



***MODIFICATION REQUEST:
Kempsey District Hospital
Redevelopment
(SSD 5363 MOD 2)***

Modify conditions D2 and E2 in relation to bushfire risk management measures

Secretary's
Environmental Assessment Report
Section 96 of the
Environmental Planning and Assessment Act 1979

September 2014

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On 3 July 2014, the Director, Industry, Key Sites and Social Projects, under delegation of the Minister for Planning, approved a modification request to amend condition B6 to reference a revised acoustic report, which adopted modified acoustic treatment measures following review of the detailed design of the proposal.

The conditions of consent replicated below prescribe the bushfire risk management requirements. The applicant is now seeking to modify these requirements as further investigations have been undertaken to determine the feasibility of these measures and suitable alternative bushfire management measures.

Bushfire Risk Management

- D1 *Prior to occupation of the buildings the subject of this consent, a suitably qualified consultant shall submit to the department, council and the Certifying Authority certification that the landscaping, internal access road and water, electricity and gas supply comply with the requirements of the document 'Planning for Bush Fire Protection 2006'.*
- D2 *Prior to occupation of the buildings the subject of this consent, the applicant must submit to the department and council a program identifying the schedule of works required to address the following matters:*
- a) *all existing buildings on the campus located within 100 metres of the bushfire prone land on the western side of River Street must be upgraded for ember protection (i.e. enclosing all openings or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm); and*
 - b) *gutters for the mental health and maternity buildings are removed or any guttering or valleys for these buildings are screened to prevent build up of flammable materials. Any materials used shall be non-combustible.*
- The schedule of works must be completed within two years of occupation of the buildings the subject of this consent.*
- D3 *The hospital's emergency and evacuation plan shall be revised to address the hospital redevelopment and a copy submitted to council and the Certifying Authority prior to the occupation of the facilities the subject of this consent. The plan shall address Section 4.2.7 of 'Planning for Bushfire Protection 2006'.*
- E1 *The hospital site shall be managed as an inner protection area in perpetuity as outlined in 'Planning for Bush Fire Protection 2006' and 'Standards for asset protection zones'.*
- E2 *The ember protection works required for all existing buildings on the campus located within 100 metres of the bushfire prone land and upgrade works for the mental health and maternity buildings shall be completed within two years of occupation of the buildings the subject of this consent.*

2. PROPOSED MODIFICATION

The applicant is seeking to delete conditions D2 and E2 and replace them with the following consolidated condition:

Within 12 months of the occupation of the buildings the subject of this consent, the following measures must be in place and operational on all buildings within 100 metres of the bushfire prone land:

- a) *If not already fitted, all entry doors and required exit doors are to be fitted with self-closers;*
- b) *If not already fitted, any fixed vents - excluding openings associated with air intakes or exhaust outlets for mechanical ventilation plant - are to be fitted with*

- screens incorporating mesh with an aperture size of 2mm. The mesh is to be made from aluminium, bronze or steel;
- c) If not already fitted, draught excluders are to be fitted to the bottoms of external doors;
 - d) The maintenance of the buildings and grounds within the KDH complex are to be part of written management in use procedures for the KDH;
 - e) The written management in use procedures for the KDH are to require, on at least a weekly basis, the inspection of areas around the existing buildings to detect and remove any build-up of dead vegetative material or other flammable material; and
 - f) The written management in use procedures are to include, as a first step in the event that KDH management is notified of the issue of an extreme or catastrophic fire warning, a detailed procedure to ensure that each and every openable door and windows within the hospital complex is closed and secured, except for entry doors and required exit doors (which are to be fitted with self-closers as above).

The proposed condition is seeking to vary the ember protection requirements for the existing hospital buildings along the western portion of the site, which are located within 100 metres of the bushfire prone land to the west of the hospital (see **Figure 2**).

