

10.2 Bombira Estate Works In Kind Agreement

REPORT BY THE MANAGER DEVELOPMENT ENGINEERING
TO 20 FEBRUARY 2019 ORDINARY MEETING
GOV400067, DA0152/2015

RECOMMENDATION

That Council:

1. **receive the report by the Manager Development Engineering on the Bombira Estate Works in Kind Agreement;**
2. **authorise the General Manager to enter into a “Works in Kind” Agreement generally as proposed by the Applicant but amended as necessary to reflect the change in amount to be credited based on current and future Developer Charges and based on approved plan of subdivision being a further One hundred and twenty-four (124) lots; and**
3. **apply credits for Works in Kind as (\$499,707.60) as calculated and recommended by Manager Development Engineering to be credited against Developer Contributions for Sewer Infrastructure payable by the Applicant for current and future stages (Stage 3 onwards) of the Bombira Estate development**

Executive summary

The Maas Group Family Properties are currently developing a staged residential subdivision (Bombira Estate) previously approved as DA0152/2015 and subsequently amended by MA0029/2017 in accordance with a Court Order. Stages 1 and 2 have been previously constructed that have created a total of twenty-eight (28) lots to date.

Servicing for subsequent Stages has required development of a servicing strategy to provide sewer infrastructure. The Applicant commissioned a Report to be prepared with a strategy plan, which was submitted providing four (4) options. Council officers undertook assessment of the options and recommended that Option 4 be accepted.

Option 4 includes requirements for construction of trunk mains, pump station and rising mains.

With reference to Paragraph 5.5.3 of Council’s “Development Servicing Plan for Mid-Western Regional Council - Sewerage” Council will consider an offer to enter into an agreement to pay the contributions by way of provision of “Works in Kind”.

The applicant is requesting Council enter into “Works in Kind Contributions Agreement” in lieu of payment of Developer Charges for sewer infrastructure.

Disclosure of Interest

Nil.

Detailed report

The Maas Group Family Properties are progressively developing a staged residential subdivision (Bombira Estate) previously approved as DA0152/2015 and subsequently amended by MA0029/2017 in accordance with a Court Order.

The existing approval allows for the creation of 152 lots. Stages 1 and 2 have been previously constructed creating 28 lots in total.

There are one hundred and twenty-four (124) remaining approved Lots to which developer charges can be raised. Based on current rates developer contributions payable at this time for the remaining undeveloped allotments amounts to \$499,707.60.

In order to provide an appropriate sewerage drainage system for the Bombira Estate subdivision development a report titled "Bombira Estate Sewerage Servicing Assessment" was prepared for the Maas Group Family Properties by Cardno (NSW/ACT) Pty Ltd dated 5 February 2018.

That report identified a number of servicing options. Council officers undertook assessment of the options and recommended that Option 4 be accepted as the preferred servicing plan. Option 4 requirements included:

- construction of an internal gravity network,
- a new Sewer Pumping Station,
- new Rising main,
- an upgrade to increase capacity of the existing Bombira Sewer pumping station, and
- construction of 2,500 metres of new rising main to pump effluent directly to the Putta Bucca Sewer Pumping Station.

The rationale behind Council's requirement to adopt Option 4 is that existing sewer from Bombira and Putta Bucca currently discharges by rising main to a gravity outfall at Lawson Park. The existing gravity main infrastructure from Lawson Park to Putta Bucca has insufficient capacity to deal with any additional loads that will be generated from the Bombira Estate and has previously been subject to overflows.

Typically, and as documented in Council's "Development Servicing Plan for Mid-Western Regional Council - Sewerage", all costs for the design, construction and servicing requirements for new subdivision development would be fully funded by the Developer.

However, this is usually limited to the construction of reticulation systems within the development boundaries. Connection is usually made to an existing 'collection system', in most cases being trunk mains adjacent the site.

In this particular case, the design of internal SPS and Rising Mains will also provide some community benefit given that capacity exists to also service future development to the north. A previous Development Approval has been given for a 45-lot subdivision on land identified as 66 Edgell Lane Buckaroo, being Lot 15 DP1194019. DA0109/2016 refers.

The Applicant has submitted a written request for Council to enter into a Works in Kind Agreement for Sewer Infrastructure in accordance with the requirements of Paragraph 5.3.3 of Council's "Development Servicing Plan for Mid-Western Regional Council - Sewerage".

The request to enter into a Works in Kind Agreement was accompanied by detailed design and a Draft Agreement, which includes detailed design and cost estimates for the internal sewer infrastructure construction requirements in accordance with DSP requirements.

