



## Clause 4.6 Variation Request

**Client:** Macquarie Health Corporation  
**Project:** Redevelopment of President Private Hospital  
(Ref. No. SSD 10320)  
369-381 President Ave  
61-65 Hotham Rd,  
2-4 Bidurgal Ave.  
Kirrawee, NSW 2232

**Project No:** MACHEALTH-06  
December 2021

**Contact:**

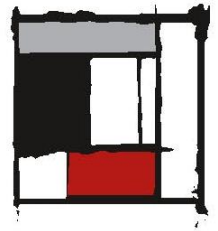
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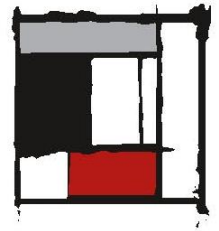
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Ck211217-clause 4.6 variation request (V3)	Christine Kelly	SP		17/12/21



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## Clause 4.6 Variation Request

This written submission requests an exemption to a development standard pursuant to clause 4.6 of *The Sutherland Shire Local Environment Plan 2015* (SSLEP 2015).

This clause 4.6 variation request has been prepared to support the Response to Submissions for the State Significant Development (SSD) application SSD-10320 seeking consent for the Alterations and Additions to President Private Hospital Development Application.

### 1.1 What is the name of the environmental planning instrument that applied to the land.

The Environmental Planning Instrument applied to the land is the Sutherland Shire Local Environmental Plan 2015.

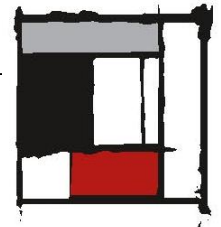
### 1.2 What is the zoning of the land?

The zone in which the site is located is Zone R2 Low Density Residential

### 1.3 What are the Objectives of the zone?

Clause 1 of the land Use Table states the objectives of this zone to be as follows. The ways in which these objectives are met by this development proposal are included in the right- hand column.

Objective as stated in Sutherland Local Environmental Plan 2015	Development Response
<ul style="list-style-type: none"> <li>To provide for the housing needs of the community within a low-density residential environment.</li> </ul>	This development does not provide for housing needs within a low density residential environment.
<ul style="list-style-type: none"> <li>To enable other land uses that provide facilities or services to meet the day to day needs of residents</li> </ul>	The proposal does not encroach or influence other land uses or facilitation of services to the area that may be required by neighbouring residents. In fact, the proposal provides health and rehabilitation facilities for residents. It also provides an element of retail for the general public in the form of a pharmacy and café.
<ul style="list-style-type: none"> <li>To protect and enhance existing vegetation and other natural features and encourage appropriate bushland restoration particularly along ridgelines and in areas of high visual significance.</li> </ul>	The proposal has shown that it will have minimal influence on ecological features of the surrounding area. The landscape design for the project will enhance the vegetation and natural features of the area.
<ul style="list-style-type: none"> <li>To allow the subdivision of land only of the resulting lots retains natural features and allows a sufficient area of development.</li> </ul>	This development does not include the subdivision of the entire site area. It does however, amalgamate the R2 zones into the SP1 zone.
<ul style="list-style-type: none"> <li>To ensure the single dwelling character, landscape character, neighbourhood character and streetscapes of the zone are maintained</li> </ul>	The size and bulk of the proposed development has been formulated carefully around its neighbouring properties. The development will not grown beyond its



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<i>over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing.</i>	given boundaries and therefore, landscaped spaces, indoor courtyards and entry and exit zones for both pedestrian and vehicular accesses will not be altered.
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### 1.4 What is the development standard being varied? FSR, height, lot size?

The development standard being varied refers to the height permissibility of this zone.

### 1.5 Under what clause is the development standard listed in the environmental planning instrument?

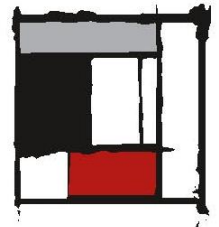
Clause 4.3 of the Sutherland Shire LEP 2015 (SLEP 2015) provides the objectives of the height permissibility within the area.

The majority of the site for this development falls with an SP1 zoning. This zoning does not have a height permissibility within the SLEP 2015. The northern areas of the site do fall into the R2 zone – Low Density residential. Despite the site falling within the R2 development zone, it is also categorised as an Area I in reference to its height permissibility. Area I has a height limit of 8.5m. 19% of the development floor area falls into the Area I zone.

### 1.6 What are the objectives of the development standard?

The objectives of the building standard are included in clause 4.3 Height of Buildings in SLEP 2015. The development response is shown in the right-hand column on the table below.

Clause 4.3 Height of Buildings	Development Response
(1) <i>The objectives of this clause are as follows –</i> (a) <i>To ensure the scale of the buildings –</i> (i) <i>Is compatible with adjoining development, and</i> (ii) <i>Is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and</i> (iii) <i>Complements any natural setting of the buildings,</i>	The development has been designed to allow for a transition in height between the new building and the surrounding Area I. Where the proposed building comes close to the Area I, the heights have been reduced wherever possible to meeting the buildings in Area I. This height transition has ensured that the bulk and scale of the proposed building compliments the streetscape as well as the natural settings of the area.
(b) <i>To allow reasonable daylight access to all buildings and the public domain</i>	Shadow analysis drawings A 017, A 018 and A 019 show that no neighbouring buildings or public domain are in detriment for the heights designed for this proposal.
(c) <i>To minimise the impacts of new buildings or nearby properties from</i>	Residents to the north of the development will be able to look over the top of the building. They will not



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<i>loss of views, loss of privacy, overshadowing or visual intrusion,</i>	be impacts by loss of views, loss of privacy, overshadowing or visual intrusion. Residents to the east, south and west will not be impacted to any great amount. Remembering that the existing hospital has been in this location for many years with very little being done to the building or its ground for many years. Surrounding neighbours will benefits from an enhanced outlook after the works are finished.
<i>(d) To ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways, and public reserves,</i>	The landscape design has created smaller pockets of outdoor public spaces to take advantage of the smaller areas available by the design. Sometimes the building line has been pulled higher to allow for a better proportioned outdoor amenity.
<i>(e) To ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,</i>	Implementing the height transition for the main building, the proposed building should appear to be and compliment the propotion of buildings on the streetscape within the residential zone.
<i>(f) To achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.</i>	The transition between the higher employment intensity uses is achieved as the outside edges of the oposed building are located closer to the residential zones.
<i>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the <a href="#">Height of Buildings Map</a>.</i>	19% of the building floor area is located within the R2 zone. Of this small area only 14.5% exceeds the height limit for Area I as shown on the Height of Buildings Map. This excedence in regulation has led to the necessity of this Clause 4.6 Variation Request.

### 1.7 What is the numeric value of the development standard in the environmental planning instrument?

Area I maximum height is 8.5m.

### 1.8 What is the proposed numeric value of the development standard in your development application?

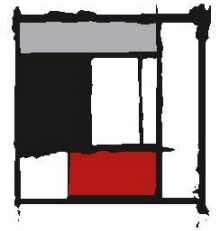
The highest point of the development identified as an Area I zone is 9.74m which exceeds the height limit by 1.24m.

### 1.9 What is the percentage variation (between your proposal and the environmental Planning Instrument)?

The percentage variation is 14.5%.

Refer to Architectural drawings:

- A 401 East / West Sections
- A 402 North / South Sections
- A 403 Sections – Building Height



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### 1.10 How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

In this particular case, strict compliance with the development standard would be unreasonable or unnecessary for the following reasons:

- The area located in Area I consists of patient accommodation for the mental health unit. Removing these bedrooms would not make the Mental Health Unit viable and therefore the Sutherland Community would have a much-needed health service removed from its local community area.
- A proportion of the open spaces would be removed to accommodate the relocated building area, leading to a reduced outdoor public domain for patients, visitors, and staff
- A less attractive streetscape for the residents living in Bidurgal Avenue therefore reducing their visual amenity.

