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Council Reference: D24/236980 Contact Person: Justin Lamerton

6 June 2024

Industry Assessments Department of Planning, Housing, and Infrastructure Locked Bag 5022 Parramatta NSW 2124

Attention: Michael Doyle

Mundamia Mod 3 – SSD- 7169 Shoalhaven City Council Response to Request for Comments

I refer to the Department of Planning, Housing, and Infrastructure's request for comment in relation to Mundamia Mod 3 over property at Jonsson Rd, Mundamia (Lot 30 DP 1198692).

Shoalhaven City Council (SCC) is grateful for the opportunity to provide input into the proposal and provides the attached comments which can be viewed at Attachment 1 to this Letter.

Council provides this response within its regulatory capacity and is in response to the lodged documents.

If you need further information about this matter, please contact me on 4429 3111.

Yours faithfully

Justin Lamerton City Development Shoalhaven City Council

# **Development Engineering Comments / Requirements:**

Applicant must demonstrate how they are delineating the boundaries of the APZ areas - such as a concrete edge beam. Council are not willing to accept bollards as a means of delineation due to ongoing maintenance concerns.

It is requested that the Staging Plan be updated to include commissioning / de-commissioning timing of any proposed temporary sediment basins.

Condition A1.6 & Condition C3(d) – Council acknowledges that the operational consent has been issued, however are not satisfied that these conditions have been appropriately addressed. Notably, a Planning Agreement has not been entered into and therefore we do not presently support the deletion of these conditions.

As detailed by the applicant, Council requires further detail on the basin outlets which the applicant has indicated in their written response they would supply amended plans.

The Engineering Plans differ from the revised Stormwater Management Assessment in regards to the proposed OSD. They need to be corrected to ensure that they provide a consistent approach. The DRAINS model has modelled 100% of retention RWT volume for detention, not 50%. So the current strategy is likely not be able to achieve the OSD outcomes as reported and requires amendment. Also, one of the bigger catchments had modelled double OSD volume (1430m<sup>2</sup> in comparison with 715m<sup>2</sup>) between 1-2m depth.

Please ensure that the modified road layout is able to achieve consistency with Rural Fire Service General Terms of Approval and other conditions as it relates to required road widths to achieve compliance with the Planning for Bush Fire Protection.

Any areas adjoining public land are required to be constructed with upright kerb and gutter.

Council will provide recommended conditions upon receipt of satisfactory submission of information as requested above.

## Floodplain Management Comments / Requirements:

#### WSUD

The proposed stormwater treatment strategy comprises three end-of-line constructed wetlands, three CDS-type GPTs as pre-treatment, two infiltration trenches, and rainwater tanks on residential lots for stormwater reuse. The applicant has undertaken an iterative design review process in collaboration with Council to ensure stormwater quality outcomes are achieved by the development, as required by the consent condition. The Revised Stormwater Management Plan details what practical stormwater outcomes can be facilitated onsite when considering existing site constraints, long-term performance of the devices, work health and safety legislation requirements, and reasonable maintenance burden placed on Council. It is noted that the proposed strategy is not able to achieve the pollutant reduction targets as per DCP Chapter NB1 in terms of Total Suspended Solids (TSS) and Total Nitrogen (TN). It does, however, achieve Council's DCP Chapter G2 requirements for TSS reduction. Council accepts the pollutant reduction achieved, as demonstrated by the Revised Stormwater Management Plan prepared by Martens (February 2024), when considering the long-term stormwater quality performance potential demonstrated by the revised design and existing site constraints.

A critical milestone to ensure the long-term success of stormwater treatment devices is the construction phase. To guarantee the revised design is adequately captured during construction, Council proposes additional conditions to be imposed on the consent. These conditions are standard conditions Council would apply to development applications of this nature to ensure future public assets are able to perform to meet community expectations.

Condition Title	Condition Text	Reasons
WSUD Measures – Water Quality, Retention and Reuse	Before issue of a Subdivision Works Certificate, a detailed design of permanent water quality, retention and reuse devices must be certified by a professional engineer, (as defined in the National Construction Code) who can demonstrate the appropriateness of the proposed design for the site in accordance with Council's Engineering Design and Construction Specifications is to be approved by Council. Specifications can be found on Council's website.	To ensure stormwater infrastructure is designed appropriately.
	<ul> <li>must comply with the following:</li> <li>a) The proposed WSUD strategy must comprise three end-of-line constructed wetlands, three CDS-type GPTs (or approved equivalent by Council), two infiltration trenches, and rainwater tanks on residential lots.</li> <li>b) Rainwater tanks in accordance with BASIX requirements. All rainwater tanks must have a 10kL volume and a minimum of 80% of roof areas contributing to the rainwater tanks.</li> <li>c) No stormwater infrastructure is permitted in land zoned as Environmental Conservation without Council approval.</li> <li>d) The WSUD strategy must be able to achieve stormwater pollutant reduction targets as outlined in Revised Stormwater Management Assessment (Martens, February 2024) and demonstrated using MUSIC software. The detailed MUSIC model must be provided to Council for approval.</li> <li>e) The 50% AEP pre-development peak discharge must be maintained.</li> <li>f) The post-development duration of stream forming flows must be no greater than a stream erosion index of 2.</li> </ul>	
WSUD Measures –	Before issue of a Subdivision Works Certificate, a detailed design of constructed wetland stormwater quality improvement devices must be certified by a	To ensure stormwater infrastructure

The constructed wetland design must comply with the following:	
<ul> <li>a) The constructed wetland must be located in a treatment train configuration immediately downstream of a GPT that is offline from the stormwater network to allow flows exceeding a 4 Exceedances per Year (EY) event to bypass the GPT.</li> <li>b) For proprietary treatment devices, documentation from the supplier providing evidence that the proposed device has been appropriately sized for the contributing catchment must be submitted. Documentation from the supplier confirming the recommended MUSIC pollutant reduction targets must also be provided. The proprietary treatment device must as a minimum have a storage capacity to store 12-month of litter/sediment from the contributing catchment. The invert level of all proprietary treatment devices must be constructed at or above the Extended Detention Depth (EDD) of the downstream constructed wetland.</li> <li>c) The constructed wetland must be designed in accordance with the latest version of the Melbourne Water Wetland Design Manual or a demonstrated equivalent approved by Council.</li> <li>d) The constructed wetland must have a maximum Extended Detention Depth (EDD) of 500mm and a notional detention time between 48 and 72 hours.</li> <li>e) All inflows must enter the upstream end of the constructed wetland to ensure flows pass through the full length of the treatment devices without any dead spots or the ability for flows to short-circuit the constructed wetland. A deeper pool is required in the location of both inflow and outflow pipes. A length to width ratio greater than 4:1 is required for the macrophyte zone.</li> <li>f) Proprietary treatment devices are not to be considered in operational stage before at least 90%</li> </ul>	

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	of upstream catchment is fully developed and disturbed land has been stabilised.
	from inflows until it is fully established and not before at least 90% of upstream catchment is fully
	<ul> <li>h) Land must be retained around the stormwater system to allow Council to access stormwater infrastructure</li> </ul>
	and conduct maintenance activities. A minimum 3m average width buffer around the stormwater devices (measured from the top of batter) are required for
	access, landscaping and safety requirements unless an alternative setback is approved by Council. All surfaces with a grade steeper than 1V:4H must be planted
	<ul> <li>i) Batter slopes for the sediment basin and constructed wetland that are steeper than 1V:4H including vertical retaining walls, are not permitted unless approved by Council</li> </ul>
	j) A vehicle access ramp must be provided to all GPT
	and constructed wetland treatment devices for
	maintenance and operation requirements, such as
	reinstatement. Access slopes for maintenance
	vehicles should not exceed 1V:8H for trucks and
	1V:5H for excavators and other maintenance
	vehicles. Access turnings paths must be
	demonstrated to comply with AS2890.2 for a medium
	k) Land must be made available for decanting in
	accordance with the Water Management and Disposal requirements of the Guidelines for the
	<ul> <li>Maintenance of Stormwater Treatment Measures.</li> <li>I) Landscape details for the constructed wetland and surrounds are to be included on the Landscape Plan</li> </ul>
	and submitted to Council for approval. m) Stormwater detention is to be provided above the constructed wetland footprint. The maximum
	permitted depth of stormwater detention (EDD and OSD) is 1200mm. Stormwater bypass flows above
	the 4 EY event can only enter the OSD storage after the treatment EDD has been filled. The DRAINS
	model (or approved alternative software accepted by Council) must be provided to Council for approval of the OSD modelling
	n) Required OSD for the subdivision is to be provided
	up-front prior to construction of impervious surfaces.
	An interim/staged OSD strategy may be required if OSD is proposed combined with WSUD devices and

