the Plans was to allow for clusters of development to occur in floodplains through balanced cut and fill, without compromising the function of the floodplain and the safety of residents.
- 12. The Plans were implemented in the City's superseded Planning Schemes. Consequently, the criteria for assessing development in the impacted areas require consideration of cumulative impacts and the use of a balanced cut and fill approach. The balanced cut and fill approach has the result that during a major flood event, the elevated portions of land within the floodplain would become islands of development within the floodplain, connected to each other and essential services.
- 13. However, this approach for the development of the City's floodplains is being compromised, because the current Flood Overlay Code under City Plan does not

regulate a minimum requirement of flood free land. This has led to the creation of highly engineered development proposals such as building on platforms, being located in the high and extreme flood hazard areas of the city's floodplains.

14. The highly engineered development proposals facilitate the unsustainable expansion of the development footprint within high and extreme hazard areas of the city's floodplains; thereby exposing residents to flood hazards and potentially compromising the long-term management, maintenance and safety of the city's floodplains.
15. The Council in making the October Decision and the December Decision considered, and adopted in its reasoning, the differences in the approaches to floodplain development as outlined at Section 5.2 of the October Report.
16. Emergency personnel provided information and feedback to the Council following the major flood events associated with ex-tropical cyclone Debbie in March 2017. This information and feedback revealed the following issues with the recent building on platform approach which provides for floodplain storage within void spaces between the natural ground level and habitable floor levels, namely:
 - (a) concerns by residents about their sense of safety in response to deep flood water under their buildings and debris impacting their house and the use of spaces beneath the buildings for storage or ancillary living space; and
 - (b) concerns raised by emergency services personnel about the potential for flooding of residential levels and a general misunderstanding about the building on platform design approach.

Issues and facts in relation to ex-tropical cyclone Debbie in March 2017 are outlined in the October 2017 Report (pages 6 and 8) and in the October Presentation.

17. The issues and matters considered and decided by the Council in relation to the building on platform approach included the following:

Table 1 - Building on platform discussion (Extract from October 2017 Report)

Issues	Discussion
Increase in development footprint in flood affected areas	The expansion of the development footprint across the city's floodplains impacts on the absorption capacity of the floodplain; waterways and environment; and the adaptive capacity of floodplains responding to future changes
Asset renewal	Similar to other assets, platforms have a design life and will need to be renewed over a 50 or 70 year cycle, resulting in substantial costs to the community.
Safety	Building on platform provides habitable floors that are normally only a few metres above ground level with potential of full inundation of land under the building even during minor floods. Experience from the most recent flood event (ex-cyclone Debbie in March 2017) highlighted the impact on the residents' sense of safety in response to deep flood water under their buildings and debris impacting their house.
Compliance ramifications	The use of building on platform requires that the area under the building will be maintained to function as floodplain storage and/or overland flow path (i.e. cannot be built in). Once built, this critical aspect will be difficult to verify to ensure the development is complying with the conditions of approval.
Potential environmental health impacts	Increased ponding of water and potential environmental health impacts. Based on the Guraganbah master plan vision, ponding of water would occur on the floodplain at a safe distance from buildings and not directly under the residential buildings.
Negative	Following ex-tropical cyclone Debbie, emergency personnel

<p>perceptions on the City's flood resilience image</p>	<p>conveyed their concerns in regards to the designed inundation of new developments on the north east section of Emerald Lake (Figure 5 and Figure 6). Their concern related to not only residents fear of being flooded but their lack of understanding that the development had been designed to be inundated during an event.</p>
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18. As at the date of the October Decision and the December Decision, there were two approved and two undecided development applications employing the building on platform outcome, with the potential to place buildings on platforms on land the subject to high and extreme flood hazard areas of the city's floodplains. These applications are identified at Section 5.3 of the October Report and in the attachment to that report.
19. The Council considered the State interest with respect to natural hazards, risks and resilience. This is expressed in the State Planning Policy of July 2017 as follows:

"(4) Development in....flood..... natural hazard areas:

- (a) avoids the natural hazard area; or*
- (b) where it is not possible to avoid the natural hazard area, development mitigates the risks to people and property to an acceptable or tolerable level.*

(5) Development in natural hazard areas:

...

- (b) directly, indirectly and cumulatively avoids an increase in the exposure or severity of the natural hazard and the potential for damage on the site or to other properties;*

...

- (d) maintains or enhances the protective function of landforms and vegetation that can mitigate risk associated with the natural hazard."*

20. The Council considered and decided that the emerging development response of the building on platform approach increases the risk of damage and injury to persons and property during flood events, compromises the creation of a flood resilient city, and compromises the long-term function and resilience of the city's floodplain.
21. In order to prevent compromising the long-term function and resilience of the city's floodplains and to manage community expectations relating to development in a floodplain, the Council decided to make TLPI-5 in order to ensure that:
 - (a) residential development (including development elevated above the Designated Flood Level) only occurs in areas that are exposed to flood inundation depths and velocities not exceeding those applicable to medium flood hazard and does not occur in areas that are exposed to a high or extreme flood hazard;
 - (b) lots have a sufficient area of land above the Designated Flood Level to accommodate the intended use and effectively and adequately mitigate the risks and/or hazards associated with flooding.
22. Section 23(1) of the *Planning Act 2016* states:

"A local government may make a TLPI if the local government and Minister decide —

- (a) *there is significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area; and*
- (b) *the delay involved in using the process in sections 18 to 22 to make or amend another local planning instrument would increase the risk; and*
- (c) *the making of the TLPI would not adversely affect State interests.”*
23. The Council decided that each of the matters stated in section 23(1) of the *Planning Act 2016* is satisfied.
24. With respect to section 23(1)(a) of the *Planning Act 2016*, the Council decided that there is a significant risk of serious adverse cultural, economic, environmental or social conditions happening in the local government area because:
- (a) the Council considered that the city's floodplains are critical in providing for significant flood storage, environmental values and open space requirements;
- (b) the Council considered that it is essential that the flood absorption capacity of floodplains be maintained;
- (c) as outlined above, the Council considered that the highly engineered development approach of building on platforms facilitates the unsustainable expansion of the development footprint within high and extreme hazard areas of the city's floodplains, thereby exposing residents to increased flood hazards and potentially compromising the long-term management, maintenance and safety of the city's floodplains;
- (d) there are negative impacts on residents' sense of safety and expectations relating to development in a floodplain by reason of the building on platform approach.
25. With respect to section 23(1)(b) of the *Planning Act 2016*, the Council decided that the delay involved in using the process in sections 18 to 22 of the *Planning Act 2016* to make or amend another local planning instrument would increase the risks identified in response to section 23(1)(a) because:
- (a) during the period of the delay, residential development would potentially be approved and / or take place in high and extreme flood hazard areas of the city's floodplains without implementation of TLPI-5, noting the matters identified at paragraph 17 above;
- (b) during the period of delay, if residential development took place utilising the building on platform approach in flood affected areas, and a flood or inundation event occurred, then there would be a higher number of residents and property exposed to flood hazards and risk of injury or damage in contrast to a situation where such further development did not occur;
- (c) without TLPI-5, during the period of delay, the Council would be unable to effectively manage the increased risks;
- (d) given the importance of maintaining the long-term function and resilience of the city's floodplains, the Council decided that the immediate risks be addressed by way of TLPI-5 as an effective tool that can apply in the interim period while an amendment to the City Plan is progressed and finalised using the statutory process.
26. With respect to section 23(1)(c) of the *Planning Act 2016*, the Council decided that the making of TLPI-5 would not adversely affect State interests because:

- (a) the maintenance of the flood absorption capacity and the management of community expectations relating to development in a floodplain are matters currently regulated by the Flood Overlay Code in the City Plan 2016;
 - (b) TLPI-5 is consistent with the State interest guideline – Natural hazards, risk and resilience dated April 2016 – which contemplates local governments including development requirements in planning schemes with respect to development within an area affected by a natural hazard such as floods.
27. The Council resolved to seek an earlier effective date for TLPI-5 (namely, 8 December 2017):
- (a) in order to reduce the risks identified in considering section 23(1)(a) of the *Planning Act 2016*;
 - (b) because the Council considered an earlier effective date would allow it to better provide advice to applicants as to how TLPI-5 is to be addressed in development applications.
28. For the reasons outlined above, and in the October Report and the December Report, the Council made the Decisions.

Sch. 4(4)(b) – Disclosing personal information



Dale Dickson
Chief Executive Officer
Council of the City of Gold Coast
Dated 18 January 2018