

27 June 2019

Our Ref: 25489 MJPogg
Your Ref: MP08-0141

The General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

Attention: Ms Cathy Bern – Planning Manager

Dear Cathy,

LETTER OF OFFER FOR PROPOSED PLANNING AGREEMENT BETWEEN SHOALHAVEN CITY COUNCIL AND JEMALONG MUNDAMIA PTY LIMITED REGARDING COST SHARING OF PROPOSED ROUNDABOUTS AND NEIGHBOURHOOD SAFER PLACE AT MUNDAMIA

I refer to our letter dated 1 June 2018 and Council's email response dated 20 September 2018 which confirmed its commitment to entering into a VPA regarding the cost sharing arrangements for the additional traffic calming facilities in the Mundamia URA.

In addition to that earlier agreement, and in response to Council's letter to DPE dated 3 June 2019, DPE has now requested that the proposed VPA be extended to cover some of the matters raised by Council in its letter.

I note our meeting held with Phil Costello, Cathy Bern and Gordon Clark on 19 June 2019. **Attachment B** enclosed outlines our detailed response to each of the matters raised in Council's 3 June letter to DPE.

It is noted that DPE has also conditioned the need for a Neighbourhood Safer Place as an alternative evacuation location for the future residents of the Mundamia URA.

The SCP2019 contains a community hall and it has been agreed in principle by Council that a well designed community hall can double as the NSP, and be relocated onto the Jemalong site. This will require the modification to the SDCP2014 and the SCP2019. There may also be additional costs above and beyond the community hall requirements to create the NSP.

Based on the above analysis completed by DPE's consultants, a draft Schedule 1 to a proposed Planning Agreement is attached (see **Attachment B**), which outlines the timing and funding of the necessary works.

It is understood that the parties will need to enter into an agreement in accordance with Sections 7.4 to 7.10 of the Environmental Planning and Assessment Act 1979. The formalisation of the Planning Agreement is therefore proposed to be a condition of consent.

DPE has requested that Shoalhaven City Council confirm their willingness to enter into this VPA in writing.

Should you require further detail, please do not hesitate to contact us.

We look forward to hearing from you.

Yours faithfully
ALLEN PRICE & SCARRATTS PTY LTD





Matt Philpott

Attachments:

- A - Response to SCC letter dated 3 June 2019
- B - Schedule 1 to Proposed Planning Agreement between Jemalong Mundamia Pty Limited and Shoalhaven City Council
- C – SCC letter dated 1 May 2015

ATTACHMENT A

Response to SCC letter dated 3 June 2019

SCC General Comments	APS Response
Council is generally supportive of the development of the Mundamia subdivision, given its zoning and identification in both Council and NSW Government plans to help ensure there is a future supply of residential land in the Nowra-Bomaderry area.	Noted. We thank Council for its general support.
The draft consent contains a number of conditions that need to be carefully reviewed. Council has commented on the consent broadly however there are a number of matters that would appear to warrant consideration by the elected Council.	Noted. We also note that you have advised that the matters outlined in this report will require the issuing of the Development Consent by DPE before they can be considered formally by the elected Council.
With regard to open space provision, the location, type, design etc details are not provided. Accordingly, it is difficult to comment with regard to it potentially satisfying community needs, policy and Council's long term strategic plans. From an Asset custodian perspective, our assets should have regard to maintenance, safety, on-going costs, compliance with relevant standards and more. Ideally, Council would like details of the assets such as the NSP, open space etc to understand what the implications may be. As both the applicant and Department would appreciate Council staff are not in a position to commit to long term financial matters and these financial and policy decisions need to be considered by the elected Council.	The supply of the public reserves has previously been accepted by Council as outlined in its letter dated 1 May 2015 (copy attached).
It also appears that if a consent is issued, there will need to be on-going liaison between Council and the Department given the complexity of the consent and numerous matters that require attention and resolution as either deferred matters or at later stages of the development / works. Below are preliminary comments which we hope will assist.	Noted. It is also our position that the consent is excessively complex and we have proposed to DPE a number of significant amendments to the conditions prior to determination.
SCC Comments on DPE Draft Conditions	APS Response
A1(1) <u>Neighbourhood Safer Place</u> – Council provided a letter to the applicant dated 12 th March 2019 that indicated 'in principle' support to considering reviewing the timing and location of the proposed Mundamia Community Facility	The contents of Council's letter dated 12 March 2019 is noted where it supports the dual use of the proposed community facilities as both an NSP and Community Hall.

