

Clause 4.6 Variation Request

*1803 & 1803A Pittwater Road, Mona
Vale*

24 October 2025

Prepared for: EDK Garfield Pty Ltd

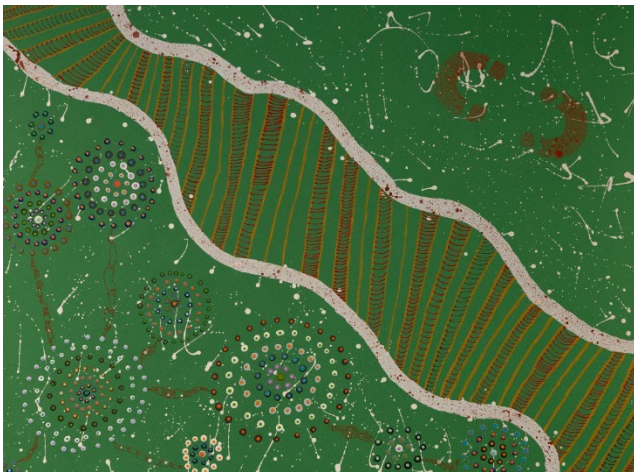
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The river is the symbol of the Dreaming and the journey of life. The circles and lines represent people meeting and connections across time and space. When we are working in different places, we can still be connected and work towards the same goal.

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1 Introduction

This Clause 4.6 Variation Request (**the Request**) has been prepared on behalf of EDK Garfield Pty Ltd (**the Applicant**) and accompanies a Development Application (**DA**) seeking consent for construction of a 6-storey residential flat building including 2 levels of basement car parking at 1803 & 1803A Pittwater Road, Mona Vale.

The Request seeks a variation to the 'density controls for certain residential accommodation' development standard which applies to the site under Clause 4.5A of *Pittwater Local Environmental Plan 2014* (**Pittwater LEP**). The variation request is made pursuant to Clause 4.6 of the Pittwater LEP.

This report should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by Urbis Ltd (Urbis) and dated 3 October 2025 which the Request supports.

The following sections of the report include:

- **Section 2:** Description of the site and its local and regional context, including key features relevant to the proposed variation.
- **Section 3:** Brief overview of the proposed development as outlined in further detail within the SEE and accompanying drawings.
- **Section 4:** Identification of the development standard, which is proposed to be varied, including the extent of the contravention.
- **Section 5:** Detailed assessment and justification of the proposed variation in accordance with the relevant guidelines and relevant planning principles and judgements issued by the Land and Environment Court.
- **Section 6:** Summary and conclusion.

2 Site Context

2.1 Site Location

The site is located at 1803 & 1803A Pittwater Road, Mona Vale and is located within the Northern Beaches Local Government Area (**LGA**). The site is less than 200m from the Mona Vale Town Centre and approximately 30 kilometres from Sydney Central Business District (**CBD**).

2.2 Site Description

The key features of the site are summarised in the following table.

Table 1 Site Description

Feature	Description
Street Address	1803 & 1803A Pittwater Road, Mona Vale
Legal Description	Lot 12 DP 588908 and Lot 11 DP 588908
Site Area	1560 m ²
Site Topography	The site slopes gently towards Pittwater Road.
Vegetation	The site contains a variety of ornamental and indigenous trees which are scattered throughout the site, with some established gardens present. The accompanying Statement of Environmental Effects (SEE) addresses the findings of an Arboricultural Impact Appraisal and Method Statement been prepared by Naturally Trees which provided an assessment of the impacts of the proposed development on the trees present on site.
Existing Development	The site is made up of two lots with each lot containing a residential dwelling in a battle-axe arrangement with 1803A containing Pittwater Wesleyan Methodist Church.
Local Context	Mona Vale is the urban heart of the northern peninsula's natural and coastal areas with a cosmopolitan coastal local character. The locale is predominantly characterised by low and medium density residential development including single dwellings, town houses and low to mid rise residential flat buildings. The area is well connected to the south via the B-Line bus service, while access to and from the north and west remains more limited.
Adjacent Development North	The north of the site is characterised primarily by medium density residential dwellings. A single dwelling is located to the immediate north of the site.
Adjacent Development East	To the immediate east of the site is Pittwater Road. Further east of the site is medium density residential dwellings.
Adjacent Development South	The south of the site is predominantly characterised by low and medium density residential dwellings. The two properties to the immediate south have established medical land uses (chiropractor and orthodontist). The Mona Vale Town Centre is approximately 200m south.

Feature	Description
Adjacent Development West	The west of the site is predominantly characterised by medium density dwellings.
Access Network	The site can be accessed via vehicles off Pittwater Road. There are currently two driveways existing with a single driveway towards the north with basement entry.

Figure 1 Location Plan



Source: Urbis 2025

Figure 2 Aerial Photograph



Source: Urbis 2025

3 Proposed Development

The DA seeks consent for the demolition of existing structures and the construction of a six (6) storey residential flat building including a two-level basement car park. Proposed works include:

- Demolition of two existing dwellings and associated structures,
- Removal of 5 trees,
- Excavation and construction of a two-level basement car park which will accommodate residential and visitor parking and bicycle storage spaces,
- Construction of a six storey residential flat building containing 20 apartments with a mixture of 2 and 3 bedroom apartments,
- 2 swimming pools,
- Vehicle access driveway connecting Pittwater Road to the basement parking, and
- Waste storage areas and landscaping.

Architectural Plans (**Appendix D**) and Design Report (**Appendix E**) prepared by Studio McCue accompany the DA. A detailed description of the proposal is provided within **Section 3** of the Statement of Environmental Effects.

4 Planning instrument, development standard and proposed variation

4.1 What is the planning instrument you are seeking to vary?

The *Pittwater Local Environmental Plan 2014* (PLEP) is the relevant planning instrument to which a variation is sought.

4.2 What is the site's zoning?

The site is zoned R3 Medium Density Residential.

4.3 What is the development standard to be varied?

Under Clause 4.5A of the PLEP, the following controls relate to density controls for certain residential accommodation:

4.5A Density controls for certain residential accommodation

(1) *The objectives of this clause are as follows—*

(a) *to achieve planned residential density in certain zones,*

(b) *to ensure building density is consistent with the desired character of the locality.*

(2) *Development consent must not be granted to development for a purpose specified in Column 1 of the table to this clause on land in the zone or area shown opposite that development in Column 2 of that table unless the development complies with the density requirements specified in Column 3 of that table.*

(3) *This clause does not apply to the following land—*

(a) *land in the Warriewood Valley Release Area,*

(b) *Lots 1–5, DP 11108, 159–167 Darley Street West, Mona Vale.*

(4) *In this clause—*

Warriewood Valley Release Area means the area identified as Warriewood Valley Release Area on the Urban Release Area Map.

Column 1	Column 2	Column 3
Specified development	Zone or Area	Density
Attached dwellings	R3 Medium Density Residential	A maximum of 1 dwelling per 200 square metres of site area.
Multi dwelling housing	R3 Medium Density Residential	A maximum of 1 dwelling per 200 square metres of site area.
Residential flat buildings	R3 Medium Density Residential	A maximum of 1 dwelling per 200 square metres of site area.
Semi-detached dwellings	R3 Medium Density Residential	A maximum of 1 dwelling per 200 square metres of site area.
Seniors housing	R3 Medium Density Residential	A maximum of 1 dwelling per 200 square metres of site area.

<i>Serviced apartments</i>	<i>R3 Medium Density Residential</i>	<i>A maximum of 1 dwelling per 200 square metres of site area.</i>
<i>Shop top housing</i>	<i>"Area 1" on the Land Zoning Map</i>	<i>A maximum of 1 dwelling per 200 square metres of site area.</i>

As shown in bold above, this standard requires a maximum of 1 dwelling per 200 square metres of site area for residential flat buildings in the R3 zone. If strictly applied, this standard would limit the total number of dwellings on site to 7 apartments, based on 1560m² site area.

4.4 Type of development standard?

Development standards are provisions of an environmental planning instrument or the Environmental Planning and Assessment Regulation 2021 which relate to the carrying out of development and specify requirements or fix standards in respect of any aspect of the development. Generally, development standards either set numerical values or contain non-numerical requirements or criteria relating to the design and carrying out of development in certain circumstances.

Numerical development standards use numbers to specify requirements (often minimum or maximum requirements) for measuring components of a site and/or development. Examples are minimum lot size requirements or building height limits.

The proposed development standard sought to be carried is **numerical** relating to residential density.

4.5 What is the extent of the variation proposed

Clause 4.5A allows for a maximum of 1 dwelling per 200 square metres of site area for residential flat buildings in the R3 zone.

Based on a site area of 1560m² this equates to a maximum of **7 dwellings**, rounded down from 7.8 to the nearest whole number.

The proposed development includes **20 dwellings**, which exceeds the numerical standard by **13 dwellings**.

5 Justification for the proposed variation

5.1 How is compliance with the development standard unreasonable or unnecessary in the circumstances of the particular case?

Key Questions	Response
a) Are the objectives of the development standard achieved notwithstanding the non-compliance?	The objectives of the R3 Medium Density Residential zone are as follows: ▪ <i>To provide for the housing needs of the community within a medium density residential environment.</i> ▪ <i>To provide a variety of housing types within a medium density residential environment.</i> ▪ <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> ▪ <i>To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses.</i> The proposal will specifically meet this housing needs of the community by delivering dwellings in the form of a residential flat building, a land use which is permitted with consent in the R3 zone. A mid-rise residential flat building up to 22m / 2.2:1 FSR is permitted under Chapter 6 of the <i>State Environmental Planning Policy (Housing) 2021</i> (Housing SEPP) as the site is within a low and mid rise inner area, less than 200m from the Mona Vale Town Centre. This housing typology will contribute to the variety of available housing options within the locality, which currently includes a variety of single dwellings, townhouses and low-mid rise residential flat buildings.
b) Are the underlying objectives or purpose of the development standard not relevant to the development? (Give details if applicable)	The objective of Clause 4.5A is to achieve planned residential density in certain zones and to ensure building density is consistent with the desired character of the locality. The Pittwater LEP came into force in 2014. This development standard was established at a time where the correlating height control in the R3 zone was 8.5m. These controls, when considered together are skewed to favour a low density housing typology such as dwellings or townhouses. The standard is prohibitive to the feasibility of residential flat buildings due to the extent of land required per apartment, despite residential flat buildings being permitted within the R3 zone. While the preference for low density, or low rise dwellings and townhouses (albeit in an R3 zone) may have formed part of the desired character for Mona Vale at a point in time, the housing crises, and government policy position around housing delivery has evolved substantially since 2014.

Key Questions	Response
	The introduction of the low and mid rise controls to the housing SEPP reflects the State Government's clear recognition of Mona Vale (among many other centres) as a suitable location for accommodating additional residential density due to the proximity to services, jobs and public transport. This policy change is one of several nationally coordinated efforts to respond to the current housing crisis in Australia during the Housing Accord period. This shift in policy environment represents a widely held community sentiment that new housing (and modest density increases) should be located in well serviced locations. It is therefore clear that the desired future character for Mona Vale has evolved over time, particularly in the last decade with consideration of the broader socio-economic context and societal expectation that housing will be delivered in well located and well serviced areas. The objectives of Clause 4.5A is still broadly achieved, with recognition that the desired future character for Mona Vale is not clearly defined within the instrument and desired future character should be considered in the context of broader government policy in relation to housing delivery.
c) Would the underlying objective or purpose be defeated or thwarted if compliance was required? (Give details if applicable)	Strict compliance with Clause 4.5A of the Pittwater LEP could be achieved, but would undermine the underlying objectives of the Housing SEPP. The proposed built form includes a six storey residential flat building that sits comfortably within the SEPP height (22m) and FSR control (2.2:1). Hypothetically, Clause 4.5A could be strictly complied with (without any change to building massing) if the proposal was to accommodate 7 oversized apartments. This is not an ideal outcome for the following reasons: ▪ It would limit the site's capacity to contribute to housing supply in a location that has convenient access to goods, services and public transport. ▪ It would reduce the diversity of apartment types available ▪ Oversized apartments (in this hypothetical scenario) would be misaligned with market expectations, and significantly more expensive than more typical size 2 or 3 bedroom apartments such as those proposed. Strict compliance with Clause 4.5A would not result in a superior character outcome as intended by the objectives of the clause.
(d) Has the development standard been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard?	No. Urbis has undertaken a review of Council's available online records of historic 4.6 requests. There are several examples of minor variations to Clause 4.5A, including: ▪ DA2021/1502 at 1622 Pittwater Road MONA VALE NSW 2103 ▪ DA2020/1695 at 75-77 Foamcrest Avenue NEWPORT NSW 2106 ▪ DA2020/0455 at 50 - 52 Golf Avenue MONA VALE NSW 2103 ▪ N0313/17 at 6 Foamcrest Avenue NEWPORT 2106 ▪ N0486/16 at 7 Kalinya Street NEWPORT 2106

Key Questions	Response
	Importantly, these development consents were all granted prior to the introduction of the low and mid rise housing controls. It can be reasonably anticipated that any residential flat building proposed under the housing SEPP provisions in an R3 zone under the Pittwater LEP would pose a variation to this control. Albeit, there is only one identified LMR centre within the Pittwater catchment (Mona Vale) and there are currently limited examples of comparable LMR proposals given how recently the LMR controls were introduced.
e) Is the zoning of the land unreasonable or inappropriate so that the development standard is also unreasonable or unnecessary?	The zoning of the land as R3 Medium Density Residential is both reasonable and appropriate, as it reflects the strategic intent of the Housing SEPP and the broader planning framework to encourage low- to mid-rise residential flat buildings in well-located centres such as Mona Vale. However strict compliance with Clause 4.5A is unreasonable and unnecessary, as it was introduced under the Pittwater LEP in a different policy context that anticipated townhouse-style medium density housing, rather than apartment buildings that are now expected in a LMR 'inner area' setting.

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

There are sufficient planning grounds to justify contravening the development standard as follows:

- The maximum density control of 1 dwelling per 200m² was introduced in the context of a low-scale built form outcome and does not contemplate the new planning framework introduced under Chapter 6 Low- and mid-rise housing of the Housing SEPP.
- Consistency with the Housing SEPP development standards has been demonstrated. The proposed development which consists of a 6-storey residential flat building achieves compliance with the height of building and FSR controls under the Housing SEPP for low and mid rise housing. In this regard, the proposed variation to the development standard enables:
 - A diversity of dwelling sizes that respond to the changing housing needs and character of Mona Vale,
 - A built form that remains consistent with the anticipated character of the locality under the LMR provisions both in bulk and scale, and
 - Delivery of additional housing supply which aligns with the State Government priorities without adverse environmental, amenity or infrastructure impacts.
- The Housing SEPP specifically contemplates scenarios where LEP development standards and LMR controls are not aligned. Clause 178 of Chapter 6 of the Housing SEPP provides that any requirement for minimum lot size or minimum lot width under another environmental planning instrument (such as the Pittwater LEP) does not apply to LMR proposals where LMR standards are met. While clause 4.5A is not technically a minimum lot size control (rather a 'density control') the Housing SEPP is drafted in such a way that clearly intends to supersede any local site-area based controls.
- The proposed development could theoretically comply with Clause 4.5A of the PLEP by limiting the proposed delivery of dwellings to approximately 7 dwellings through providing a large apartment per floor across the 6 storeys. However, this is not considered a desirable outcome for the site. Such

approach would be inconsistent with the objectives of the Housing SEPP, which facilitates LMR residential development that provides a diversity of dwelling types and increased housing supply.

- The proposal is compliant with the key metrics and amenity criteria of the ADG.
- The proposal achieves both deep soil area (18.5%) and communal open space (33%) in excess of the ADG control. This serves as a key indicator that there is adequate site area to support the number of proposed dwellings.

5.3 Is there any other relevant information relating to justifying a variation of the development standard? (If required)

N/A.

6 Conclusion

For the reasons set out in this written request, strict compliance with the density controls contained within Clause 4.5A of the PLEP is unreasonable and unnecessary in the circumstances of the current housing policy context. Further, there are sufficient environmental planning grounds to justify the proposed variation.

It is reasonable and appropriate to vary the density controls development standard to the extent proposed for the reasons detailed within this report and as summarised below:

1. **Evolving Housing Needs:** The density control was established in a different policy context that favoured low rise housing forms (despite residential flat buildings being permitted). The current housing crisis and government policies now support higher densities in well-serviced areas like Mona Vale. The proposed development aligns with these updated policies, providing much needed housing diversity and supply.
2. **Alignment with Housing SEPP:** The Housing SEPP recognises Mona Vale as suitable for low to mid rise residential developments due to its proximity to services, jobs, and public transport. The proposed development complies with the SEPP's height and FSR controls, which are designed to accommodate higher densities in such locations.
3. **Market and Community Expectations:** Strict compliance would result in fewer, oversized apartments that do not meet market expectations or the community's housing needs. The proposed mix of 2 and 3 bedroom apartments is more aligned with current demand and provides a more practical and affordable housing solution.
4. **Undermining Housing Supply:** Limiting the development to 7 dwellings, as per the strict application of Clause 4.5A, would significantly reduce the site's capacity to contribute to housing supply. This is counterproductive in the context of the current housing shortage and the State government's priorities to increase housing availability.
5. **Consistency with Desired Character:** The proposed development is consistent with the anticipated character of the locality under the Housing SEPP, both in terms of bulk and scale. It supports the strategic intent to encourage higher density residential flat buildings in well located centres, reflecting the evolving character of Mona Vale.
6. **Environmental and Amenity Considerations:** The proposal meets the key metrics and amenity criteria of the Apartment Design Guide (ADG), ensuring that the development will not have adverse environmental, amenity, or infrastructure impacts.

For the reasons outlined above, the clause 4.6 request is well-founded. The development standard is unnecessary and unreasonable in the circumstances, and there are sufficient environmental planning grounds that warrant contravention of the standard. In the circumstances of this case, flexibility in the application of the height of building development standard should be applied.

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