



Mundamia Residential Subdivision Modification 2

Mundamia Residential Subdivision Modification 2
State Significant Development Modification Assessment
(SSD-7169-MOD-2)

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Glossary

Abbreviation	Definition
ACHMP	Aboriginal Cultural Heritage Management Plan
Applicant	Allen Price and Scarratts Pty Ltd
Council	Shoalhaven City Council
Department	Department of Planning and Environment
EESG	Environment, Energy and Science Group (now Environment and Heritage)
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2021</i>
EPI	Environmental Planning Instrument
IPC	Independent Planning Commission
Minister	Minister for Planning and Public Spaces
NSP	Neighbourhood Safer Place
Planning Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy
SSD	State Significant Development
URA	Urban Release Area

Contents

1	Introduction	1
1.1	Introduction	1
1.2	The site	1
1.3	Approval history	2
2	Proposed modification	4
3	Statutory context	5
3.1	State Significant Development	5
3.2	Scope of modification	5
3.3	Consent authority	5
3.4	Mandatory matters for consideration	5
4	Engagement	7
4.1	Department's Engagement	7
5	Assessment	8
5.1	Department's Assessment	8
5.2	Amendment to ACHMP approval requirements in Condition D13	8
6	Evaluation	9
	Appendices	10
	Appendix A – Modification Report	10
	Appendix B – Recommended Modification of SSD	10

1 Introduction

1.1 Introduction

- 1.1.1 This report provides the Department of Planning and Environment's assessment of an application to modify the development consent for the Mundamia Residential Subdivision (SSD-7169).
- 1.1.2 The application seeks to modify Condition D13 to correct an error that identifies the Environment, Energy and Science Group (EESG) as the approval authority for the Aboriginal Cultural Heritage Management Plan (ACHMP) instead of the Planning Secretary.
- 1.1.3 The application was lodged on 4 May 2023 by Allen Price and Scarratts Pty Ltd (the Applicant) pursuant to section 4.55(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 The site

- 1.2.1 The Mundamia Residential Subdivision is located approximately 2.5 kilometres (km) west of the Nowra town centre, 1.5 km west of the suburb of West Nowra and 300m south of the Shoalhaven River (**Figure 1**). The site is identified as Lot 30 DP 1198692 and comprises approximately 41.3 ha of residential and environmental conservation zoned land.



Figure 1 | Regional Context Map (Source: NearMap)

- 1.2.2 The site forms part of the Mundamia Urban Release Area (URA) (**Figure 2**). The Mundamia URA comprises approximately 53 ha of land and is intended to provide up to 720 new homes for approximately 1,800 residents within the Nowra-Bomaderry region. The proposal will create the first residential lots within the URA.