The cost estimate for design and project management has been based on Cardno's previous experience for the design and delivery of pressure sewers and pump station. The estimates, when compared to the NSW Reference Rates Manual, Valuation of Water Supply, Sewerage and Stormwater Assets, as published by the Department of Primary Industries Office of Water are generally acceptable.

Based on the Construction BOQ as provided the cost of the Works in Kind being claimed is an amount of \$749,595.00.

However, it is recommended that some items claimed in the detailed Construction BOQ should not be included in the assessed value of work as these items would typically be undertaken as part of the subdivision works and not specifically related to construction of trunk mains, pumping station and rising main.

As noted above Manager Development Engineering is of the view that certain items are and should be the sole or primary responsibility of the Developer and are either rejected or reduced in value. The items recommended either for a reduced amount or not to be included are detailed in the table below.

Item No.	Item description	Total amount claimed	Amount recommended to be credited	Reason for Non- Inclusion or reduction in amount
1.3.2	Excavation, shoring, dewatering, trenching, and disposal of spoil	\$44,000.00	\$33,000.00	It is likely that spoil will be disposed on site and spread as allotment fill.
1.3.6	SPS Temporary fencing during construction	\$4,520.00	NIL	Site security during construction of subdivision infrastructure will be the responsibility of the Contractor and it does not form part of or add value as a permanent asset.
1.3.7	Location of existing services and site survey	\$16,500.00	\$5,500.00	As a greenfields site the developer is required to undertake this work. Only a portion might be attributed to trunk sewer infrastructure.
1.4.1	Connection to incoming DN150 PVC Sewer Pipe	\$4,500.00	NIL	Incoming sewer pipe forms part of the infrastructure that is responsibility of the Developer to provide and does not necessarily form trunk infrastructure.
1.6.1	Temporary Access Road along Wurth Drive (4m wide)	\$53,100.00	NIL	The Temporary Access road is to be constructed on the alignment Wurth Drive and will form pavement base for future road construction.
	TOTALS	\$122,620.00	\$38,500.00	
	TOTAL CLAIMED VALUE TO BE REDUCED BY	\$84,120.00		\$122,620 - \$38,500
	ORIGINAL CLAIMED VALUE FOR WORKS IN KIND CREDIT	\$749,595.00		
	RECOMMENDED VALUE OF CREDITS FOR WORKS IN KIND	\$665,475.00		

Accordingly, the value of works that might be credited as part of a Works in Kind Agreement is should be reduced to \$665,475.00.

However, as previously noted, the Developer Charge for Sewer that would be payable upon development of the balance of approved allotments is only \$499,707.60.

Accordingly, it is considered that Council should only enter into a Works in Kind Agreement that provides credit for Developer Charges for the approved number of allotments.

Developer contributions for sewer for the current Stage 3 comprising 15 lots will only amount to \$60,448.50.

Manager Development Engineering is recommending that the amount of credit based on current rates is limited to for Works in Kind as \$499,707.60.

The Applicant has requested that *“the value of the works in kind be credited in full and upfront to Bombira Estates contributions in lieu of otherwise payable sewer headworks charges.”*

The request for upfront payment or credit is not supported. It is recommended that staged credit should be applied to all subsequent stages as construction and the development progresses.

Community Plan implications

Theme	Looking After Our Community
Goal	Effective and efficient delivery of infrastructure
Strategy	Provide infrastructure and services to cater for the current and future needs of our community

Strategic implications

Council Strategies

Nil.

Council Policies

Council's Development Servicing Plan for Mid-Western Regional Council - Sewerage

Legislation

Nil.

Financial implications

There are no financial implications to existing budgets at this time. It should be noted, however that a decision to accept Works in Kind will result in a future budget adjustment to reflect the acceptance of assets instead of cash, which would be brought back to Council for the relevant budget period (through the Operational Plan or Quarterly Budget Reviews). It should also be noted that a credit for developer Charges is being given for current and future stages, and this will also impact Developer Contributions received.

Associated Risks

Nil.

DAVID WEBSTER
MANAGER DEVELOPMENT ENGINEERING

GARRY HEMSWORTH
DIRECTOR OPERATIONS

1 February 2019

- Attachments:*
1. Request to enter a Works in Kind Agreement Bombira Estate. (Confidential - separately attached)
 2. Extract Option 4 Bombira Sewerage Servicing Assessment. (Confidential - separately attached)
 3. Sewer Pump Station and Rising Main Cost Estimate. (Confidential - separately attached)
 4. Works In Kind Agreement. (Confidential - separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER