APPENDIX:
CLAUSE 4.6 SUBMISSION – MINIMUM LOT SIZE

(Prepared May 2024)

WRITTEN REQUEST PURSUANT TO CLAUSE 4.6 OF PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

41 COOLANGATTA AVENUE, ELANORA HEIGHTS

FOR THE DEMOLITION OF THE EXISTING STRUCTURES AND PROPOSED TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO

VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MINIMUM SUBDIVISION LOT SIZE AS DETAILED IN CLAUSE 4.1 OF THE PITTWATER LOCAL ENVIRONMENTAL PLAN 2014

For:	Demolition of the existing structures and the proposed Torrens Title subdivision of one lot into two lots and construction of a driveway and services
At:	41 Coolangatta Avenue, Elanora Heights
Owner:	Michael & Justine Legend
Applicant:	Michael & Justine Legend c/- Vaughan Milligan Development Consulting

1.0 Introduction

This written request is made pursuant to the provisions of Clause 4.6 of Pittwater Local Environmental Plan 2014. In this regard it is requested Council support a variation with respect to compliance with the minimum subdivision lot size as described in Clause 4.1 of the Pittwater Local Environmental Plan 2014 (PLEP 2014).

2.0 Background

Clause 4.1 restricts the minimum subdivision lot size in this locality to 550m² and is considered to be a development standard as defined by Section 4 of the Environmental Planning and Assessment Act.

The resultant allotments which have been defined as Proposed Lots 1 and 2, will have the following indices:

Site Area (Lot 1):	544.20m^2
Site Area (Lot 2):	550m^2 (536.11m^2 excl. ROW)

Lot 1 at 544.20m^2 will present a variation of 5.8m² or 1.05% from the standard.

Lot 2 at 550m^2 or 536.11m^2 excluding the right of way will present a variation of 13.89m^2 or 2.52% from the standard.

2.1 Authority to vary a Development Standard

In September 2023, the NSW Government published amendments to Clause 4.6 of the Standard Instrument which change the operation of the clause across all local environmental plans, including the Pittwater LEP. The changes came into force on 1 November 2023.

The principal change is the omission of subclauses 4.6(3)-(5) and (7) in the Standard Instrument Principal Local Environmental Plan.

The following changes have been made as a result of this:
• Clause 4.6(3) was amended such that the requirement to 'consider' a written request has been changed with an express requirement that the consent authority 'be satisfied that the applicant has demonstrated' that compliance with the development standard is unreasonable or unnecessary.

• Clause 4.6(4)(a)(ii) was amended such that the requirement that the consent authority must be satisfied that the proposed development in the public interest has been removed.

• Clause 4.6(4)(b) & 5 amended such that the requirement for concurrence from the Planning Secretary has been removed.

The objectives of clause 4.6 of the LEP, as amended, seek to recognise that in the particular circumstances of this case strict application of development standards may be unreasonable or unnecessary. The clause provides objectives and a means by which a variation to the development standard can be achieved as outlined below:

Clause 4.6 Exception to development standard

> *(1) The objectives of this clause are as follows—*
> > *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
> > *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
>
> *(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
>
> *(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
> > *(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
> > *(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—
The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document

setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note—

When this Plan was made it did not include all of these zones.

(7) (Repealed)

(8) This clause does not allow development consent to be granted for development that would contravene any of the following—

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(caa) clause 5.5.

2.2 Is Clause 4.1 of the LEP a development standard?

(The definition of "development standard" in clause 1.4 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") means standards fixed in relation to an aspect of a development and includes:

(a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,

In accordance with (a) above, the standards within Clause 4.1 of PLEP applies a minimum subdivision lot size provision. The proposed variation relates to the area of the land and it follows that clause 4.1 of PLEP 2014 is a development standard. Clause 4.6 of the LEP therefore provides authority to vary the standard Clause 4.1 of PLEP.

3.0 Purpose of Clause 4.6

The Pittwater Local Environmental Plan 2014 contains its own variations clause (Clause 4.6) to allow a departure from a development standard. Clause 4.6 of the LEP is similar in tenor to the former State Environmental Planning Policy No. 1, however the variations clause contains considerations which are different to those in SEPP 1. The language of Clause 4.6(3)(a)(b) suggests a similar approach to SEPP 1 may be taken in part.