(OCFA0014) so it can have a dual role and assist as the required NSP.	
<p>It is noted that the conditions re the NSP are part of the 'deferred commencement' component in order to enable the planning and required management mechanisms to be decided upon. In this regard the proposed combined community facility/NSP will most likely need a formal amendment to Council's existing DCP and also the Contributions Plan. Alternately, the mechanism for construction, ownership and on going management will need to be put forward and agreed to. This may necessitate formal consideration by the elected Council and subsequent formalisation via amendment to any relevant plans.</p>	<p>Council's view that the need for a formal amendment to the DCP & SCP2019 is noted.</p> <p>Further it is noted that It is Council's position that these changes will be instigated following the issuing of a Development Consent by DPE.</p> <p>Funding streams for the design, construction and maintenance of the proposed NSP/CH will form part of the proposed VPA.</p>
<p><u>Condition A1(2) Asset Protection Zones</u> – This is also flagged as a 'deferred commencement' condition. Council notes that Condition A1(2) requires that "<i>All vegetation required to be cleared to establish the temporary APZ must be offset to the satisfaction of OEH.</i>" However, the prescribed APZ detailed in Condition (2) has not been assessed as part of the <i>Biodiversity Offset Strategy</i> prepared by SLR Consulting Australia Pty Ltd and dated 27 April 2017, nor is the area included in determining the credit obligation detailed in Condition D14.</p>	<p>We agree with Council's position on this matter that the impacts of a 100m APZ beyond the subject land has not been assessed.</p> <p>To provide a way forward, we propose a restriction on the use of land within 100m of the western boundary of the land that lots, once subdivided, cannot be developed for any purpose until development occurs to the west.</p> <p>In effect, we are providing a temporary APZ within our site until further development occurs to the west.</p>
<p><u>Condition A1(6&7) Bushfire Management Plan</u> - Such plan has the potential to commit Council to current and ongoing actions, and as such any such draft plan needs to include appropriate management mechanisms, including funding of maintenance requirements. Having regard to this, Council requests that any draft plan be notified to Council and sufficient time be allowed for comment. This is particularly relevant as any proposal may need resolution from full Council.</p>	<p>It is proposed that SCC would have input into the proposed bushfire management plan to ensure appropriate commitments to SCC's budget and operations are considered.</p> <p>Funding streams for abnormal maintenance that may arise from the BMP will form part of the proposed VPA.</p>

<p><u>Condition A1(8) Water Supply</u></p> <p>Shoalhaven Water have advised:</p> <p><i>Should it still be a requirement by the applicant to undertake a report to verify the adequacy of the reticulated water supply during catastrophic bushfire events then the condition may need to be modified to include:</i></p> <ul style="list-style-type: none"> <i>person/firm preparing the report shall be appropriately qualified and experienced to undertake hydraulic analysis,</i> <i>the assessment/design of the water supply reticulation system shall be in accordance with the WSAA Water Supply Code of Australia WSA03 – 2011 version 3.1 and Shoalhaven Water's Supplement to the WSAA Water Supply Code of Australia WSA03 – 2011 version 3.1,</i> <i>the hydraulic analysis shall be undertaken using the software InfoWorks,</i> <i>the report shall be submitted to Shoalhaven Water for review and subsequent approval.</i> <p>In the absence of information, there is potential for major augmentation works being necessary. This has potential to have a significant impact on the proposal.</p>	<p>The need for a reliable water supply during a bushfire event is accepted and Shoalwater's comments are noted.</p> <p>We note there is an existing DN600 water main in the vicinity of the site and as part of its DSP Council proposes to extend a trunk water main to service the Mundamia URA.</p> <p>I have no concerns that a suitable water supply system can be provided and these will be covered by the proposed conditions.</p>
<p><u>Condition A1(9) Design Amendments General</u> – The major shift caused by the requirement for a NSP has significant assessment, management and timing implications. Full consideration can be made of these aspects until a detailed proposal is put forward. Thus, Council is concerned that such provision for further assessment, and if necessary, conditioning be included in the proposed consent.</p>	<p>Council's comments are noted.</p> <p>It is our proposal that changes to the proposed layout will be documented prior to consent.</p> <p>As outlined earlier in this document, other issues surrounding the NSP can be covered by a VPA.</p>
<p>Refence in Part (g) to the 'section 94 plan', this reference and others throughout the consent should be changed to Shoalhaven Contributions Plan 2019.</p>	<p>Noted.</p>
<p><u>Condition C3 Planning Agreement</u> – this may also need to cover the provision and future operation and maintenance of the NSP and also the bushfire requirements more generally.</p>	<p>Agreed. The VPA can include design, construction and funding requirements for the NSP and other funding stream for the maintenance of the area in general for bushfire purposes.</p>
<p><u>Conditions C4 to C10</u> – There seems to be a lot in these conditions that may or may not require detailed</p>	<p>Council's comments are noted and we accept that these matters can be addressed through appropriate conditions of consent.</p>

scrutiny and may impact on the development going forward.					
F2 Section 94 Contributions – The reference needs to be updated to Shoalhaven Contributions Plan 2019 given that this new plan comes into operation as of 28 May 2019. In this regard need to check that the information in Table 1 – projects, rates etc. is accurate and reflects the new plan.					Agreed
Below are the projects/charges that will apply under the SCP2019 per ET. This includes several new/revised projects and excludes several deleted projects. All project rates have also been updated for the current (2019) financial year.					The SCP2019 charges are accepted. Although we note that the VPA may modify how these contributions are paid and a note to this end should be inserted into the consent by DPE to allow some flexibility in this regard and to ensure there is no “double dipping”.
Project	Description	Rate	Qty	Total	
01AREC 2006	Northern Shoalhaven Sports Stadium	\$563.30	1	\$563.30	
01AREC 0009	Planning Area 1 recreational facilities upgrades	\$721.31	1	\$721.31	
01AREC 3007	Nowra Swimming Pool Expansion	\$400.98	1	\$400.98	
01CFAC 0014	Mundamia URA Community/Childcare Centre	\$2,510.39	1	\$2,510.39	
01CFAC 2012	Nowra Integrated Youth Services Centre	\$32.09	1	\$32.09	
01OREC 0014	Mundamia URA - Central Open Space	\$1,946.63	1	\$1,946.63	
01ROAD 0145	Mundamia URA Access Roads	\$4,791.56	1	\$4,791.56	
01ROAD 0146	Mundamia URA Shared Cycle/Pathway - George Evans Road	\$394.19	1	\$394.19	
01ROAD 0149	Mundamia URA George Evans and Yalwal Road Intersection Upgrade	\$1,407.67	1	\$1,407.67	
01ROAD 0150	Roundabouts - Yalwal Road/Rannoch Drive and Yalwal Road/Lightwood Drive	\$937.84	1	\$937.84	
01ROAD 0152	Traffic signals and associated works at intersection of Albatross/Yalwal Roads.	\$300.54	1	\$300.54	
CWARE C0005	Shoalhaven Community and Recreational Precinct (SCaRP) Cambewarra Road, Bomaderry	\$2,441.62	1	\$2,441.62	

CWCFA C0007	Shoalhaven Regional Gallery	\$70	1	\$70	
CWCFA C0006	Shoalhaven City Library Extensions	\$839.63	1	\$839.63	
CWCFA C2002	Shoalhaven Entertainment Centre	\$1,490.97	1	\$1,490.97	
CWFIRE 2001	Rural Fire and Emergency Service Plant and Equipment	\$133.68	1	\$133.68	
CWFIRE 2002	Shoalhaven Fire Control Centre	\$195.57	1	\$195.57	
CWMG MT3001	Contributions management & administration	\$555.90	1	\$555.90	
Total		\$19,733.87	1	\$19,733.87	
Referenced throughout the consent to Shoalhaven Contributions Plan 2010 should be updated to Shoalhaven Contributions Plan 2019.					Agreed
Refer to Project 01CFA0014 is listed in Table 1 (and above). It is noted that this is the project that is impacted by the required NSP and it may be that the CP is ultimately amended as flagged earlier.					Noted. The VPA can cover these requirements.
Paragraph 2 under the table – refers to ‘sum of \$16,442.08 (i.e. 2017/2018) per ET’. This should be updated to reflect the CP 2019 amount of \$19,733.87 per ET.					Noted
Paragraph 3 under the table – should be changed to read: The <i>Shoalhaven Contributions Plan 2019</i> is accessible on the internet at https://cp.shoalhaven.nsw.gov.au/					Noted
<u>Condition D14</u> cannot be finalised until the full extent of clearing associated with the proposal has been identified and assessed in accordance with the Framework for Biodiversity Assessment (FBA) and is submitted as part of the EIS and application for development consent or infrastructure approval (S. 11.1.1.2 and Appendix 7 of the FBA [OEH 2014]).					Agreed. Additional clearing (i.e. for the purposes of an APZ) is not proposed by the applicant and the 100m APZ is proposed to be created inside the land by covenant.
Similarly, to finalise <u>Conditions E25 and E26</u> , the full extent of clearing including habitat trees required to be retained must be shown on the approved plans.					Agreed as outlined above.

<p><u>Condition F1</u> under Part F Prior to issue of Subdivision Certificate should read:</p> <p><i>A Certificate of Compliance (COC) under Section 307, Division 5, Part 2, Chapter 6 of the Water Management Act 2000, must be obtained to verify all necessary matters relating to water supply and sewerage supply (where applicable) for the development have been made with Shoalhaven Water. A COC shall be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application notice (including but not limited to payment of relevant fees, bonds, etc), and prior to the issue of a Subdivision Certificate.</i></p> <p><i>In the event the development is to be completed in stages, separate COC's shall be obtained for each stage of the development.</i></p>	Noted
<p><u>Condition F22</u> - Works as executed plans – must be accepted by the asset custodian and must be provided in a timely manner. (The drawings should also be added to <u>Council's Drawing Catalogue</u>.)</p>	Agreed
<p><u>Condition G1 Bushfire Management</u> – notes “must be implemented in perpetuity”. The question is by who, most likely Council as such need to consider management requirements and how costs will be met.</p>	As outlined previously, it is proposed that the VPA would cover funding streams for the design construction and maintenance of community facilities and other bushfire maintenance measures.
<p><u>Condition G3</u> – what is the impact of this condition on the future management and maintenance of public reserves (assume by Council)?</p>	See comment above
<p><u>Advisory Note AN4</u> – Disability Discrimination Act – All works must adhere. Council has a <u>Disability Inclusion Action plan (DIAP)</u> and is committed to improving inclusion and access for all.</p>	Noted
<p>Given the detailed and complex nature of this draft consent, it may be beneficial for the NSW Department of Planning to meet with the applicant and relevant Council staff to work through some of the matters/issues.</p>	Agreed. The conversation has been facilitated through our meeting on 19 June and subsequent telephone conversations with Anthony Witherdin.

ATTACHMENT B

Schedule 1 to Proposed General Terms for a Planning Agreement between Jemalong Mundamia Pty Limited and Shoalhaven City Council

Stage	Public Benefits	
	Monetary Contributions	Land Contributions
1	<p>On completion of the construction works for the proposed roundabout at the intersection of Road 1 and George Evans Rd, Shoalhaven City Council will pay Jemalong Mundamia Pty Limited 58% of the actual construction cost.</p>	<p>Shoalhaven City Council will ensure any adjoining land required to be dedicated or acquired as road reserve to allow the roundabout construction will be dedicated as road reserve to facilitate construction of the proposed intersection at a time that will not delay the release of this stage of Jemalong Mundamia's subdivision.</p> <p>If Jemalong Mundamia owns the required land, this land will be dedicated at no cost to Council.</p>
1	<p>Jemalong Mundamia Pty Limited will design and construct a Neighbourhood Safer Place (NSP) to the requirements of the NSW Rural Fire Service and in accordance with Council's design objectives as specified by Council's Director of Planning. The NSP will be delivered jointly as a Community Hall (CH) as outlined in the Shoalhaven Contributions Plan 2019 (SCP2019). On completion, the NSP will be dedicated to Council.</p> <p>Following the issuing of a Development Consent, Council will commence the process of amending the SCP2019 and SDCP2014 to incorporate the revised location and design/construction requirements for the NSP/CH to be located on the Jemalong land.</p> <p>These works will be delivered with appropriate adjustments to the contributions payable under the Shoalhaven Contributions Plan 2019</p>	<p>Jemalong Mundamia Pty Limited will dedicate the land on which the NSP is located as a Public Reserve.</p>

	<p>prior to the release of the Subdivision Certificate for Stage 1.</p> <p>Any costs incurred by Jemalong Mundamia pursuant to the design and construction of the NSP/CH will be offset against its contributions under the SCP2019.</p>	
3	<p>On completion of the construction works for the proposed roundabout at the intersection of Road 1, Road 14 and Jonsson Rd, Shoalhaven City Council will pay Jemalong Mundamia Pty Limited 18% of the construction cost.</p>	<p>Shoalhaven City Council will ensure any adjoining land required to be dedicated or acquired as road reserve to allow the roundabout construction will be dedicated as road reserve to facilitate construction of the proposed intersection at a time that will not delay the release of this stage of Jemalong Mundamia's subdivision.</p> <p>If Jemalong Mundamia owns the required land, this land will be dedicated at no cost to Council..</p>
11	<p>On completion of the construction works for the proposed entry threshold north of the intersection of Jonsson Road and Road 16, Shoalhaven City Council will pay Jemalong Mundamia Pty Limited 100% of the construction cost.</p>	<p>Shoalhaven City Council will ensure any adjoining land required to be dedicated or acquired as road reserve to allow the entry threshold construction will be dedicated as road reserve to facilitate construction of the proposed traffic calming measure at a time that will not delay the release of this stage of Jemalong Mundamia's subdivision.</p> <p>If Jemalong Mundamia owns the required land, this land will be dedicated at no cost to Council..</p>

Note: Text in red has been added since our 1 June 2019 letter to clarify proposed amendments to Schedule 1.

ATTACHMENT C

SCC letter dated 1 May 2015



RECEIVED
08 MAY 2015

25489



Bridge Rd, (PO Box 42) Nowra, NSW 2541 02 4429 3111
Deering St, (PO Box 42) Ulladulla, NSW 2539 02 4429 8999
DX 5323 Nowra Fax 02 4422 1816

COUNCIL REFERENCE: 3A08/1010
CONTACT PERSON: Elizabeth Downing
YOUR REFERENCE: 25489

1st May, 2015

Allen Price & Associates
PO Box 73
NOWRA NSW 2541

Attn: Mr Matt Philpott

Dear Sir,

**Proposed Public Reserve as part of Subdivision at
Lot 3 DP 568613 (no.58) Jonsson Rd & Lot 384 DP 755952 George Evans Rd,
MUNDAMIA**

I refer to your letter of 27 April 2015 requesting consideration of the proposed dedication of land to Council, as part of a Voluntary Planning Agreement for this proposal.

I have reviewed your most recent plan (reference 25489-11) and Council's submissions to the NSW Department of Planning dated 28 June 2013 and 2 December 2014. Concerns have been expressed about the inclusion of perimeter steep conservation lands as open space, and services (on-site detention basins, proposed pumping station and asset protection zones) on the proposed "open space" areas.

Your most recent plan indicates removal of the APZs from the open space areas, subject to a detailed review and written response from the NSW RFS. Council supports the location of APZs on private property and/or road reserve areas, as shown on your most recent plans.

Council is now in a position to be able to support the proposed dedication of land to Council as 'public reserve', as part of the Voluntary Planning Agreement.

A copy of this letter has also been forwarded to the Department of Planning and Infrastructure, for inclusion in their assessment of your application.

If you have any further enquiries about this matter, please do not hesitate to Elizabeth Downing, Development Coordinator – Subdivisions on (02) 4429 3317. Please quote Council's reference 3A08/1010.

Yours faithfully



Elizabeth Downing
Development Coordinator - Subdivisions
Planning & Development Services Group