

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

JRPP No	2013SYE043
DA Number	DA.405/12/2
Local Government Area	North Sydney
Proposed Development	Section 96 application to modify consent for four storey addition to the Mater Hospital located at the main entrance to the hospital and over the existing loading docks
Street Address	35 Rocklands Road Wollstonecraft
Applicant	Keith Lapthorne
Number of Submissions	One
Recommendation	Approval with Modified Conditions
Report by	Geoff Mossemenear, Executive Planner, North Sydney Council

Assessment Report and Recommendation

EXECUTIVE SUMMARY

This application is for a Section 96(2) modification of the consent granted by the JRPP at its meeting of 14 March 2013 for the Development Application allowing a four storey addition to the Mater Hospital located at the main entrance to the hospital and over the existing loading docks.

The Council's notification of the proposal has attracted one submission concerning the loss of two mature trees and noise concerns with delivery operations after hours. The assessment has considered the submission and the performance of the application against Council's planning requirements.

Following this assessment the application is recommended for **approval**.

DESCRIPTION OF PROPOSAL

The Joint Regional Planning Panel approved the development application for the proposed four storey addition at the Mater Hospital on 14 March 2013 with associated conditions, one of which was a height limit to development no higher than the existing building to preserve neighbouring views.

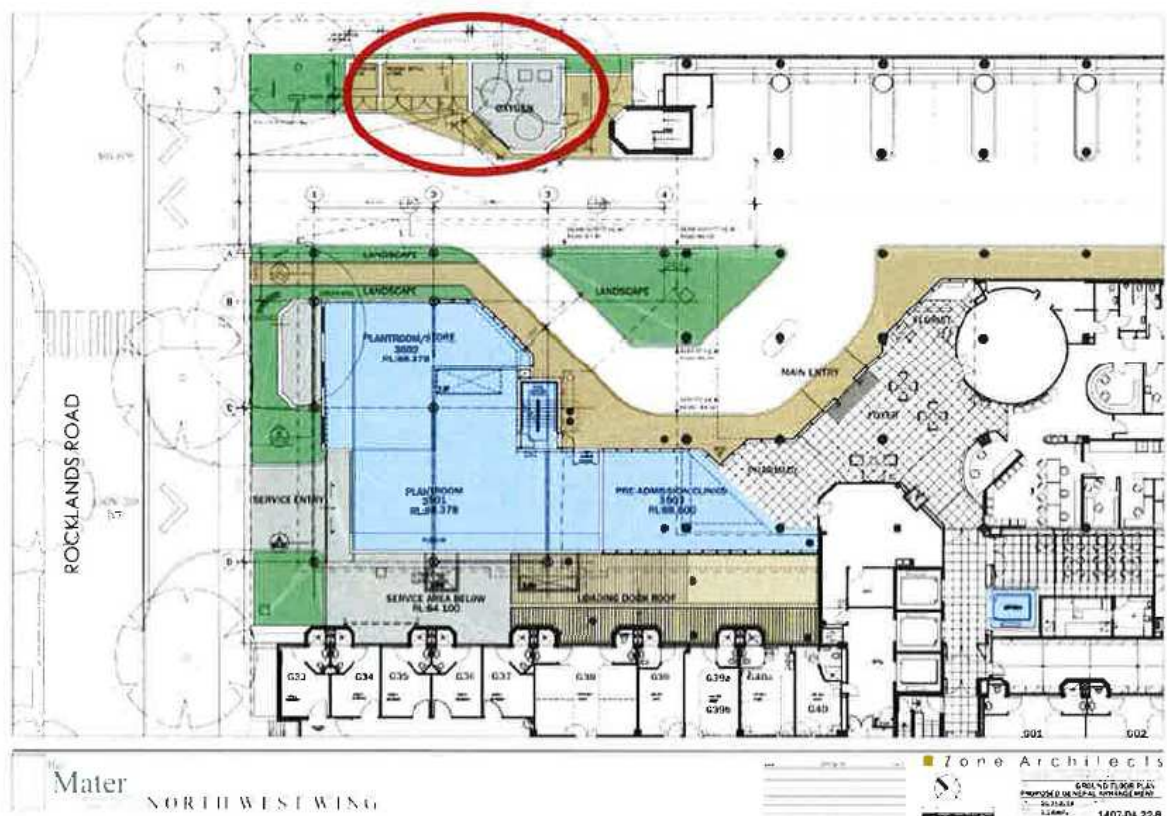
To achieve the height restriction the design was modified at a late stage by removing the plant room from the roof and relocating it to the Ground Floor over the existing loading dock. This in turn required the liquid oxygen storage vessels located in the loading dock area to be relocated to the western boundary and outside the line of the plant room above.