There is recent judicial guidance on how variations under Clause 4.6 of the LEP should be assessed. These cases are taken into consideration in this request for variation.

4.0 Objectives of Clause 4.6

The objectives of Clause 4.6 are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The decision of Chief Justice Preston in Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 ("Initial Action") provides guidance in respect of the operation of clause 4.6 subject to the clarification by the NSW Court of Appeal in ***RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 at [1], [4] & [51]*** where the Court confirmed that properly construed, a consent authority has to be satisfied that an applicant's written request has in fact demonstrated the matters required to be demonstrated by cl 4.6(3).

Initial Action involved an appeal pursuant to s56A of the Land & Environment Court Act 1979 against the decision of a Commissioner.

At [90] of *Initial Action* the Court held that:

> *"In any event, cl 4.6 does not give substantive effect to the objectives of the clause in cl 4.6(1)(a) or (b). There is no provision that requires compliance with the objectives of the clause. In particular, neither cl 4.6(3) nor (4) expressly or impliedly requires that development that contravenes a development standard "achieve better outcomes for and from development". If objective (b) was the source of the Commissioner's test that non-compliant development should achieve a better environmental planning outcome for the site relative to a compliant development, the Commissioner was mistaken. Clause 4.6 does not impose that test."*

The legal consequence of the decision in *Initial Action* is that clause 4.6(1) is not an operational provision and that the remaining clauses of clause 4.6 constitute the operational provisions.

Clause 4.6(2) of the LEP provides:

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other

environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Clause 4.1 (the Minimum subdivision lot size) is not excluded from the operation of clause 4.6 by any other clause of the LEP.

Clause 4.6(3) of the LEP provides:

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development does not comply with the minimum subdivision lot size development standard pursuant to Clause 4.1 of PLEP which specifies a minimum lot size of 550m² in this area of Elanora Heights.

Proposed Lot 1 will present a lot size of 544.20m^2, which is a variation to the standard of 5.8m^2 or 1.05%.

Proposed Lot 2 will present a lot size of 550m^2 or 536.11m^2 exclusive of a right of way over Proposed Lot 2 in favour of Proposed Lot 1, which is a variation to the standard of 13.89m^2 or 2.52%.

Strict compliance is considered to be unreasonable or unnecessary in the circumstances of this case and there are considered to be sufficient environmental planning grounds to justify contravening the development standard. The relevant arguments are set out later in this written request.

Clause 4.6(4) is administrative and requires the consent authority to keep a record of its assessment of the clause variation

Clause 4.6(6) relates to subdivision and restricts the size of allotments to be subdivided in certain zones.

The site is zoned R2 Low Density Residential and is therefore not subject to the provisions of Clause 4.6(6).

Clause 4.6(8) is relevant however the proposed subdivision the not contravene the provisions outlined in the clause.

The specific objectives of Clause 4.6 are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The development will achieve a better outcome in this instance as the site will provide for the demolition of the existing structures and create the opportunity to construct a new dwelling within each of the proposed new lots.

The subdivision of one lot into two lots, it is considered to be consistent with the stated Objectives of the R2 Low Density Residential Zone, which are noted as:

- *To provide for the housing needs of the community 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.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

As sought by the zone objectives, the proposal will provide for the demolition of the existing structures and the proposed Torrens Title subdivision of one lot into two lots which will provide for the increased opportunity for housing in the area, therefore meeting housing needs of the local community.

As indicated in the subdivision plan which identifies to building envelopes for future development, with a new driveway and appropriate rights-of-way to provide for vehicular access for the site's occupants to access the street, together with services being available from the existing street network

Future provision will be made for stormwater to connect collected stormwater to the street gutter in order to serve both new lots. As demonstrated in the plans prepared by Hyve Designs & Legend Design Studios, the proposed subdivision will present lots that are capable of accommodating dwellings that will provide suitable amenity for occupants and neighbours and provide appropriate access and services and therefore compliance with the minimum allotment size standard is unnecessary and unreasonable in the circumstances of the case.

Each lot will ultimately provide for a low-impact residential development that will be sympathetic to the landform and landscape.

5.0 The Nature and Extent of the Variation

5.1 This request seeks a variation to the minimum subdivision lot size standard contained in Clause 4.1 of PLEP.

5.2 Clause 4.1 of PLEP specifies a minimum subdivision lot size of 550m^2 in this area of Elanora Heights.

5.3 Proposed Lot 1 will present a lot size of 544.20m^2, which is a variation to the standard of 5.8m^2 or 1.05%.

5.4 Proposed Lot 2 will present a lot size of 536.11m^2 exclusive of a right of way over Proposed Lot 2 in favour of Proposed Lot 1, which is a variation to the standard of 13.89m^2 or 2.52%.

6.0 Relevant Caselaw

6.1 In *Initial Action* the Court summarised the legal requirements of clause 4.6 and confirmed the continuing relevance of previous case law at [13] to [29]. In particular, the Court confirmed that the five common ways of establishing that compliance with a development standard might be unreasonable and unnecessary as identified in *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827* continue to apply as follows:

> *17. The first and most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard: Wehbe v Pittwater Council at [42] and [43].*
>
> *18. A second way is to establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary: Wehbe v Pittwater Council at [45].*
>
> *19. A third way is to establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable: Wehbe v Pittwater Council at [46].*
>
> *20. A fourth way is to establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable: Wehbe v Pittwater Council at [47].*
>
> *21. A fifth way is to establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate*

for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary: Wehbe v Pittwater Council at [48]. However, this fifth way of establishing that compliance with the development standard is unreasonable or unnecessary is limited, as explained in Wehbe v Pittwater Council at [49]-[51]. The power under cl 4.6 to dispense with compliance with the development standard is not a general planning power to determine the appropriateness of the development standard for the zoning or to effect general planning changes as an alternative to the strategic planning powers in Part 3 of the EPA Act.

22. These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

6.2 The relevant steps identified in *Initial Action* (and the case law referred to in *Initial Action*) can be summarised as follows:

1. Is Clause 4.1 of PLEP a development standard?

2. Is the consent authority satisfied that this written request adequately addresses the matters required by clause 4.6(3) by demonstrating that:

   (a) compliance is unreasonable or unnecessary; and

   (b) there are sufficient environmental planning grounds to justify contravening the development standard

3. Is the consent authority satisfied that the proposed development will be consistent with the objectives of Clause 4.1 and the objectives for development for in the R2 zone?

4. Where the consent authority is the Court, has the Court considered the matters in clause 4.6(5) when exercising the power to grant development consent for the development that contravenes Clause 4.1 of PLEP?

7.0. Request for Variation

7.1 Is compliance with Clause 4.1 unreasonable or unnecessary?

(a) This request relies upon the 1st way identified by Preston CJ in Wehbe.

(b) The first way in Wehbe is to establish that the objectives of the standard are achieved.

(c) Each objective of the minimum subdivision lot size standard, as outlined under Clause 4.1, and reasoning why compliance is unreasonable or unnecessary, is set out below:

(a) to protect residential character and amenity by providing for subdivision where all resulting lots are consistent with the desired character the locality, and the pattern size and configuration of existing lots in the locality,

The Desired Future Character of the Elanora Heights Locality notes as its desired outcomes "*A balance will be achieved between maintaining the landforms, landscapes and other features of the natural environment, and the development of land. As far as possible, the locally native tree canopy and vegetation will be retained and enhanced to assist development blending into natural environment, and to enhance wildlife corridors ".*

In terms of the character of the locality, the pattern size and configuration existing lots of the locality, the proposed works are in congruous with the varied character of the subdivision pattern of other lots in the immediate area and can achieve a developable building area for a future dwelling.

The works to create the additional allotment and provide suitable driveway access will see the removal of some trees to facilitate a new development, however additional supplementary planting can be provided as required.

As detailed in the subdivision plan prepared by Survey Plus, each lot can readily accommodate a new dwelling and achieve the objectives of Council's minimum landscaped area requirements.

(b) to provide for subdivision where all resulting lots are capable of providing for the construction of a building that is safe from hazards ,

There are no hazards affecting the land and each lot can be readily developed without significant site disturbance and in a manner which will achieve Council's built form controls.

(c) to provide for subdivision where all resulting lots are capable of providing for buildings that will not unacceptably impact on the natural environment or the amenity of neighbouring properties,

The existing site is developed with a two storey dwelling and the proposed concept architectural design prepared by Legend Design Studio indicate the intended future built form. As the site contains an existing dwelling, it is readily apparent that the proposal can result in new

development which will not have any material adverse impacts review loss, overshadowing or overlooking in terms of neighbour amenity and can be constructed to manage the site conditions and without hazards.

Older housing stock in the area is being replaced with new dwellings which are commonly two storeys to maximise landscaped area and provide for necessary family accommodation.

The site is not subject to any hazards in the allotments can be reasonably developed without impact on the natural environment or the amenity of neighbouring properties.

The proposed subdivision layout and building envelopes prepared by Survey Plus demonstrate the location of future dwellings and a subdivision layout which supports residential accommodation of a size and quality commensurate with the surrounding development.

(d) to provide for subdivision that does not adversely affect the heritage significance of any heritage item or heritage conservation area,

The subject proposal is not located near any heritage items nor is located within a heritage conservation area.

e) to provide for subdivision where all resulting lots can be provided with adequate and safe access and services,

The existing and proposed lots have access to all services required whilst the new driveway will provide for vehicular and pedestrian access to both lots.

(f) to maintain the existing function and character of rural areas and minimise fragmentation of rural land,

This control is not applicable to the proposed lots which are zoned R2 Low Density Residential.

(g) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

The subject proposal provides for the subdivision of one lot into two with the existing dwelling being replaced, with the opportunity for two new dwellings to be provided.

Given the gentle nature of the slope of the site to the street and without any significant environmental constraints, both new dwellings will be able to meet the objectives of the relevant planning controls and provide for generous areas of private open space with appropriate setbacks to the neighbouring properties.

The sites will allow for the retention of landscaped area and the development of the sites for two new dwellings and a driveway in in a manner which will not adversely affect the amenity of the subject properties or the neighbouring sites.

7.3 Are there sufficient environmental planning grounds to justify contravening the development standard?

In Initial Action the Court found at [23]-[24] that:

> *23. As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.*
>
> *24. The environmental planning grounds relied on in the written request under cl 4.6 must be "sufficient". There are two respects in which the written request needs to be "sufficient". First, the environmental planning grounds advanced in the written request must be sufficient "to justify contravening the development standard". The focus of cl 4.6(3)(b) is on the aspect or element of the development that contravenes the development standard, not on the development as a whole, and why that contravention is justified on environmental planning grounds. The environmental planning grounds advanced in the written request must justify the contravention of the development standard, not simply promote the benefits of carrying out the development as a whole: see Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 at [15]. Second, the written request must demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard so as to enable the consent authority to be satisfied under cl 4.6(4)(a)(i) that the written request has adequately addressed this matter: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [31]*

There are sufficient environmental planning grounds to justify contravening the development standard.

The proposed development achieves the objects in Section 1.3 of the EPA Act, specifically:

- The proposed subdivision, which as discussed introduces an appropriate and compatible lot size within the locality, which promotes the orderly & economic use of the land (cl 1.3(c)).
- The concept dwelling design is provided with the application indicate that the sites are readily developable for future dwellings which will respect the site's natural features, landscaping within the property and the amenity for the neighbouring properties. The proposal is considered to be consistent with the LEC Planning Principle under *Parrott v Kiama [2004]* and satisfactorily demonstrates that the allotments can be developed, notwithstanding the configurations and the minor non-compliance of the lot size.

The above environmental planning grounds is not a general proposition. It is a unique circumstance to the proposed development, particularly the provision of new allotments

that provide sufficient building area to accommodate new dwellings of a size and potential floor area for future occupants, with appropriate residential amenity.