### 1.11 How would strict compliance hinder the attainment of the objectives specified in Section 5(a) and (ii) of the Act.

5 The objectives of this Act are:

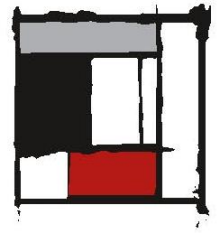
(a) to encourage:

(i) the proper management development and conservation of natural and artificial resources including agricultural land, natural areas, forests, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

(ii) the promotion and co-ordination of the orderly and economic use and development of land,

The proposed development does not contravene any ecologic or environmental standards and is an orderly and economic use of the development of the site.

- The aim to focus on developments of residential, commercial, and mixed use close to highly connected public transport infrastructure, consistent with the principle of transit-oriented development and the vision of the precinct to foster higher patronage of sustainable transportation modes.
- The sites strong connection and alignment with President Avenue and Hotham Road and proposed road hierarchy provides significant levels of open space, landscaping opportunities and pedestrian and cyclist connectivity.
- Providing vibrant and active street frontages for residents and workers within the area.



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- The area located in Area I consists of patient accommodation for the mental health unit. Removing these bedrooms would not make the Mental Health Unit viable and therefore the Sutherland Community would have a much needed health service removed from its local community area.

### 1.12 Is the development standard a performance-based control? Give details.

The Development Standard is not a performance-based control.

### 1.13 Would strict compliance with the standard, in your particular case, be unreasonable or unnecessary? Why?

Strict compliance with the standard may be at the detriment of the floor-to-floor height on all the floors. The designed height in this space is for patient lifters, oxygen services and other services essential for patients. Reducing this height may lead to limited services offered to patients.

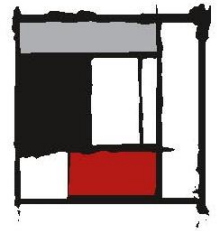
The alterations and additions to President Private Hospital will create jobs close to transport connections, foster strong connections to the natural attributes of open space areas and connects with district views within a human scale urban setting. The proposed building works and the surrounding landscaping will provide an active, inviting and walking urban environment.

The proposed variation to the permissible height development standards will allow for the establishment of a vibrant and active urban area and provide for an improved planning outcome for the site.

### 1.14 Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Sufficient planning grounds to justify the contravention are as follows:

- The bulk and scale of the building is compatible, consistent. In character and complimentary to the surrounding area.
- Surrounding neighbours' properties are not impacted by a lack of daylight due to the height of the proposed building.
- The loss of views, privacy, overshadowing, and visual intrusion aren't impacted by this proposal.
- The proposed building does not impact the height transition permissibility.
- The additional height does not impact on public outdoor areas for the existing facility or its neighbours.



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- The design strategy of the proposal has been to retain, effectively, double storey buildings (above ground level existing) where adjacent to single detached residential dwellings. This design criteria ensures the overall bulk and scale of the proposed building does not dwarf its residential neighbouring properties.

## Conclusion

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This clause 4.6 variation request demonstrates that:

- The underlying objectives of the permissible height standard are achieved notwithstanding the proposed variation
- It is in the public interest as the overall proposal achieves the underlying objectives of the standard and is consistent with the objectives of the R2 zone under SLEP 2015.
- A small 19% of the total building floor area is in Area I. The highest point in this area is 1.24m above the 8.5m height limit. Therefore, the height non-compliance measures 14.5% over the permissible height allowance and does not raise any matters to surrounding community planning significance.

This variation request outlines the justification for the proposed contravention to the maximum permissible height of a building in a R2 and demonstrates that it is in the public interest.

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