	<ul> <li>these water quality devices are not to go online until 90% of the development has been completed.</li> <li>o) Detail design of inlet and outlet configurations to be undertaken in consultation with Council to simplify construction, ensure ongoing performance of WSUD and OSD components, and ease of maintenance.</li> <li>p) Council's Engineering Design Specification where relevant.</li> </ul>	
Water Sensitive Urban Design – Compliance Checklists	Compliance checklists are to be prepared by the WSUD Designers and submitted to Council before the issue of the relevant Subdivision Works Certificate. The checklists must incorporate all checks and certifications that are required to be carried out during the civil construction phase, asset protection phase, landscape practical completion phase and final compliance inspection before final handover.	
Maintenance Period of WSUD Devices	The developer is responsible for all maintenance of the stormwater infrastructure including GPT devices, constructed wetlands, and infiltration trenches for a period of 3 years from construction up until Council's acceptance that the WSUD devices and associated stormwater assets are of a satisfactory condition at the end of the 3-year maintenance period. Approaching hand over at the conclusion of the 3-year maintenance period, a site meeting with Council must be arranged by the developer. The objective of the meeting will be to identify any outstanding actions that require rectification by the developer before asset hand over. Annual reports documenting maintenance activities, implementation measures, and containing all monitoring results are to be submitted to Council during this phase.	To ensure stormwater infrastructure will be installed appropriately.
Handover of WSUD Assets to Council	<ul> <li>The following conditions are required to be met for WSUD devices to be handed over to Council.</li> <li>a) The WSUD infrastructure has been designed and constructed in accordance with Council guidelines, the approved design drawings, and specifications.</li> <li>b) All WSUD infrastructure has been maintained in accordance with the approved WSUD Operation and Maintenance Manual. This includes but is not limited to, the removal of all sediment and litter from GPT devices, removal of any weeds and reinstatement of any dead or unhealthy plants.</li> <li>c) Any accumulated sediment has been removed to the as-built invert levels of the constructed wetlands.</li> </ul>	To ensure stormwater infrastructure will be installed appropriately.

<ul> <li>d) For the infiltration trenches, an infiltration test has been undertaken to validate the saturated hydraulic conductivity is in accordance with the approved design. The infiltration test must be observed by Council's Development Engineering Coordinator or delegate.</li> </ul>	
<ul> <li>e) Any identified defects have been rectified to the satisfaction of Council at the developers cost.</li> </ul>	
<ul> <li>f) Work as executed (WAE) drawings have been provided to and accepted by Council.</li> </ul>	

## OSD

Contrary to the details in the Revised Stormwater Management Assessment Plan, the DRAINS models have assumed that 100% of the retention volume of rainwater tanks on residential lots are used for detention. This overestimates the detention capacity of the proposed system to what has been reported in the Plan and is not in accordance with DCP Chapter G2. Furthermore, the C2 rainwater tanks have assumed double capacity at 2 m depth, which is inconsistent with the MUSIC model.



Further information is required to demonstrate that the modelling of the OSD system is consistent with the reporting in the Revised Stormwater Management Assessment Plan and that the system can achieve acceptable post-development peak flow rates from the site. The DRAINS model produces post-development peak flow rates greater than what's reported on in the Revised Stormwater Management Assessment Plan as it assumes the rainwater tanks are empty at the start of the rainfall event, not half full.

#### Further Information Required

Revised DRAINS model and onsite detention strategy that can achieve the post-development objectives as reported in the Revised Stormwater Management Assessment Plan.

## **Development Planning Comments / Requirements:**

Council notes that Shoalhaven Development Control Plan (SDCP) 2014, Chapter NB1, Acceptable Solution A2.1 states the following:

A2.1 Larger, medium density lots to be concentrated around the neighbourhood hub within a 400m walking distance

Council notes the applicant's further advice in the letter where they have stated the following:

It is also noted that the supporting Map (accessed here) identifies that Medium Density Residential (Core Area) (Also permissible elsewhere in URA (Except on URA perimeter) to be identified on subdivision plans). While some of the medium density lots are slightly more than 400m walking distance, they are within logical and complementary locations within the subdivision to ensure a range of dwelling choice with accessibility to the different offerings of the subdivision (including public reserves, a potential future neighbourhood hub and bushland areas), similar to the original approval.

The purpose and intent of A2.2 is to allow DPHI in the assessment of the application to accept greater distances than 400m. The development is not noncompliant with the DCP, however seeks to comply with the Performance Criteria through the flexibility afforded under A2.2.

Council notes that the proposal is the first development of its kind within the Mundamia URA area. Whilst A2.2 provides some flexibility in determining the appropriate location for medium density development – it is considered that A2.1 sets an appropriate parameter of 400m to enable concentrated residential development to be within walking distance of commercial facilities associated with the future hub area.

