



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
June 2022

Contact:

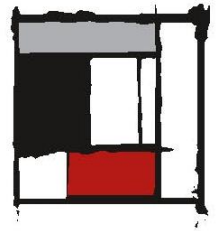
Christine Kelly

Urban and Regional Planner

P 02 9518 8800

M 0414 746 699

E chris@imagescape.com.au



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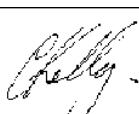
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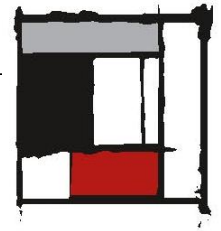
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Clause 4.6 Variation Request

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 as well as the request for information for the same project, 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.

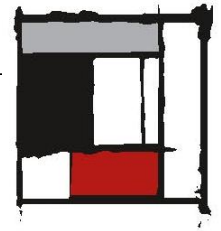
1.2 What is the zoning of the land?

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
To provide for the housing needs of the community within a low-density residential environment.	This development does not provide for housing needs within a low density residential environment.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	The proposal does not encroach or influence other land uses or facilitation of services to the area that may be required by neighbouring residents. 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.
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.	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.
To allow the subdivision of land only of the resulting lots retains natural features and allows a sufficient area of development.	This development does not include the subdivision of the entire site area. It does amalgamate the R2 zoned allotments into the SP1 zoned allotments.
To ensure the single dwelling character, landscape character, neighbourhood character	The size and bulk of the proposed development has been formulated carefully around its neighbouring



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<i>and streetscapes of the zone are maintained over time and not diminished by the cumulative impact of multi dwelling housing or seniors housing.</i>	properties. The development will not grow beyond its 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 and FSR 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.

Clause 4.4 of the Sutherland Shire LEP 2015 (SLEP 2015) provides the objectives of the floor space ratio permissibility within the area.

The major area of the site for this development falls with the SP1 zoning. The allotments of land zoned as R2: Low Density Residential are:

No. 61 Hotham Road:	Lot 1	DP 26995
No. 2 Bidurgal Ave:	Lot 53	DP 29493
No. 4 Bidurgal Ave :	Lot 54	DP 29493

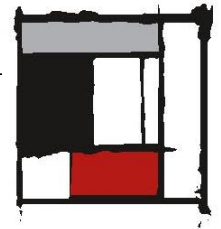
The SP1 Zoning does not have a height permissibility. However, the three sites mentioned about all fall into an Area I which has a height limit of 8.5m. 19% of the development floor area falls into the Area I zone.

The SP1 Zoning does not have a FSR permissibility. However, the three sites mentioned above are zoned R2: Residential Low Density which has a FSR of 0.55:1. 19% of the development floor area lies within the R2 zone.

1.6 What are the objectives of the development standard?

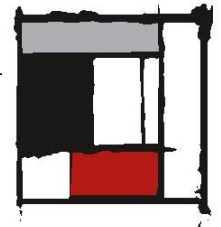
The objectives of the building standard are included in clause 4.3 Height of Buildings in SLEP 2015. The development response is shown in the right-hand column on the table below.

Clause 4.3 Height of Buildings	Development Response
(1) The objectives of this clause are as follows – (a) To ensure the scale of the buildings – (i) Is compatible with adjoining development, and (ii) Is consistent with the desired scale and character of the street and locality in which the buildings	The development has been designed to allow for a transition in height between the proposed building and the surrounding Area I. Where the proposed building comes close to the Area I, the heights have been reduced where possible to meeting the building heights in Area I. This height transition has ensured that the bulk and scale of the proposed building compliments the



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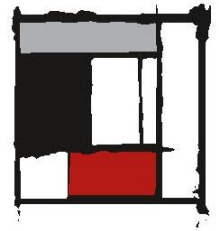
<i>are located or the desired future scale and character, and</i> (iii) <i>Complements any natural setting of the buildings,</i>	streetscape as well as the natural settings of the area.
(b) <i>To allow reasonable daylight access to all buildings and the public domain</i>	Shadow analysis drawings A 017, A 018 and A 019 show that no neighbouring buildings or public domain are in detriment for the heights designed for this proposal. Setbacks provided to the adjacent residential properties are in excess of those normally provided in residential subdivisions. This enhances the reasonable access to daylight of buildings and public domain.
(c) <i>To minimise the impacts of new buildings or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,</i>	Residents to the north of the development on Bidurgal Ave will be able to look over the top of the proposed building. They will not be impacted by loss of views, loss of privacy, overshadowing or visual intrusion. Residents to the west and east on Bidurgal Ave will not be impacted for views, or visual intrusion. Privacy concerns have been addressed via screening to windows, separation distances, fencing and depth of landscaping. There are no R2 zoned properties to the west of the site on Hotham Rd. The shadow analysis drawings A017, A018 and A019 confirm no increased overshadowing due to the variation of height control. The existing hospital has been in this location for many years with very little done to the building or its grounds surrounding neighbours will benefit from an enhanced outlook when the works are finished.
(d) <i>To ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways, and public reserves,</i>	Within the R2 zoning the proposed building heights are generally maintained at 2 storey to minimise visual impact. Roof top plant is restricted to the SP1 zoned portion of the site. Any roof top plant within the R2 zoned portion consists of solar panels and screened mechanical exhaust fans. The landscape design has created smaller pockets of outdoor public spaces to take advantage of areas available by the design. The development is not viewed from waterways or public reserves.
(e) <i>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>	The proposed development has been kept to 2 storey within the R2 zone portion of the site. Implementing the height transition from the main building, the proposed building will be compatible with the single and two level houses within the residential zone.
(f) <i>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 proposed building are provided to the residential zones.



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(2) <i>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i>	The majority of the proposed development is located within the SP1 zone. A small area within the R2 zone exceeds the height limit for Area I as shown on the Height of Buildings Map. This exceedence in regulation has led to the necessity of this Clause 4.6 Variation Request.
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Clause 4.4 Floor Space Ratio	Development Response
(1) <i>The objectives of this clause are as follows-</i> (a) <i>To ensure that development is in keeping with the characteristics of the site and the local area,</i>	The area of the development located within the R2 zone maintain a residential characteristic by the proportions of the built area, sizes and proportions of glazing to the walls looking out to the neighbouring properties. The use of these areas are generally patient accommodation ensuring that the areas are generally quiet and will not impinge on the amenity of its neighbours.
(b) <i>To ensure that the bulk and scale of the new buildings is compatible with the context of the locality,</i>	The bulk and scale of the affected area is in keeping with a two storey appearance to ensure it is compatible with the local context.
(c) <i>To control development density and intensity of land use, taking into account –</i> (i) <i>The environmental constraints and values of the site, and</i>	The environmental constraints affecting neighbouring properties is privacy and light spill. These two components have been addressed extensively in the main EIS document. In summary, windows to the patient accommodation have been located to ensure that sight lines are not directed at private habitable neighbouring areas. Windows adjacent to residential properties are screened with fixed louvers to maintain privacy and reduce light spill.
(ii) <i>The amenity of adjoining land and the public domain, and</i>	Windows in the patient accommodation areas where facing into the public areas of neighbouring properties are screened. Public areas of the development are focused on the public areas for the hospital use. No proposed public areas face to neighbouring residential properties.
(iii) <i>The availability of infrastructure to service the site, and</i>	Services consultants have confirmed the site has adequate infrastructure available.
(iv) <i>The capacity of the road network to accommodate the vehicular and pedestrian traffic the development will generate, and</i>	As stated in the traffic reports provided for this development, the road network has adequate accommodation for vehicular and pedestrian traffic.
(v) <i>The desirability of retaining the scenic, visual and landscape qualities of the area.</i>	The affected sites are located on the downward gradient of the area and therefore, views and scenic outlook will not be affected by the development proposed for the R2 zoned sites.



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

Area I maximum height is 8.5m.

Maximum FSR is 0.55 : 1

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.

The FSR of the area of the development located within the R2 zone is 1.16 : 1 which exceeds the FSR permissibility by 0.61

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

The percentage variation for the Height permissibility is 14%

The percentage variation for the FSR permissibility is 110%

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:

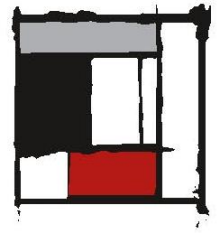
- The area zoned as R2: Residential Low Density consists of patient accommodation for the mental health unit. Removing these patient bedrooms would render Mental Health Unit unviable and the Sutherland Community would have a much-needed health service removed from its local community area.
- A proportion of the open spaces within the SP1 zone 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,



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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.
- The area located within the R2: Residential Low density zone 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.

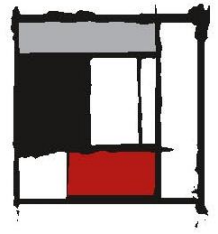
1.12 Is the development standard a performance-based control? Give details.

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 and future limitations for staff and their safe work conditions.

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



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landscaping will provide an active, inviting and walking urban environment. The development as presented 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.

The height contravention is a minimal and so is of minor impact.

The FSR contravention is a significant deviation from the standard. However, given the use planned for the area and the environmental impacts already taken into consideration, this contravention will have minor impact on the amenity of surrounding neighbours.

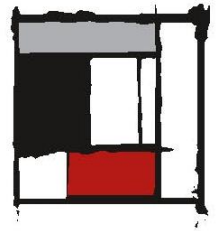
Sufficient planning grounds to justify the contravention are as follows:

- 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 or have been mitigated by measures incorporated into the design.
- The proposed building does not impact the height transition permissibility.
- The additional height or FSR does not impact on public outdoor areas for the existing facility or its neighbours.
- The design strategy of the proposal has been to retain, effectively, double storey buildings (above ground level existing) where adjacent to single and two storey detached residential dwellings. This design criteria ensures the overall bulk and scale of the proposed building is compatible with its residential neighbouring properties.

Conclusion

This clause 4.6 variation request demonstrates that:

- The underlying objectives of the permissible height and FSR 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.



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

Imagescape Design Studios

Christine Kelly
Urban and Regional Planner
02 9518 8800
chris@imagescape.com.au