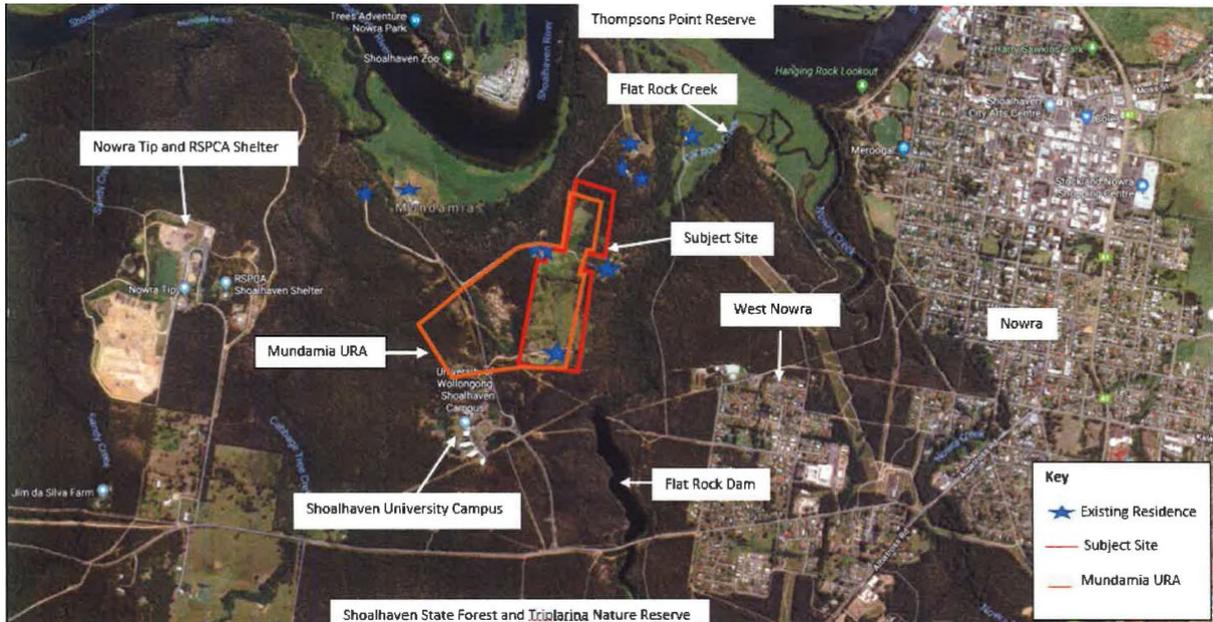


Figure 2 | Site and Site Context Map (Base source: Google Earth)

1.2.3 Prominent features in the surrounding landscape include the Shoalhaven River, Flat Rock Creek and Thompson’s Point to the north, Flat Rock Dam to the south-east, and the Shoalhaven State Forest and the Triplarina Nature Reserve on the southern side of Yalwal Road.

1.3 Approval history

1.3.1 The original application was approved by the Independent Planning Commission (IPC) on 23 December 2019, under Part 4 of the EP&A Act.

1.3.2 The approval included:

- a 308 lot residential subdivision
- a Neighbourhood Safer Place (NSP)
- open space
- drainage reserves.

1.3.3 The IPC determination included a suite of Deferred Commencement Conditions including conditions relating to:

- the NSP
- bushfire management plans
- water supply
- general design amendments
- bushfire design amendments

1.3.4 The IPC has discharged all deferred commencement conditions and the consent is now active.

- 1.3.5 The approval has been modified on one occasion. SSD-7169-MOD-1 was approved on 28 September 2021 by the IPC to correct an error in Condition A1(6)(iii) to remove reference that Council is responsible for the implementation of the Bushfire Traffic Management Plan and the Emergency/Evacuation Management Plan, and clarify that Council is only responsible for the implementation of the remaining plans referenced in the condition to the extent that those plans apply to Council land.

2 Proposed modification

- 2.1.1 The application seeks to modify Condition D13 to correct an error that identifies the Environment, Energy and Science Group (EESG) as the approval authority for the Aboriginal Cultural Heritage Management Plan (ACHMP) instead of the Department. Condition D13 currently reads as follows:

D13 The Applicant shall prepare an Aboriginal Cultural Heritage Management Plan in consultation with the Nowra Local Aboriginal Land Council. The Plan must be submitted to and approved by EESG prior to the commencement of works within Stage 1 of the development.

- 2.1.2 The Applicant seeks to modify the condition to reflect the Department as the approval authority for the ACHMP instead of EESG. The Applicant's proposed modified wording of Condition D13 is as follows:

D13 The Applicant shall prepare an Aboriginal Cultural Heritage Management Plan in consultation with the Nowra Local Aboriginal Land Council. The Plan must be submitted to and approved by DPE prior to the commencement of works within Stage 1 of the development.

- 2.1.3 The Applicant has outlined that the modification is required to ensure an NSW Government agency sign off can be achieved for Condition D13 after agency re-structuring abolished the ability of the former EESG to undertake this sign off. The Applicant considers that should this re-structure not have occurred the current condition could be satisfied.

3 Statutory context

3.1 State Significant Development

- 3.1.1 The original application was previously a Transitional Part 3A project under Schedule 6A of the EP&A Act, as it satisfied the requirements of clause 1 (1)(j)(i), Schedule 2 of the then *State Environmental Planning Policy (Major Projects) 2005*, being the subdivision of land that is not in the metropolitan coastal zone, into more than 25 residential lots.
- 3.1.2 As the project was not determined prior to Part 3A being wound up, it was declared a State significant development and transitioned into the Government's new State significant development assessment framework on 12 January 2015.

3.2 Scope of modification

- 3.2.1 The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minor error, misdescription or miscalculation as the proposal:
- corrects the wording of a condition to reflect the appropriate approval authority
 - is substantially the same development as originally approved.
- 3.2.2 Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1) of the EP&A Act rather than requiring a new development application to be lodged.