As such, it is recommended that compliance with the 400m walking distance be enforced in accordance with the requirement of the Acceptable Solution.

## **Strategic Planning Comments / Requirements**

#### Planning Agreement

Condition C3 relates to the requirement for a planning agreement. The Applicant has provided a revised letter of offer for Council's consideration which will be considered separately in accordance with Council Policy.

All bushfire management measures must be adequately addressed and managed through the modification process to make for a more efficient planning agreement and remove the current uncertainty in this space.

Following the conclusion of planning agreement negotiations and ultimately reconsideration of the planning agreement offer by Council (formal reporting to Council is required), Condition C3 will need to be updated to be consistent with Council's resolved position. This may also include adjustment of the scope of the planning agreement in the condition. The modification should not be determined until Council has formally considered this matter.

#### s7.11 contributions required

The Applicant's Planning Report specifies that in relation to Condition F2, 'Contributions in Table 1 will need to be updated to reflect updated lot numbers'. Table 1 in Condition F2 references the amount of contributions payable per equivalent tenement (ET). It doesn't specify the number of lots. As such, no change in this regard is required.

The following should however, be considered by the Department of Planning, Housing and Infrastructure:

- Condition F2 should be adjusted as follows in red, to clarify how the contributions are to be paid:
  - F2. In accordance with Division 6, Part 4 of the Act, the contributions contained in Table 1 below, determined in accordance with the *Shoalhaven City Council's Contributions Plan 2019*, as at the date of this consent, must be paid to Council for each lot in each stage of the development prior to the issue of a Subdivision Certificate for each stage of the subdivision.
- The contributions rates in Table 1 and supporting commentary in condition F2 relates to 2019/20 financial year rates. The rates indexed to the current financial year exceed the \$20,000 cap for this area. As such, the total contribution per ET is now capped at \$20,000 per ET. The Department of Planning, Housing and Infrastructure may wish to reconsider the structure of the condition moving forward. We would be happy to discuss potential opportunities with the Department of Planning, Housing and Infrastructure in this regard.
- In this regard, separate contact shall be made with Council's City Futures Strategic Planning Section to discuss the structure of the condition moving forward.

## **Biodiversity Comments / Requirements:**

Following pre application discussion the below requirements for additional biodiversity assessment were outlined (email from NSW planning 08/06/2023) (the biodiversity assessment must include)

- *a)* Discussion of the principles of avoidance
- b) A Description and assessment of the "wedge area". Agreement that the assessment can be undertaken as an extrapolation of the existing data from the original SLR report under the FBA and can take the form of an addendum report, inclusive of any credit requirements which may be required is reasonable.

In accordance with the above, a Biodiversity Assessment Addendum has been prepared by Eco Logical Australia dated 19/12/23. The addendum used data and credit values extrapolated from the Biodiversity Offset Strategy prepared by SLR Global Environmental Solutions (April 2017) and Flora and Fauna Assessment also prepared by SLR (Feb 2015).

Additional credits values were calculated by using the credits per ha generated in the Biodiversity Offset Strategy. This method is acceptable as there is no access to the Biobanking calculator (See further comments below).

It is unlikely that the available data could provide accurate BAM calculator credits and no BAM plot or similar was undertaken within the additional area cleared. The number of BAM credits can be determined with an equivalency statement for all required credits if needed.

#### Vegetation

The vegetation is mapped as SR549 *Grey gum- Blue-leaved stringybark open forest or gorge slopes, southern Sydney Basin and north east South Eastern Highlands* which is equivalent to PCT 858 in the biometric vegetation classification. There are no Threatened Ecological Communities associated with these PCTs. This vegetation is classified in the Biodiversity Offset Strategy as SR549 mod-good-poor.

The credits to offset the additional 0.26ha of impact to SR 549 was calculated as 15 (round down from 15.2) additional credits. This was based the final credit calculation in table 8 of the Biodiversity Offset Strategy.

Credit calculations for specific zones (SR mod-good-poor, med-good, mod-good, mod-good-med) were provided in Appendix C of the offset strategy. Extrapolation of these values, amount to between 12-15 credits for the additional impact. The credit value calculated is at the high end of these values and is therefore accepted.

#### Threatened species

The addendum report describes an additional impact to 92m2 and one individual of *Triplarina nowraensis*. As credits for this species are calculated based on count, the method within the Biodiversity Offset Strategy was used to determine estimated count for the additional 92m2 impacted.

This was calculated to be an additional 2.7 (rounded to 3) stems as well as the one separate individual stem.

