

21 September 2018

Ms Carolyn McNally
Secretary
NSW Department of Planning and Environment
Level 22, 320 Pitt St
Sydney 2000

Attention: David Gibson
E: David.Gibson@planning.nsw.gov.au

Dear David,

Re: Further Information – Clause 4.6 Variation Request – Norwest Private Hospital Extension

This letter follows our previous Clause 4.6 variation submission which accompanied the above-referenced application to extend the Norwest Private Hospital by the addition of a new Level 4.

The Hills Council has commented that the previous variation request did not include a 'five-part test' to enable consideration of the application's merit. This correspondence seeks to address this oversight.

The development proposal seeks a variation to a development standard affecting the floor space ratio (FSR) applicable to land at 11 Norbrik Drive under *Clause 4.4 Floor Space Ratio of The Hills Local Environmental Plan 2012*. Under the LEP a 1:1 FSR applies to the site.

An extension to Norwest Private Hospital was originally approved by the NSW Department of Planning on 9 April 2014 under delegated authority and included an Instrument of Concurrence allowing an increase of permitted FSR on the site from to 1.1893.

A further modification to enclose 47m² of balcony space to form part of an executive boardroom resulted in a further increase in overall floor space to 28,192m² and a subsequent FSR adjustment to 1.19:1. This modification and resultant FSR adjustment was approved by Hills Shire Council on 20 February 2017.

The current proposal will add a further 2,066m² of GFA (1,791m² of medical suites + 275m² circulation and amenities), taking the FSR to 1.28 for the site and representing a less than 8% increase above the approved FSR.

The need for this minor variation arises from the need to accommodate additional medical suites at the hospital. The new suites require additional circulation and corridor space to enable the safe transport patients and medical equipment.

A detailed planning justification for the FSR amendment was included in our previous submission and is not repeated here. In summary, however, the additional floorspace is justifiable in planning terms given:

- The proposed development is compatible with the bulk, scale and character of the business park in which the hospital is situated.

- The hospital expansion is consistent with the zone objectives, creating new employment and providing much needed services to the catchment population.
- The new expansion complies with the site's building height and set back controls and does not present any adverse environmental impact on adjoining properties or the wider Norwest Business Park area.

Additional commentary is provided below relating to the 'five-part test', which is referenced in DPE's 'Varying Development Standard' Guideline of August 2011 as an additional set of principles that is applied by the Land and Environment Court in determining whether a request to vary a development standard is well-founded.

Five-part test assessment

The principles applied by the Court and our response to them are outlined as follows:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard.*

Response: The proposed development is compatible with the bulk, scale and character of the business park in which the hospital is situated. The variation sought does not 'disrupt' the character of the business park.

2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.*

Response: The business park adjoins Windsor Road and is located below the Bella Vista Farm such that its development adjoins a busy road and nestles into the site's setting. Other planning controls relating to building heights and view corridors are more relevant to assessment of site context and character. Notably, other buildings have been approved in the vicinity of the site which 'hide' the hospital from view from Windsor Road, suggesting that a review of 'old controls' applicable to the business park estate is timely. Separate submissions from the project architect (HPI) and heritage consultant (Worley Parsons) have been provided. These submissions demonstrate the insignificant visual and/or heritage impact that is caused by the minor variation that is now sought.

3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.*

Response: Compliance would limit the range of medical services that could be offered at the Norwest Private Hospital if adherence to the standard was insisted upon, without any substantial or necessary planning benefit derived from such.

4. *The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable.*

Response: Previous variations have been approved at the subject site both by DPE and Council. The current proposal seeks a further minor modification, with no adverse environmental consequence attached.

5. *Compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land, i.e. the particular parcel of land should not have been included in the zone.*

Response: The land is zoned for business park purposes and accommodates a range of 'campus' style buildings that function as corporate headquarters or service facilities. The 'low' scale of development is more a function of building height control than FSR. The proposal complies with the site's building height restrictions.

I hope that this additional information addresses the concerns raised.

Please do not hesitate to contact our office if further information is required.

Yours sincerely,



Wayne Gersbach
General Manager - NSW