

Council Reference: GT1/52  
Your Reference: MP06\_0316 Mod 11



4 July 2018

Customer Service | 1300 292 872 | (02) 6670 2400

Modification Assessments – Planning Services  
Department of Planning & Environment  
GPO Box 39  
**SYDNEY NSW 2001**

tsc@tweed.nsw.gov.au  
www.tweed.nsw.gov.au



PO Box 816  
Murwillumbah NSW2484

Please address all communications  
to the General Manager

ABN: 90 178 732 496

**Attention: Emma Butcher**

Dear Sir / Madam

**Proposed modification of the Cobaki Concept Approval (MP06\_0316 Mod 11)  
with regard to Condition C1 – Plans of Development**

I refer to your email dated 18 June 2018 inviting Council to provide comment on the proposal. Upon review of the documentation associated with Mod 11, please find below Council's comments:

Proposal

Mod 11 relates to Concept Plan Approval Condition C1 which currently reads:

***C1 Plan of Development***

*A Plan of Development must be submitted with each future application for subdivision on the Cobaki Estate site. The Plan of Development must, at a minimum, include the following information:*

- (1) Location and width of Asset Protection Zones.*
- (2) A notation on fire affected lots that development is subject to the requirements of 'Planning for Bushfire Protection 2006' and AS3959-2009 Construction of Buildings in Bushfire Prone Areas.*
- (3) Type of development permissible on each lot, eg: zero lot housing, plex housing, etc.*
- (4) Finished floor levels requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's Development Control Plan - Section A3 - Flood Liable Land (or any replacement document).*
- (5) All other matters specified for Subdivision in the Cobaki Development Code.*

The proponent seeks to have this condition removed and replaced with the following condition:

***C1 Plan of Development***

*A Plan of Development must be submitted with each future application for subdivision on the Cobaki Estate site. The level of detailed information illustrated in the Plan of Development is expanded upon through the development process from Development Application to the Subdivision Certificate such that, all controls provisions of the Cobaki*

Development Code Section 5.6 are addressed / notated by the Subdivision Certificate stage.

1. The Plan of Development associated with a **Development Application** must, at a minimum, include the following information:
  - a. A notation on fire affected lots that development is subject to the requirements of 'Planning for Bushfire Protection 2006' and AS3959-2009 Construction of Buildings in Bushfire Prone Areas, including the location and width of Asset Protection Zones.
  - b. Proposed development on each lot, specifically;
    - i. For areas nominated residential on the approved Concept Plan, the type of residential accommodation and the number of dwellings and bedrooms associated with each; or
    - ii. Other permissible use; and
    - iii. For areas nominated Town Centre/ Neighbourhood Centre on the approved Concept Plan the;
      1. type of residential accommodation and the number of dwellings and bedrooms associated with each; and/or
      2. type of tourist and visitor accommodation and the number of dwellings and bedrooms associated with each; and /or
      3. business premises; and/or
      4. commercial premises; and/or
      5. health services facility; and/or
      6. community facility; and/or
      7. a mixed use building.
  - c. Finished Floor Level requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's Development Control Plan – Section A3 – Flood Liable Land (or any replacement document).
  - d. Acoustic fencing location and specification (if applicable)
  - e. Setback controls (tabular format)
  - f. Driveway location
  - g. Private Open Space location; and
  - h. Maximum building height.
  
2. The Plan of Development to be submitted with each **Subdivision Certificate application** must, at a minimum, include the following information:
  - a. Location and width of Asset Protection Zones; and
  - b. Level of construction required for dwellings/buildings adjacent to Asset Protection Zones in accordance with Planning for Bushfire Protection 2006 and Australian Standard 3959 – 1999 – Construction of Building in Bushfire Prone Areas; and
  - c. Type of development permissible or intended for each lot, for example, dwelling house seniors housing attached dwelling; and

- d. *Finished Floor Levels requirements on flood prone lots in accordance with the requirements of Tweed Shire Council's Development Control Plan – Section A3 – Flood Liable Land (or any replacement document); and*
- e. *The type of development nominated on each lot which may be undertaken as Complying development; and*
- f. *The location of development lots and the maximum number of dwellings and bedrooms intended in the future development of the development lot; and*
- g. *Setbacks for all buildings and structures, including garages; and*
- h. *Zero lot line locations if relevant; and*
- i. *The location of nominated vehicular street access and driveway locations for all dwellings; and*
- j. *The location of private open space for each lot; and*
- k. *The type of fencing to be provided to roads and other public land frontages; and*
- l. *The lots on which 3 or >3 storey building height is permissible and*
- m. *The location of public open space; and*
- n. *The location of specific landscaping to meet the design guidelines for each precinct; and*
- o. *Gateways or entry statements; and*
- p. *A reference to the Design Guidelines which apply to the precinct; and*
- q. *All necessary easements.*

The proponent also seeks to have Section 5.6 of the Cobaki Estate Development Code (Code) amended to reflect the same wording as that proposed above.

### Background

Council officers have been liaising with the proponent for some time prior to the lodgement of this Mod. It is recognised that the current version of Condition C1 is quite onerous upon the proponent in terms of design detail to be provided on the Plans of Development (POD's) at the initial development application stage.

Discussions with the proponent highlighted the minimum standards that Council would want to see on the "draft" POD's to allow Council to be satisfied that the subdivision was acceptable at DA stage and to apply applicable conditions of consent to an approval. The draft POD's would include all of the allotments associated with the subdivision at the DA stage.

It was recognised that detailed design changes were time consuming for the proponent and it would be better suited to separate the Condition C1 requirements such that the design detail is applied to the "final" subdivision certificate stage of the development, noting that subdivision certificate applications would be broken down into smaller stages of the development, as opposed to the entire subdivision being released at once. The final version of the POD's would be assessed by Council against the provisions of Condition C1(2) of the Concept Approval prior to a Subdivision Certificate being issued for the relevant stage of the development.

The POD's, as required by Condition C1, are in addition to Council's normal assessment of subdivision applications against all relevant planning controls.

### Mod 11 Summary

Council officers have reviewed the proposed modification of Condition C1 of the Concept Plan and Section 5.6 of the Code with **no objections**.

It is considered that the current POD provisions in the code are satisfactorily incorporated into the proposed new Condition C1, with the level of detail appropriate for each stage of the development process.

It is noted that the proposed amendments will hopefully result in a reduced preparation and assessment time for future subdivision development applications, with design detail being undertaken at the construction certificate stage (as required) and the final version of the POD's being required at the relevant subdivision certificate stage of the development.

For further information regarding this matter please contact Colleen Forbes on (02) 6670 2596.

Yours faithfully

**Lindsay McGavin**  
**MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE**