

Section 75 W Modification 2

Environmental Assessment Report

Miranda Dental Hospital

84 – 86 Kiora Road, Miranda

Submitted on behalf of:
Russo Family Trust

March 2014

C|T GROUP

Suite 1001, 1 Alfred Street Sydney NSW 2000
GPO Box 4399 Sydney NSW 2001
T 9251 4540 F 9251 4587
www.crosbytextor.com

Disclaimer:

This report has been prepared on behalf of and for the exclusive use of Russo Family Trust. CT Group Pty Ltd accepts no liability or responsibility whatsoever in respect of any use of, or reliance upon, this report by any third party.

Use or copying of this report in whole or in part without the written permission of the CT Group is strictly not permitted.

CONTENTS

1.0	Executive Summary	1
2.0	Introduction	2
3.0	Project Application	3
3.1	Project approval	3
3.2	Modification approval.....	3
4.0	Proposed Modifications	4
4.1	Modification to Project approval.....	4
4.2	Statement of Modification Sought.....	5
4.3	Reasons for the proposed modifications	5
5.0	Assessment.....	7
5.1	Characterisation of development	7
5.2	Environmental Amenity	10
5.3	Transport and Accessibility Impacts.....	10
5.4	Ecologically Sustainable Development (ESD)	10
5.5	Drainage and Flooding	10
5.6	Public Benefit	10
6.0	Conclusion.....	11

Tables

Table 1 – Summary of Proposed Medical Uses

Appendices

Appendix 1 – Project Approval Notice

Appendix 2 –Approved Modification of Project Approval

1.0 Executive Summary

This report has been prepared to support an application made pursuant to Section 75W of the Environmental Planning and Assessment Act 1979 (the “Act”) to modify Project Approval MP 11_0009 for a dental hospital at 84 – 86 Kiora Road, Miranda granted on 23 August 2012 by the Department of Planning and Infrastructure as delegate for the Minister for Planning.

The application is made by the Russo Family Trust, the proponent nominated in the Project Approval.

Notably, Section 75W was repealed with the repeal of Part 3A of the Act, but has continuing effect for any major project approved before the repeal date.

To clarify any doubt as to the permissibility of specialist medical services that can occupy the proposed development it is proposed to modify Condition of Consent A1 in the Project Approval relating to the Development Description to more clearly identify:

1. The “*principal purpose*” of the development; and
2. The permissible components of the development related to that “*principal purpose*” that may permissibly occur within the approved building.

There are no changes required to the Statement of Commitments as a result of the proposed modifications.

The application is made in circumstances where a proposed medical imaging facility necessary for the efficient operation of the Centre has been secured to lease part of the building, but where the expensive equipment necessary for the use will offer practical use beyond oral dentistry.

The Applicant's own view is that the proposed modifications are necessary for the proposed use of the building, but the application is made for abundance of caution, and to satisfy the queries made by the proposed tenant.

It is considered that the proposed modified development:

- does not alter the dominant purpose of the development;
- does not alter the principal purpose of the Project Approval; and
- there is an absence of any significant environmental impacts resulting from the modifications;

It is considered that as long as specialist dental treatment services continues to be provided along with day surgery facilities and inpatient accommodation as the dominant purpose of the development, the proposed modifications should receive favourable consideration.

2.0 Introduction

This application is submitted to the Department of Planning and Infrastructure in support of proposed modifications to Project Approval MP 11_0009 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979*. Project Approval MP 11_0009 permits construction of a dental hospital at 84-86 Kiora Road, Miranda.

CT Group has prepared this application on behalf of the Russo Family Trust. The application provides background information on the project approval and a subsequent approved modification, details of the proposed modifications and an environmental assessment of the proposed modifications.

In the preparation of this application, due consideration has also been given to the Department's Planning Circular "How to characterise development" issued on 21 February 2013.

3.0 Project Application

3.1 Project approval

On 23 August 2012 the Department of Planning and Infrastructure determined to approve a Project Application MP11_0009 to develop a dental hospital at 84 – 86 Kiora Road, Miranda.

Project approval was granted to the development as described below:

- demolition of existing buildings and excavation;
- construction of a part 6/ part 7 storey dental hospital comprising;
 - 1938.5sm of GFA
 - various specialist dental treatment services, day surgery facilities, and inpatient accommodation;
 - shop/café on the upper ground floor;
 - fully automated 3-level basement car stacker containing 40 car spaces; and
 - two signs along the northern and western facades of the building.

A copy of the approval notice can be found at **Appendix 1**.

3.2 Modification approval

On 12 March 2013 the Department of Planning and Infrastructure determined to approve a modification to the Project Application.

The proposed modifications included:

- Relocate approved plant from the basement and level 3 to enlarged plant at roof level to accommodate a new theatre, surgeries and office space;
- Convert approved void space on upper ground floor level to a mezzanine conference and administration area;
- Relocate bicycle storage from lower ground floor to basement;
- Changes to floor levels to basement car park including extra excavation; and
- Reduce approved Section 94 contribution to be consistent with Council's S94A levy plan.

As a result of the proposed modifications the GFA was also increased to 2,164.5sm (+226sm).

A copy of the approval notice can be found at **Appendix 2**.

4.0 Proposed Modifications

4.1 Modification to Project approval

To clarify any doubt as to the type of specialist medical services that can permissibly occupy the proposed development it is proposed to modify Condition of Consent A1 in the Project Approval relating to the Development Description to more clearly identify:

1. The “*principal purpose*” of the development; and
2. The components of the development related to that ‘principal purpose’ that are anticipated to occur within the approved building.

Table 1 provides an overall summary of the specialist dental services that can be considered to make up the “*principal purpose*” of the dental hospital and the associated medical specialists, diagnostic and other specialist services that are considered to have features that are sufficiently ancillary and/or related to that principal purpose to come within the intended scope of the ‘dental hospital’.

Table 1: Summary of Proposed Medical Uses

Category	Proposed Medical Uses	Characterisation
Specialist dental services	General dentist Paediatric Dentist Orthodontist Endodontist Periodontist Dental Therapist Dental Education Centre Dental Hygienist Dental Technician	Principal Purpose
Medical specialists (associated with recovery from conditions with mouth cancer and facial accident trauma)	Oral Surgeon Neurologist to deal with nerve trauma & trigeminal neuralgia Cosmetic surgeon Psychologist Ears Nose & Throat specialist Endocrinologist	Ancillary or related to Principal Purpose
Diagnostic	Radiology Pathology Pharmacist	Infrastructure necessary for Principal Purpose
Other	Sleep Apnoea Clinic Pain clinician Gastrologist (Anorexia etc) Dietician Thoracic Specialist Myofunctional specialist to deal with muscular disorders of the TMJ Cardiologist Urologist Orthopaedic Surgeon	Not directly arising from Principal Purpose but will offer benefits from co-location (proposed to be a small proportion of the total tenant mix)

4.2 Statement of Modification Sought

Condition A1 is amended by the insertion of the **bold and underlined words / numbers** and deletion of the ~~struck out words / numbers~~ as follows:

AI DEVELOPMENT DESCRIPTION

Development approval is granted only to carrying out the development described in detail below:

- Demolition of existing buildings and excavation and construction of a part 6/part 7 storey **building, the principal purpose of which is a** dental hospital with a GFA of 2,164.5 sm comprising:
- various specialist dental treatment services, day surgery facilities, ~~and~~ in patient accommodation **and medical specialists, diagnostic and other services as described in Table 1 in Section 75W Modification 2** ;
- ~~shop + café on the upper ground floor;~~
- fully automated 3 level basement car stacker containing 40 spaces; and
- two signs along the northern and western facades of the building.

4.3 Reasons for the proposed modifications

The proponents of the Project Application, The Russo Family Trust, own and operate Gentle Dental Care, which had its origins over 40 years ago and currently provides for a one-stop dental care in centres located in Liverpool and Tahmoor. The centres are open 7 days a week, with extended hours, so same day or emergency treatment is available when required.

With an impressive staff headed by Dr Gen Russo, one of Sydney's leading dentists, Gentle Dental Care aim to provide world-class treatment through world class dentists in world-class facilities.

Dr Russo has been approached by a number of medical specialists seeking to be located within the proposed dental hospital who either provide services which involve dental treatment of one form or another, or who offer medial services that are so related to dental practice so as to offer synergies and efficiencies from being co-located within a dental hospital, with a consequent benefit to the public.

As a good example of the issue, the particular proposed use which highlighted the matter is a proposed imaging centre (producing x-rays and MRI scans etc). An imaging centre is essential for the operation of a dental hospital and could be said to be ancillary to the approved dental hospital so that no further development consent would be needed.

The expensive imaging equipment and infrastructure has uses beyond dentistry, and there is no public benefit served by limiting the Centre to oral medicine. It is also much more efficient to utilise the imaging centre facilities more broadly. Telling a prospective tenant that they cannot conduct imaging of other parts of the body makes the location less attractive and consequently risks making the dental imaging more expensive for patients.

There are other specialists who naturally seek to locate their practices within a hospital with the facilities found in a dental hospital. The availability of those specialists is a great asset to a hospital concentrating on dentistry. For

example patients dealing with facial injuries are greatly assisted in locating appropriately specialised care if an oral surgeon and a neurologist is situated within the building.

The availability of such related medical services is important to providing quality medical dental care.

There is no proposal to change the focus of the hospital away from dental services, and that will remain the predominant purpose of the hospital.

The Applicant does however see it as appropriate to clarify the latitude available to it before signing leases with tenants involved in related areas of treatment who will incur substantial costs in locating within the hospital.

While maintaining that focus, the Applicant seeks confirmation that it may consider prospective tenants involved in providing the services summarised in **Table 1**.

5.0 Assessment

The following provides an assessment of the key issues that relate to the proposed modifications.

5.1 Characterisation of development

In determining the permissible land uses on the site due consideration is given to the Department's Planning Circular "How to characterise development" issued on 212 February 2013.

The following characterisations in the circular are considered to be relevant to the proposed modifications:

1. **Development for a purpose**
2. **Ancillary uses**
3. **Principal purpose**

The following provides comment in relation to each characterisation and proposed medical uses.

1. Development for a purpose

The "*dominant purpose*" of the development is the development of a dental hospital that provides various specialist dental treatment services, day surgery facilities, and inpatient accommodation.

It is considered that this particular purpose is achieved by providing the following specialist dental treatment services in association with inpatient accommodation:

- General dentist
- Paediatric Dentist
- Orthodontist
- Endodontist
- Periodontist
- Dental Therapist
- Dental Education Centre
- Dental Hygienist
- Dental Technician

All of the above services can be regarded as being specialist dental treatment services and integral to the efficient operation of a dental hospital. Although they are different components of varying nature it is not appropriate to characterise each as being for an individual service or ancillary to the "*dominant purpose*" of the development.

2. Ancillary uses

The concept of ancillary use takes on a greater meaning when the proposed development, as in this case, involves multiple components on the same land. The multiple components are identified and categorised in **Table 1**. Apart from the specialist dental services, the proposed medical, diagnostic and other

specialist medical services that are listed in **Table 1** are considered to have features that are characterised as both ancillary or related to the principal purpose of the dental hospital.

As discussed in the Department's planning circular on how to characterise development "*an ancillary use is a use that is subordinate or subservient to the dominant purpose*" that is a dental hospital in this case.

The following provides comment in relation to each category:

Medical specialists (associated with recovery from conditions with mouth cancer and facial accident trauma)

The provision of the following medical specialists associated with recovery from conditions with mouth cancer and facial accident trauma will serve the dominant purpose of the development:

- Oral Surgeon
- Neurologist to deal with nerve trauma & trigeminal neuralgia
- Cosmetic surgeon
- Psychologist
- Ears Nose & Throat specialist
- Endocrinologist

Although each individual specialist can serve its own purpose they are not a dominant purpose in their own right and individually take up only a small area compared to the specialist dental treatment services. These medical specialists are likely to be a one-off service whereas there will be multiple specialist dental treatment services provided in the hospital.

As discussed in the original Environmental Assessment for the proposed development, the existing Gentle Dental Care centres participate in Government schemes, providing dental care for:

- Medically compromised patients under the Chronic Disease Management (CDM) scheme (formerly Enhanced Primary Care (EPC) program);
- War veterans and their families under the Veteran Affairs program;
- Medically compromised patients under the Medicare Chronic Disease Dental Scheme; and,
- Preventative services for young adults under the Medicare Teen Dental Plan.

Gentle Dental Care also have worked with the Life Time Care and Support Association (LTCSA) which provides schemes for treatment to people severely injured in motor accidents, especially those with spinal cord injuries, brain damage and vision impairment. The existing dental centres are fully equipped to handle patients with such physical disabilities. These facilities will also be made available in the proposed dental hospital.

For the development to implement the dominant purpose of a dental hospital, particularly in relation to providing specialist treatment as described, it can be reasonably expected to have these medical specialist services integrated within the proposed hospital.

Essential diagnostic and related hospital infrastructure

The provision of diagnostic services such as radiology and pathology are seen as services that are essential and related to the provision of specialist dental treatment services even though they are not services that are used exclusively for dental services.

Diagnostic services will directly serve the dominant purpose of the development and although they can serve their own purpose, they are a very small component of the hospital services and will not be a dominant purpose in their own right.

A pharmacy is where drugs are prepared and dispensed that will service dental patients and is reasonably required in the circumstances to implement the dental hospital. While a pharmacy will also serve others not directly associated with the dental hospital, it is considered to be an essential facility for the operation of a dental hospital (and indeed any hospital).

Other

Many of the proposed medical services identified as "other" have an indirect relationship with specialised dental services and/or only constitute a minor component of the development.

For example, periodontal disease (gum disease) has been shown to be associated with heart disease and a cardiologist is generally required to determine if an existing heart condition requires use of antibiotics prior to dental procedures.

3. Principal purpose

It is proposed to use the term "principal purpose" in the description of the development contained in Condition of Consent A1. This will add a degree of flexibility to what may be considered to be for the purpose of "*various specialist dental treatment services, day surgery facilities, and inpatient accommodation*".

Ultimately the use of the building when assessed as a whole must be identifiable as directed to that principal purpose.

The provision of medical services identified as "other" in **Table 1** that are not directly related to specialist dental treatment services is not considered to alter the categorisation of the building as housing "*various specialist dental treatment services*" because they can each be related to the provision of dental services and in some cases are essential for those services. As a small portion of the tenant mix, they will not change the focus of the hospital.

Many of the proposed medical services identified as "other" have an indirect relationship with specialised dental services. For example, periodontal disease (gum disease) has been shown to be associated with heart disease and a cardiologist is generally required to determine if an existing heart condition requires use of antibiotics prior to dental procedures.

An amended definition, as proposed, will make it clear that even if these other medical services are provided, the principal purpose of the development will remain the provision of "*various specialist dental treatment services*".

The development, when considered as a whole, will continue to be for the principal purpose of a dental hospital comprising specialist dental treatment services, day surgery facilities, and inpatient accommodation.

5.2 Environmental Amenity

Issues relating to solar access, acoustic privacy, visual privacy, view loss and wind impact remain relatively unchanged because there is no proposed change in the approved physical building.

5.3 Transport and Accessibility Impacts

No additional car parking is proposed because it is not proposed to increase the gross floor area or number of employees/tenants. The proposed valet parking system will continue to run with a dedicated full-time valet who will assist with;

- Instructing all drivers on how to use the “stacker”;
- Assisting retrieval of “stacked” vehicles via control panel;
- Assisting disabled people to alight and park in “stacker”; and
- Accepting, arranging and distributing courier delivers ... this will free up the loading zone and permit more efficient use of the elevator.

5.4 Ecologically Sustainable Development (ESD)

The ESD principles identified for inclusion in the design development process will not be changed or detrimentally impacted upon by the proposed modifications. These inclusions are reflected in the Statement of Commitments and will continue to apply to the proposed development.

5.5 Drainage and Flooding

The proposed modifications will not impact on the assessment of stormwater drainage requirements and flooding undertaken as part of the original project assessment.

5.6 Public Benefit

In addition to the public benefit identified in the original Environmental Assessment of the project application the proposed modifications will ensure that the proposal will operate as a world best practice dental hospital offering essential infrastructure, and will provide access to other related medical facilities to achieve the efficient delivery of service to patients.

6.0 Conclusion

This Section 75W application seeks modifications to the Project Approval MP 11_0009 for a dental hospital at 84 – 86 Kiora Road, Miranda.

This environmental assessment has demonstrated how the proposed modifications to the Project Approval will have very limited environmental consequences beyond those that have been the subject of the original project assessment.

The proposed modified development:

- does not alter the dominant purpose of the development;
- does not alter the principal purpose of the Project Approval; and
- there is an absence of any significant environmental impacts resulting from the modifications;

As long as the specialist dental treatment services, as identified, are provided along with day surgery facilities and inpatient accommodation then the dominant purpose of the development as a dental hospital will not change.

It is considered that the application to modify Project Approval for MP 11_0009 should receive favourable consideration.

Appendix 1 – PROJECT APPROVAL NOTICE

Appendix 2 – Approved Modification of Project Approval