

11 March 2022

The General Manager
Willoughby City Council
Level 4, 31 Victor Street
Chatswood NSW

Attention: Sylvania Mok, Contributions Planner

Dear Sylvania,

Re: Letter of offer to enter into Voluntary Planning Agreement (VPA) for 849-859 Pacific Hwy and 2-8 Wilson St, Chatswood (Site)

We refer to our recent discussions regarding a proposed VPA to be offered in connection with the Planning Proposal for the above Site (**Planning Proposal**).

Subject to finalisation of the terms via the VPA negotiation process, Sanctuary Partners wish to make a formal offer under section 7.4 of the Environmental Planning and Assessment Act 1979 (**EPA Act**) to enter into a VPA on the following terms (**VPA Offer**).

Affordable housing

In relation to affordable housing contributions, we confirm that you have advised (and confirmed via letter dated 9 March 2022) that Willoughby City Council (**Council**) will be extending the current application of the 4% affordable housing contribution to our land via its Comprehensive review of the Willoughby Local Environmental Plan 2012 (**Willoughby LEP**) (PP-2021-6242). Specifically, you have advised that this will occur by including the Site in "Area 9" of the Special Provisions Area Map in the Willoughby LEP. This offer to enter into a VPA on the following terms is based on this understanding that 4% will be the applicable affordable housing rate for the Site. Any requirement for an affordable housing contribution above 4% would make the following VPA offer unviable.

Mandatory matters under section 7.4 of the EPA Act

1 Parties

The parties to the proposed VPA will be:

- (a) 853 Pacific Highway Pty Ltd as trustee for the 2017 PHC Unit Trust; and
- (b) Willoughby City Council.

As previously noted, while the Planning Proposal applies to land owned by the Transport Asset Holding Entity of NSW (8 Wilson Street, Chatswood also known as Lot 1, O'Brien Street, Chatswood) (**TAHE**), 853 Pacific Highway Pty Ltd currently has the benefit of an option over this land and is expected to take ownership of the land prior to the commencement of the VPA. TAHE will be consulted on the terms of the VPA.

2 Description of the land (section 7.4(3)(a))

The VPA will apply to the following land.

- (a) 849 Pacific Highway, Chatswood, being Strata Plan SP1496;
- (b) 853 Pacific Highway, Chatswood, being Strata Plan SP60178;
- (c) 859 Pacific Highway, Chatswood, being Strata Plan SP10110;
- (d) 2 Wilson Street, Chatswood, being Strata Plan SP52947; and
- (e) 8 Wilson Street (also known as Lot 1 O'Brien Street), Chatswood, being Lot 1 in DP1189541, (Land).

3 Description of the change to the environmental planning instrument to which the agreement applies (section 7.4(3)(b)(i))

Amendment of the Willoughby LEP via the Planning Proposal to:

- (a) rezone the consolidated site to B4 Mixed Use, excluding the SP2 road widening portion which fronts the Pacific Highway;
- (b) apply a maximum building height control of 90m;
- (c) apply a maximum FSR control of 6:1; and
- (d) introduce a local clause requiring a minimum of 1:1 non-residential FSR.

4 Nature and extent of the provision to be made by the developer, and the times and manner in which the provision is to be made (section 7.4(3)(c))

Payment of a **monetary contribution** comprising the CIC payable under Council's Planning Agreements Policy as in force and effect, calculated generally as outlined in Table 1 (noting that this is subject to approvals and final site survey). The CIC will be paid in 3 instalments as outlined in Table 2.

Per the letters from Council dated 7 February 2022 and 9 February 2022, the Council seeks payment of the CIC as a monetary contribution as the only development contribution to be made under the proposed VPA. Accordingly, this VPA offer no longer includes the provision of a through-site link along the rail corridor, or a community facility, as were previously offered.

Table 1: CIC Calculation

CIC Calculation	FSR	GFA / area (m ²)
Site area (based on survey provided by applicant)	1:1	4,294
Existing LEP (B)	1.5:1	6,441
Proposed LEP (A)	6:1	25,764
Proposed commercial (C)	1:1	4,294
Proposed residential	5:1	21,470
Proposed AFH: 4% of Residential GFA (or 4% of FSR 5:1) (D)	0.2:1	859

CIC Calculation	FSR	GFA / area (m ²)
Residential GFA increase (A - B - C - D)	3.3:1	14,170.20
CIC rate \$765 per m ² x Residential GFA increase above existing LEP		\$10,840,203

Table 2: Timing for payment

Contribution Amount	% of total amount	Timing
\$1,084,000	10%	Within 21 days of LEP gazettal
\$4,878,093	45%	Within 7 days prior to the issue of first CC
\$4,878,110	45%	Within 7 days prior to the issue of first OC or prior to registration of a Strata Plan, whichever is earlier
\$10,840,203	100%	

5 Exclusion of section 7.11, 7.12 and 7.24 contributions (section 7.4(3)(d))

- (a) Sections 7.11 and 7.12 contributions will not be excluded; and
- (b) Section 7.24 contributions will not be excluded.

6 Whether benefits under the agreement are or are not to be taken into consideration in determining a development contribution under section 7.11 (section 7.4(3)(e))

No, benefits under the VPA are not to be taken into account in determining section 7.11 contributions.

7 Mechanisms for dispute resolution (section 7.4(3)(f))

The dispute resolution mechanisms included in the Council's VPA template, including mediation, will be included in the VPA.

8 Enforcement of the agreement by a suitable means (section 7.4(3)(g))

In line with the Council's VPA template, security in the amount of 10% of the value of development contributions can be provided to secure the enforcement of obligations under the VPA.

We look forward to receipt of the Council's response to the above VPA Offer.

Please contact me to discuss any aspect of the offer and we look forward to working with Council on the proposed VPA.

Yours sincerely,

SANCTUARY
PARTNERS



Nicholas Andrijic
Director
Sanctuary Partners on behalf of 853 Pacific Highway Pty Ltd