This location, which fully complied with the relevant regulations, was designed and approved by the supplier of the liquid oxygen, the British Oxygen Company (BOC) and included in the DA documents.

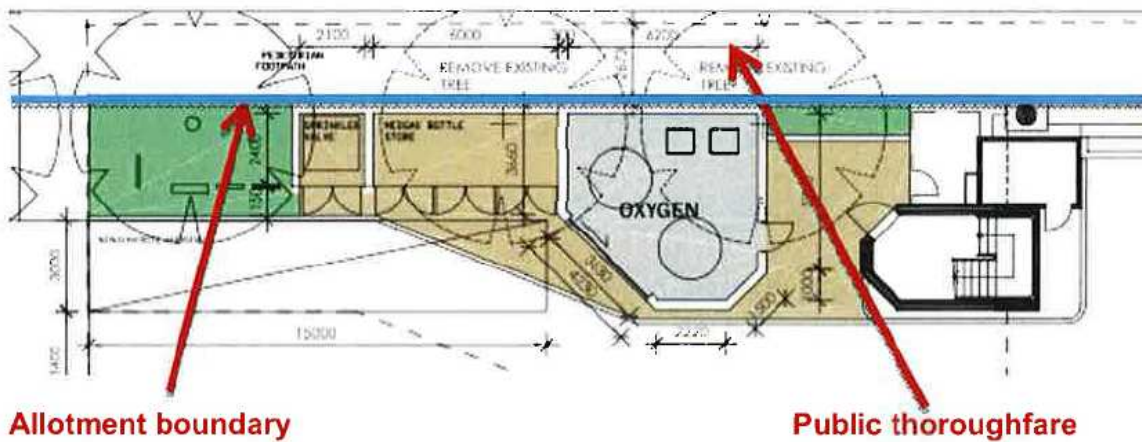
Since the date of DA approval BOC has revised its separation requirements for liquid oxygen storage and the proposed site on the western boundary is no longer suitable.

Possible alternative sites on campus were investigated but the only practical alternative site acceptable to BOC for the storage vessels is on the northern boundary

The proposed Section 96 application involves the relocation of the liquid oxygen storage vessels to the northern boundary of the site.



The proposed structure shall be positioned immediately adjacent to the common allotment boundary shared with the public thoroughfare.

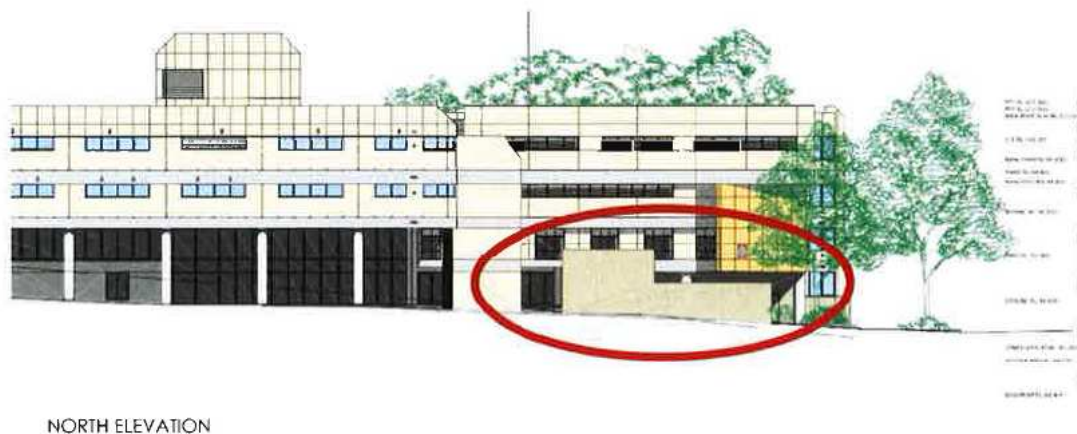


The structure shall have the following dimensions –

- A length of 14.3-metres;
- A depth of 6.2-metres; and
- A maximum height of 4.5-metres along any part of the length relative to the adjoining ground level.

Enclosing walls shall be provided to all sides, with the southern side abutting the driveway fitted with secured doors.

No lid will be provided to the enclosure in view of regulatory requirements for venting to the atmosphere.



CHECKING OF PLANS.

This application has been checked to ensure that the changes being sought are the only changes included in the submitted plans.