An additional stem is noted underneath the "92m2" shown on the figure below. This stem was not assessed in the original development impacts. This stem may be impacted by the proposed modification and therefore as a precautionary measure should be included in the offsets.

This would bring the additional *Triplarina nowraensis* credit calculation to 75 (60+ 15 for the one more individual) and total credit obligation of 5055 credits.



The additional *Pterostylis vernalis* surveys and no additional credits required is accepted.

### Condition D.14 BIODIVERSITY OFFSET REQUIREMENTS

D14. The Applicant must retire the credits listed in Table 1 to offset the ecological impacts of the development in accordance with the Framework for Biodiversity Offset Assessment. The credits

must be retired in phases prior to the commencement of works within stages 1, 4 and 5 of the development, in accordance with the minimum requirements set out in Table 2 below.

#### Table 1: Total Ecosystem and Species Credits Required to Offset the Development

Ecosystem Credit Requirements		
Plant Community Type (PCT)	Area (ha)	Credits
SR549- Grey Gum- Blue-leaved Stringybark open forest on gorge slopes	4.53	266
SR556- Hairpin Banksia- Kunzea ambigua- Allocasuarina distyle heath on coastal sandstone plateaux	2.29	109
SR595- Red Bloodwood- Scribbly Gum heathy woodland on sandstone plateaux of the Sydney Basin Bioregion	3.16	152
SR648- Swamp Mahogany swamp sclerophyll forest on coastal lowlands	0.74	33
Total	10.72	560
Species Credit Requirements		-
Species	Count of Stems	Credits
Triplarina nowraensis	337	5055

# Table 2: Staging Schedule of for the Retirement of Ecosystem and Species Credits Required to Offset the Development

Credits to be retired for each PCT within each stage are to be in accordance with Table 3 in the Biodiversity Assessment Addendum by Eco Logical Australia 19/12/23

Timing	Biodiversity Offset Requirement
Prior to Development	202 credits must be retired to offset the loss of
Commencing for Stage 1	PCTs in Table 1 and
	5055 species credits must be retired to offset
	the loss of Triplarina nowraensis
Prior to Development	153 credits must be retired to offset the loss of
Commencing for Stage 4	PCTs in Table 1
Prior to Development	205 credits must be retired to offset the loss of
Commencing for Stage 5	PCTs in Table 1

Amend Appendix 2 of the Consent to reflect the amended plan in Figure 1 of D24/175880.

# **Shoalhaven Water Comments / Requirements**

A Water Development Notice will be required to be issued by Shoalhaven Water as noted in the existing condition under 'Utilities and Services' as follows:

The Applicant must apply under section 305, Division 5, Part 2, Chapter 6 of the Water Management Act 2000, for a Certificate of Compliance from Shoalhaven Water.

Relevant conditions/requirements, including monetary contributions (where applicable), are provided under section 305, Division 5, Part 2, Chapter 6 of the *Water Management Act 2000.* A Development Application Notice issued by Shoalhaven Water will outline the conditions/requirements that must be adhered to.

All relevant conditions listed in the Shoalhaven Water Development Application Notice that are required to be satisfied prior to the issue of a Construction Certificate must be complied with and accepted by Shoalhaven Water. A Construction Certificate for each stage of the development must not be issued until the Certifier has obtained written confirmation from Shoalhaven Water that the conditions of the Shoalhaven Water Development Application Notice applicable to the relevant stage of the development have been complied with.

It is recommended that the first sentence be amended to include the following marked in red:

The Applicant must apply under section 305, Division 5, Part 2, Chapter 6 of the Water Management Act 2000, for a Certificate of Compliance from Shoalhaven Water for each stage of the development, inclusive of Stage 0.

# **Open Space & Recreation Planning Comments / Requirements**

- It is note that the northern area of open space has been removed, resulting in a lower provision of open space.
- The open space is now distributed through a central, district level precinct and within drainage reserves. A community hall will be delivered by the developer in the central precinct.
- Lots surrounding the central open space have been amended to 'super lots' which will house units, creating a higher density. There are no pathways surrounding the open space or connecting the higher density housing. Therefore, there are concerns with pedestrian circulation in these areas and pedestrian access to open space. To address this, pathways should be extended around the boundaries of the open space and higher density housing.
- Further open space is located in the three drainage reserves. Open Space & Recreation
  Planning note that the Northern and Central basins have the potential to present safety
  concerns. Both areas show pathway placements that only allow for a single access point
  into areas of low passive surveillance. This could be improved by extending the pathways
  to loop around the basin to create more access points. Due to the isolated nature of the
  pathways, lighting could be added to improve user safety.