3.3 Consent authority

- 3.3.1 In accordance with the Section 2.7 of the *State Environmental Planning Policy (Planning Systems) 2021* and Section 4.5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the Independent Planning Commission (the Commission) is the consent authority for the purposes of section 4.55(1) of the EP&A Act, as the Applicant has disclosed a reportable political donation.

3.4 Mandatory matters for consideration

- 3.4.1 The Department comprehensively assessed the project against the mandatory matters for consideration under section 4.15 of the EP&A Act as part of the original assessment (of SSD-7169). The Department considers this modification request does not alter its assessment of the proposal against these mandatory matters for consideration and the conclusions made as part of the original assessment.

3.4.2 The original SSD was assessed against the provisions of the following Environmental Planning Instruments (EPIs):

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy No.44 Koala Habitat Protection*
- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy No. 71 – Coastal Protection*
- Shoalhaven Local Environmental Plan 2014.

3.4.3 Since determination of the original DA, a number of NSW State Environmental Planning Policies have been consolidated into 11 policies. The consolidated SEPPs commenced on 1 March 2022, with the exception of *State Environmental Planning Policy (Housing) 2021*, which commenced on 26 November 2021.

3.4.4 The SEPP consolidation does not change the legal effect of the repealed SEPPs, as the provisions of these SEPPs have simply been transferred into the new SEPPs. Further, any reference to an old SEPP is taken to mean the same as the new SEPP. The Department is satisfied that the proposed modification does not result in any significant changes that would alter the conclusions made as part of the original assessment.

4 Engagement

4.1 Department's Engagement

- 4.1.1 The Department's Community Participation Plan does not require section 4.55(1) modifications be publicly exhibited due to the minor nature of the modification. However, the Department referred the modification application to Heritage NSW (Aboriginal Cultural Heritage (ACH)) for comment and made the application publicly available on its website.
- 4.1.2 Heritage NSW (ACH) confirmed that the change was supported and had no further comments.
- 4.1.3 No other submissions were received by the Department relating to the proposed modification.

5 Assessment

5.1 Department's Assessment

5.1.1 In assessing the merits of the proposed modification, the Department has considered:

- the Modification Report and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of the original approval
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

5.1.2 The assessment of the key aspect of the modification is provided below.

5.2 Amendment to ACHMP approval requirements in Condition D13

5.2.1 The Applicant seeks to modify Condition D13 to identify the Department as the approval authority for the ACHMP instead of EESG.

5.2.2 Due to agency structure changes, EESG no longer exists and the equivalent agency is Heritage NSW (ACH), which falls within the Environment and Heritage division of the Department. The Department referred the proposal to Heritage NSW (ACH) who confirmed on 8 May 2023 that the modification was supported and had no further comments.

5.2.3 The Department notes the Applicant requested the condition be amended to require the ACHMP be submitted to the 'Department' for approval. The Department has recommended the condition be updated to identify the 'Planning Secretary' as the approval authority, as the Planning Secretary is the head of the Department. The Department considers that the Planning Secretary is the appropriate approval authority for the ACHMP and notes that Heritage NSW (ACH) do not have any concerns with this change to the condition. Further it is noted that through the course of the Department's assessment of the submitted ACHMP, the Department will refer the ACHMP to Heritage (ACH) for comment.

5.2.4 The Department considers that the modification is acceptable as it would simply amend Condition D13 to accurately identify the correct approval authority for the ACHMP and that all other requirements of the condition, including consultation with the Nowra Local Aboriginal Land Council, would remain unchanged.

6 Evaluation

6.1.1 The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposal to be acceptable, subject to the recommended conditions, on the basis that it would correct an error in the wording of Condition D13.

6.1.2 The Department is satisfied that the modification is approvable, subject to the recommended conditions (**Appendix B**). This assessment report is hereby presented to the IPC for determination.

Endorsed by:



Anthea Sargeant
Executive Director
Key Sites and Regional Assessments

Endorsed by:



David Gainsford
Deputy Secretary
Development Assessment

Appendices

Appendix A – Modification Report

<https://www.planningportal.nsw.gov.au/major-projects/projects/ssd-7169-mundamia-residential-subdivision-modification-2>

Appendix B – Recommended Modification of SSD

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