The location of the future building platforms will allow for the development of the site's in a manner which is compatible with Council's current planning controls and will result in a subdivision which is congruous with the character of the area, given the size and configuration the proposed allotments is compatible with the surrounding subdivision pattern. These are not simply benefits of the development as a whole, but are benefits emanating from the breach of the minimum subdivision lot size.

It is noted that in *Initial Action,* the Court clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

7.4 Is the proposed development consistent with the objectives of Clause 4.1 and the objectives of the R2 Low Density Residential Zone?

(a) Section 4.2 of this written request suggests the 1st test in Wehbe is made good by the development.

(b) Each of the objectives of the R2 Low Density Residential zone and the reasons why the proposed development is consistent with each objective is set out below.

I have had regard for the principles established by Preston CJ in *Nessdee Pty Limited v Orange City Council [2017] NSWLEC 158* where it was found at paragraph 18 that the first objective of the zone established the range of principal values to be considered in the zone.

Preston CJ also found that "*The second objective is declaratory: the limited range of development that is permitted without or with consent in the Land Use Table is taken to be development that does not have an adverse effect on the values, including the aesthetic values, of the area. That is to say, the limited range of*

> *development specified is not inherently incompatible with the objectives of the zone".*
>
> In response to *Nessdee,* I have provided the following review of the zone objectives:

The site is located in the R2 Low Density Residential Zone. The objectives of the R2 zone are noted as:

- *To provide for the housing needs of the community 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.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.*

It is considered that notwithstanding the non-compliance of each lot with the minimum subdivision lot size, the proposed subdivision of one lot into two will be consistent with the individual Objectives of the R2 Low Density zone for the following reasons:

- ***To provide for the housing needs of the community within a low density residential environment***

As found in Nessdee, this objective is considered to establish the principal values to be considered in the zone.

Dwelling houses are a permissible form of development within the Land Use table and is considered to be specified development that is not inherently incompatible with the objectives of the zone.

The proposal provides for the demolition of the existing structures and the Torrens Title subdivision of one lot into two lots, in a manner which will retain the single dwelling character of the immediate area.

The subdivision, resulting lot sizes and future dwelling houses have been carefully considered with regard to the ecological, scientific and aesthetic values of the land and surrounding area. The proposed subdivision and future dwellings will not be incompatible with the established built environment and subdivision pattern of the surrounding R2 zoning.

Each of the proposed allotments can readily accommodate a future dwelling which complies with Council's controls, as noted by the indicative building envelope in the submitted Subdivision Plan.

- ***To enable other land uses that provide facilities or services to meet the day to day needs of residents.***

This objective is not relevant as the proposal does not provide for any other land uses.

- ***To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.***

This objective is not relevant as the proposal does not provide for any other land uses.

Accordingly, it is considered that the site may be further developed with a variation to the prescribed minimum subdivision lot size control, whilst maintaining consistency with the zone objectives.

7.5 Has the Council considered the matters in clause 4.6(5) of PLEP?

(a) The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed subdivision of the land for the particular site and the scale or nature of the proposed development does not trigger requirements for a higher level of assessment.

(b) As the proposed development complies with the objectives of the development standard and the objectives of the zone there is no significant public benefit in maintaining the development standard.

(c) there are no other matters required to be taken into account by the secretary before granting concurrence.

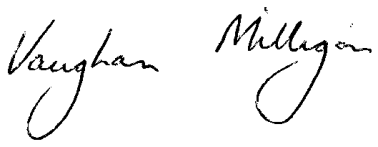
8.0 Conclusion

This written request to vary the minimum lot size specified in Clause 4.1 of the Pittwater LEP 2014 adequately demonstrates that that the objectives of the standard will be met.

The request demonstrates that the lots can be readily developed in a manner which is consistent with the surrounding pattern and can achieve the Objectives of the R2 Low Density Residential Zone.

The density of the proposed subdivision is appropriate for the site and locality.

In my opinion, strict compliance with the minimum lot size control would be unreasonable and unnecessary in the circumstances of this case.



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