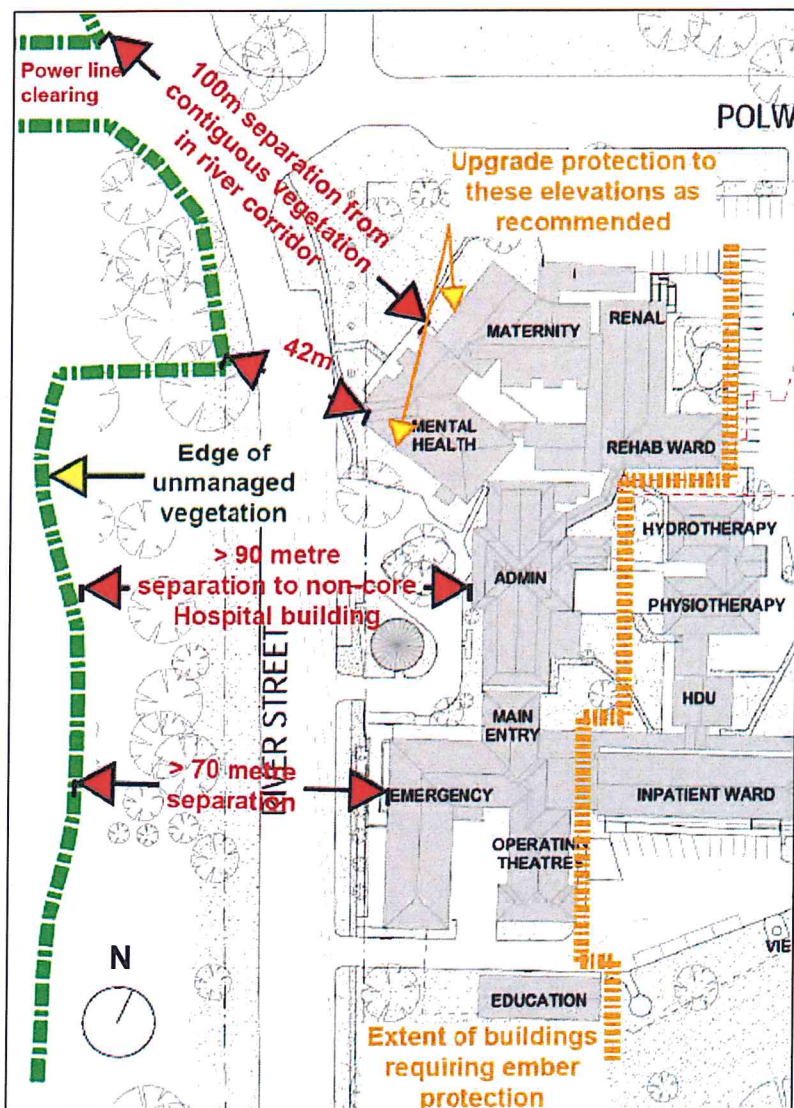


Figure 2: Buildings located within 100 metres of the bushfire prone land requiring ember protection measures (buildings located west of the yellow dashed line)

The applicant has further reviewed the ember protection measures and identified that implementation of these actions would hinder the efficient operation of the existing hospital buildings, have significant cost implications and would require significant alterations to the existing buildings, including a heritage listed building. A further Bushfire Assessment was undertaken by Australian Bushfire Assessment Consultants (ABAC) to identify if alternative measures could be implemented to mitigate the bushfire risk. The Bushfire Assessment found that implementing additional maintenance measures to manage the risk of bushfire spreading on the hospital site in combination with some of the physical ember protection measures (as originally required) would be adequate to manage the bushfire risk to the hospital site. Consequently, the applicant is seeking to amend the conditions to adopt the revised mitigation measures to protect against ember attack.

3. STATUTORY CONTEXT

3.1 Modification of the Development Consent

Section 96(1A) of the EP&A Act provides that a consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify a development consent that is deemed to be substantially the same development. Therefore, the Minister is the consent authority for the subject application consent for the original application was granted by the then Executive Director, Development Assessment Systems and Approvals, as delegate of the then Minister for Planning and Infrastructure on 29 January 2014.

Section 96(1A) of the EP&A Act requires the matters outlined in **Table 1** to be assessed in respect of all applications which seek modifications to an approval.

Table 1: Matters to be considered under section 96(1A) of the EP&A Act

Matter	Consideration
Whether the proposed modification is of minimal environmental impact	The proposed modification seeks to revise the bushfire mitigation measures to increase the operational maintenance requirements in lieu of physical barriers for protection against ember attack. There would be no increased risk of bushfire as the alternative measures to mitigate bushfire risk are proposed to be prescribed in the amended conditions. Therefore, the changes to the conditions would have minimal environmental impact.
Whether the development to which the consent as modified relates is substantially the same development	The proposed modification seeks to modify conditions relating to bushfire mitigation measures for the existing hospital buildings, which are supplementary to the measures required for the new building and the refurbishment works. Accordingly, the modified development would be substantially the same development.
Whether notification has occurred and any submissions have been considered	In accordance with the EP&A Act and the EP&A Regulations, the modification request does not need to be notified. The application was made publicly available on the Department's website and referred to Council, who raised no objections to the modifications.
Any relevant provisions of section 79C(1) of the EP&A Act	The relevant provisions of section 79C(1) of the EP&A Act are considered in this section and the assessment section of this report. The modifications would not alter the development's existing compliance with the relevant planning instruments.

3.2 Delegated Authority

Under the instrument of delegation dated 14 September 2011, the Minister for Planning's powers and functions under section 96 of the EP&A Act have been delegated to Directors in the Major Projects Assessment Division where:

- the relevant local Council has not made an objection, and
- a political disclosure statement has not been made, and
- there are less than 10 public submissions objecting to the proposal.

