



Mr Keith Lapthorne
25 Rocklands Road
WOLLSTONECRAFT NSW 2065

D359/17
JD6 (CPE)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
SECTION 4.55 MODIFICATION 359/17/3 - APPROVAL**

Development Consent Number: 359/17

Land to which this applies: Mater Hospital, 25 Rocklands Road, Wollstonecraft
Lot No.: [Lot No.], DP: [DP No.]

Applicant: Keith Lapthorne

Proposal: Modify the consent for the extension of the existing building on three levels to provide new health facilities and construction of underground car park, to enable removal of trees the current consent requires to be preserved

Pursuant to Section 4.55 of the Act notice is hereby given of the determination by the consent authority of your request for a modification to Development Consent No. **359/17** and registered in Council's records as Application No. **359/17/3** relating to the land described as **Mater Hospital, 25 Rocklands Road, Wollstonecraft**.

Your request for the modification of the Development Consent as set out in Notice of Determination dated **30 October 2018**, has been determined in the following manner:

1. To delete information in the last row of the table in Condition A1 of the consent and replace it with:

LDA - 1f Landscape Plan Zone Architects 01 May 2023

2. To stamp the new plan included in the Consent by Amendment 1.

3. To delete Condition A3 and replace it with:

Approved Landscaping Plan

A3. Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan numbered LDA-1 Issue F Prepared Byzone Architects dated 1 May 2023, including any amendments required by any other condition of this consent.

(Reason: To refer to the correct landscape plans, as amended.)

4. To delete Condition C13 and replace it with:

Protection of Trees

C13. The following trees identified by the report prepared by Landscape Matrix Pty Ltd dated 01 August 2023 are required to be retained and protected as part of the development consent in accordance with AS 4970-2009 - Protection of Trees on development sites:

| Tree Nos | Location | Height (m) |
|---------------------|---|-------------------|
| T1, T3, T10 and T11 | Northern boundary | Various 4-10m |
| T12 | Sinclair St Reserve | 8m |
| T19-27 | Rear garden of 20 and 22 Hazelbank St | 4-10m |
| T28 | NE corner of 3-9 Gillies St (Rear Lot 59 DP 826360) | 8m |
| T29, 30 | NE corner of 3-9 Gillies St (Rear Lot 59 DP 826360) | 9m, 4m |
| T31 | NE corner of 3-9 Gillies St (Rear Lot 59 DP 826360) | 10m |

Plans and specifications complying with this condition must be submitted to the certifying authority for approval prior to the issue of any construction certificate. The certifying authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued construction certificate, fully satisfy the requirements of this condition.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

5. To delete Condition C1 and replace it with:

Approval for Removal of Trees

C14. The following tree(s) are approved for removal as described by the report prepared by Landscape Matrix Pty Ltd, dated 1 August 2023 in accordance with the development consent:

| Tree | Location | Height |
|---------------|---|---------------|
| T2 | North east boundary | 3.5m |
| T4 | Northern boundary | 3.0m |
| T5, 7, 9 | Existing carpark | 7.0-10.0m |
| T6 | North east boundary | 6.0m |
| 1 x dead tree | Existing carpark | 6.0m |
| T14-15 | Existing car park parking bays | 8.0-10.0m |
| T16, t17, t18 | Located along the southern boundary near Sinclair Street. | 8.0m-10.0m |

Removal or pruning of any other tree on the site is not approved, excluding species exempt under council's tree preservation order.

Any tree(s) shown as being retained on the approved plans (regardless of whether they are listed in the above schedule or not) must be protected and retained in accordance with this condition.

(Reason: Protection of existing environmental and community assets)

6. To insert after Condition E18, the following condition:

Additional Tree Protection and Planting

E19. The following requirements must be observed and implemented during and after completion of works in relation to the protection of T3, as identified in the report by Landscape Matrix Pty Ltd, of 3 August 2023:

- (a) Sensitive construction techniques including hand excavation, pier & beam construction & flexible location of piers/footings shall be used within the TPZ of any protected tree, as is practicable.
- (b) No roots greater than 40mm diameter shall be cut.
- (c) No stormwater or any other underground services shall be directed through the TPZ of any protected tree.
- (d) All work shall be supervised by an AQ5 project arborist.
- (e) All recommendations contained within the Arborist Report prepared by Landscape Matrix dated 10/8/23 shall be strictly adhered to.
- (f) 3 x additional replacement trees (150l min.) capable of attaining a mature height of minimum 8m shall be planted elsewhere within the subject site, and additional landscaping shall be included to soften the built form of the proposed substation/retaining wall where possible.

(To ensure appropriate tree conservation and plating of replacement trees.)

7. To delete Condition G5 and replace it with:

Landscaping

G5. The landscaping shown in the approved landscape plan numbered LDA-1 issued prepared by landscape architect, Peter Lawson for Zone Architects, dated 9 October 2018, and received by Council on 19 October 2018, plus any amendments required by condition, must be completed prior to the issue of any occupation certificate.

(Reason: To ensure compliance)

Reasons for Approval:

This report records the assessment of the proposed modification, to remove trees necessary due to detailed design of the basement and installation of an electricity substation, the latter being the subject of a Part 5 assessment by the relevant agency, Ausgrid.

As discussed, matters raised by a single submission and the reasons approval was granted to the initial development application have been considered, as have pertinent planning controls and potential environmental impacts.

Accordingly, the evaluation concludes the proposal is satisfactory and approval of the requested modifications to the consent is recommended, as set out below, subject to conditions requiring retention of T3 instead of it being removed, and replacement of the three trees to be removed, elsewhere on the site.

How community views were taken into account:

In accordance with Council's Community Engagement Protocol, the subject application was notified for 14 days, and one submission was received. The submission raised concerns regarding the application not properly identifying the number of and the trees to be removed in the event the subject application was approved. The submission also noted the original approval was granted on the proviso that the basement would be modified to retain more trees. Apparently, this has been impractical to implement.

The conditions attached to the original consent for Development Application No. **359/17** by endorsed date of **30 October 2018** still apply.

ADVISINGS

- (a) Council is always prepared to discuss its decisions and, in this regard, please do not hesitate to contact **Jim Davies**. However, if you wish to pursue your rights of appeal in the Land and Environmental Court pursuant to Section 8.7 of the *Environmental Planning and Assessment Act 1979* (as amended), you are advised that Council generally seeks resolution of such appeals through a Section 34 Conference, instead of a full Court hearing, subject to any further advice to the contrary from Council's Solicitors and senior staff. Such an approach is less adversarial, it achieves a quicker decision than would be the case through a Court hearing and it can give rise to considerable cost and time savings for all parties involved.
- (b) Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.
- (c) Prior to commencing any building, subdivision or associated constructions works, the following provisions of the *Environmental Planning and Assessment Act 1979* (the 'Act') are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of the Act.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.
- (d) You are advised that changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use **MAY** require the submission of a further modification under Section 4.55 of the *Environmental Planning and Assessment Act, 1979* (as amended).

Council staff would be pleased to assist in identifying such changes which may require the submission of a modification of a Development Application under Section 4.55 of *the Environmental Planning and Assessment Act*.

Endorsed for and on behalf of North Sydney Council

3 October 2023

DATE

Signature on behalf of consent authority
JIM DAVIES
EXECUTIVE PLANNER (ASSESSMENTS)