DESCRIPTION OF LOCALITY

The site is known as the Mater Hospital and is located on the eastern side of Rocklands Road between the Pacific Highway and Gillies Street. The site is occupied 3 to 4 storey main building and car park at rear. The Rocklands Road frontage contains the main 2-way driveway entry into the site, with a service driveway to a loading dock on the western side of the frontage.

The site is adjoined to the west and northwest by hospital and healthcare related uses at No's. 3-9, 11 & 13 Gillies Street, and the Poche Centre at No.40 Rocklands Road. The building at No.13 Gillies Street, known as "Claverton", is heritage listed.

The area is otherwise predominantly residential in character, including the east adjoining apartment complex at No.41 Rocklands Road, and a multi-storey heritage listed residential flat building at No's.7-17 Sinclair Street, with detached and attached dwellings further to the north.

REFERRALS

Landscaping

Council's Landscape Development Officer (B Smith) has provided the following comments:

It is advised that I have inspected the property in relation to the section 96 application that includes the removal of two mature Brush Box Trees growing at the front of the property along the north eastern boundary and the following observations were made and recommendations provided.

- The two trees are approx.9 – 10 metres tall and in fair to good health and do provide some privacy values to the adjoining property to the north of the subject property, amenity values to the property itself as well as streetscape values.*
- There is another mature Brush Box close to the front of the property along the same boundary that will remain unaffected by the works.*
- There are a number of plantings along the southern boundary of the property adjacent to the subject property that assists in the property in providing its own privacy screening.*

Being aware of the requirements for location of the oxygen tank (and that there are no alternative locations on site), the fact that there will be a mature Brush Box at the front of the property retained, as well as the fact that the property to the north of the subject property can provide its own privacy planting, I raise no objections to the removal of the two Brush Box Trees as proposed.

It should be further noted that now the oxygen tank is being relocated from its original location at the front of the property, there will be an opportunity to provide new shrub and groundcover plantings to redress the loss of the two trees.

Engineering/Stormwater Drainage/Geotechnical

The modifications do not warrant further referral.

Heritage

The modifications do not warrant further referral.

Design Excellence Panel

The modifications do not warrant further referral.

External Referrals

Nil required

Notification

The application was notified to surrounding owners and residents and all precincts from 7 June until 21 June 2013. One submission was received raising the following concerns:

- *The proposed trees to be removed are significant to the area. Sydney Red Gums are a prominent feature of Sinclair Street and use to line both sides of the street before the Mater was given approval to close the southern end of Sinclair Street to build what is now known as the Mater Private Hospital. If these trees are to be removed, then it is felt reasonable that the Mater be required to replant 2 advanced Sydney Red Gums between the public footpath and the new gas storage tanks.*
- *Further, the gas tanks will need to be refilled regularly. This will require access by a large prime mover to the hospitals driveway, and pumping of the gas will create a high level of noise. While the noise is unavoidable, time restrictions for refilling would minimise the adverse impact on the surrounding area. I put forward Monday to Friday not after 7.00 pm and not before 7.00 am.*

CONSIDERATION

The proposal is required to be assessed having regard to the following matters.

Section 96(2) of the Environmental Planning and Assessment Act 1979 enables a consent authority to modify a development consent upon application being sought by the applicant or any person entitled to act on the consent, provided that the consent authority:

- is satisfied that the development to which the consent as modified relates is substantially the same development;
- has consulted the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent;
- has notified the application in accordance with the regulations and has considered any submissions made concerning the proposed modification; and
- in determining the application for modification, has taken into consideration

such matters referred to under Section 79C(1) as are relevant.

Therefore, assessment of the application to modify the subject development consent must consider the following issues:

Is the proposed development as modified substantially the same development approved?

The proposed development as modified is considered to be substantially the same development as approved.

Whether the application required the concurrence of the relevant Minister, public authority or approval body and any comments submitted by these bodies.

The application does not require the concurrence of the Minister, public authority or approval body.

Whether any submissions were made concerning the proposed modification.

The submission raises concern about the removal of two mature trees. The trees are Brush Box and not Sydney Red Gums. Unfortunately, there is no space next to the proposed enclosure to plant new trees. It is noted that there is a street tree and a Brush Box remaining on site between the street and the enclosure that will assist in screening or softening the appearance of the enclosure from the road. There is also substantial planting on the adjacent site that will screen the enclosure from view as shown below:



The submitter also raised concerns about the amenity impacts of deliveries of oxygen to the tanks particularly after hours. The consent was approved subject to a number of conditions including:

Loading within Site

- I1. All loading and unloading operations shall be carried out wholly within the confines of the site, at all times. All vehicles, including delivery vehicles and garbage collection vehicles must enter and exit the site in a forwards direction other than two large trucks per day that must exit the site in a forward direction. The reversing in of these trucks shall be under the supervision of the Dock Manager.

(Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity)

Delivery Hours

- I2. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)

It is considered that these conditions are adequate to protect the neighbourhood amenity with regard to deliveries.

Any relevant considerations under Section 79C(1) of the Environmental Planning and Assessment Act 1979.

The application has been assessed against the relevant numeric controls in NSLEP 2001 and DCP 2002. There will be a minor breach of the building height plane control measured from the boundary. The breach does not create any material impacts with regard to shadows or view loss.

SEPP 33

The proposed development is subject to SEPP33 (State Environmental Planning Policy No.33, "Hazardous and Offensive Development Application Guidelines") and exceeds the screening threshold quantity set out in that Policy. Liquid oxygen is classified as a dangerous good with a sub-risk of Class 5.1 (Oxidizing substance), for which the threshold quantity is 5 tonnes. The proposed inventory (maximum) is approximately 14.4 tonnes. This indicates that a Preliminary Hazard Analysis is required to demonstrate that the proposal meets the acceptable risk criteria, which are set out in HIPAP No.4, "Risk Criteria for Land Use Safety Planning".

The applicant has provided a risk analysis and a copy is attached for the Panel's information.

Oxygen is neither flammable nor toxic. The main hazard associated with liquid oxygen is its ability to vigorously accelerate combustion. Therefore, the main risk control measure is to isolate the oxygen from accumulations of materials of a combustible nature. In the absence of such materials, the risk (at least the risk envisaged in SEPP33 being the risk of off-site harm) is very low.

This being the case, the best way to demonstrate the safety of the proposed installation is to demonstrate compliance with the relevant Australian Standard, AS1894, "The storage and handling of non-flammable cryogenic and refrigerated liquids".

The proposed location of the oxygen tanks is designed with two purposes in mind. Firstly, it maximises the separation of the tanks from structures, activities and circumstances which might impact on the inherent hazardous nature of the materials. Secondly, it provides maximum distance between the tanks and potential effects of an incident involving them, should such an event occur.

Therefore the recommendation is that the proposed development can be approved subject to compliance with AS1894, as set out in the attached compliance report.

CONCLUSION

The proposed development as modified is considered to be substantially the same development as approved. The modifications do not create additional impacts on surrounding development. Several conditions will require modification by replacement.

RECOMMENDATION

THAT the Joint Regional Planning Panel, as the consent authority, modify its consent dated 18 March 2013 in respect of a proposal for a four storey addition to the Mater Hospital located at the main entrance to the hospital and over the existing loading docks at **35 Rocklands Road, Wollstonecraft** under the provisions of Section 96 of the Environmental Planning and Assessment Act with regard to 2013SYE043 – North Sydney - Development Application No.405/12/2, only insofar as will provide for the following.

To delete condition A1, C17 and G7 of the consent and insert in lieu thereof the following new conditions namely:

Development in Accordance with Plans

- A1. The development being carried out in accordance with drawings numbered 1407-DA.21-3, 1407-DA.21-4, 1407-DA.22-4, 1407-DA.23-3, 1407-DA.24-3, 1407-DA.25-3, 1407-DA.26-3, 1407-DA.28-2 and 1407-DA.29-2, drawn by Zone Architects, received by Council on 1 February 2013, **as amended by drawings numbered 1407-DA.14-3, 1407-DA.28-6, 1407-DA.28-7 and 1407-DA.29-45 dated 21 April 2013, 1407-DA.21-9 and 1407-DA.22-9 dated 24 May 2013, drawn by Zone Architects, received by Council on 27**

May 2013, and endorsed with Council's approval stamp, except where amended by the following conditions.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

Protection of Trees

C17. The following tree is required to be retained as part of the development consent:

- **One** x Brush Box Tree growing along the Northern Boundary and shown as retained on the approved landscape plan

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Protection of existing environmental and community assets)

Certification of Tree Condition

G7. Prior to the issue of a final Occupation Certificate, a report prepared by an appropriately qualified person (being an arborist or the like) shall be submitted to the Principal Certifying Authority, detailing the health of the tree specifically nominated below:

- **One** x Brush Box Tree growing along the northern boundary.

The report shall detail the condition and health of the tree upon completion of the works, and shall certify that the tree has not been significantly damaged during the works on the site, and has reasonable prospects for survival.

(Reason: To ensure compliance with the terms of this consent)

Geoff Mossemeneer
EXECUTIVE PLANNER

Stephen Beattie
MANAGER DEVELOPMENT SERVICES