It is noted that:

- Council does not object to the proposal;
- no public submissions were received; and
- no reportable political donation has been declared in relation to the original application or this modification request.

In accordance with the Minister's delegation, the Director, Industry, Key Sites and Social Projects, may determine this project under delegated authority.

4. CONSULTATION AND SUBMISSIONS

The application was notified in accordance with the Environmental Planning and Assessment Regulation 2000. The application was made publicly available on the Department's website. Kempsey Council and the NSW Rural Fire Service (RFS) were also notified of the proposed modification.

Council raised no objections to the modification request and no public submissions were received. The NSW RFS advised that it raises no objection to the modification request, provided that the operational management measures for the hospital also include periodic inspection and cleaning of unscreened gutters and roof valleys. The NSW RFS also advised that specific notification of 'extreme' and 'catastrophic' fire danger warnings to the hospital would not occur. Therefore, procedures for monitoring fire danger warnings during bushfire season and carrying out the appropriate actions in the event that fire danger warnings reach these levels should be established identified in the hospital operational management procedures.

5. ASSESSMENT

The Department considers the key issue for the proposed modification is bushfire risk management.

The Bushfire Protection Assessment supporting the original application recommended a number of physical barriers and measures to minimise the risk of building ignition as a result of any potential ember attack arising from a bushfire in the vegetation to the west of the site. The Department recommended conditions that required that these measures be implemented within two years of operation of the new and refurbished buildings to allow the building to be occupied whilst the program of works was undertaken. These measures were in addition to other measures, which included management of the campus as an inner protection area in perpetuity.

The Bushfire Assessment supporting the modification request details that the risk of a sustained bushfire, and subsequent sustained ember attack, would be low given the density of the vegetation to the west and surveillance for the site and surrounding area. The report concludes that additional maintenance measures (including weekly inspections to remove flammable material) would, in conjunction with a reduced amount of physical ember protection measures, be adequate as the additional monitoring would minimise the risk of building ignition from any potential ember attack. The applicant has proposed that these

revised mitigation measures be implemented within 12 months of occupation of the new and refurbished buildings.

The NSW RFS advised that the proposed variation to the conditions was acceptable subject to also implementing periodic inspection and cleaning of unscreened gutters and roof valleys. The NSW RFS also advised that as specific notification of 'extreme' and 'catastrophic' fire danger warnings to the hospital would not occur, monitoring of fire danger warnings during bushfire season and implementation of ember protection procedures would need to be adopted in the hospital's operational procedures. The Department has consulted the applicant and revised the recommended conditions accordingly.

The Department considers the additional maintenance and monitoring measures would complement the maintenance requirements for maintaining the hospital site as an inner protection area. The additional maintenance measures and bushfire protection procedures would be appropriate to offset the full implementation of the physical barriers as the intent of the original measures could still be achieved through the revised measures. The Department accepts that the regular removal of flammable material in combination with physical barriers (mesh coverings for non-plant openings, draught excluders and self-closers) and additional bushfire management procedures (closure of openable doors and windows during heightened bushfire alerts) will still effectively mitigate risk of ember attack and building ignition, while still supporting the efficient delivery of health services.

The Department considers that the additional measures will assist in the overall improved management of bushfire risk to the hospital site to address the increased intensity of hospital uses on the site. Whilst the Department considers that the installation of the physical ember protection measures can be undertaken within 12 months of occupation of the building, the maintenance measures and bushfire prevention procedures should be devised and included in any operational plans prior to the occupation of the new building and that the maintenance measures should commence immediately. The Department has modified the proposed condition accordingly.

6. CONCLUSION

The Department has reviewed the modification request and consulted with the NSW RFS. All the relevant environmental issues associated with the modifications have been assessed.

The hospital development would continue to support jobs and deliver key social infrastructure for the region. The modifications will ensure that appropriate bushfire risk management measures are implemented to protect against ember attack and mitigate bushfire risk to the hospital campus and subsequently the new building, whilst not compromising the efficiency of the delivery of health services.

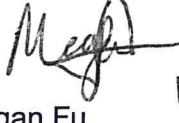
The Department considers that the site remains suitable for the development and that the modification of the proposal is in the public interest as it would continue to provide an overall improved outcome in terms of bushfire risk management for the new floorspace and the hospital site as a whole. Consequently, the Department recommends that the modification be approved.

7. RECOMMENDATION

It is RECOMMENDED that the A/Director, Industry, Key Sites and Social Projects:

- note the information provided in this report;
- approve the modification request; and
- sign the attached modifying instrument (**Appendix B**).

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15/09/14

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APPENDIX A MODIFICATION REQUEST

See the Department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6655.

APPENDIX B RECOMMENDED MODIFYING INSTRUMENT
