

27 July 2021

Sydney North Planning Panel  
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CC:

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Dear Panel Members,

**RE: ADDITIONAL INFORMATION RELATING TO PLANNING PROPOSAL NO 2020/10  
PROPERTY: 849, 853 AND 859 PACIFIC HIGHWAY AND 2 WILSON STREET, CHATSWOOD  
COUNCIL LGA: WILLOUGHBY COUNCIL**

## 1. Introduction

This letter has been prepared by 853 Pacific Highway Pty Ltd (ATF) in relation to the rezoning review of the Planning Proposal 2020/10 (PP) at 849 - 859 Pacific Highway and 2 Wilson Street, Chatswood (**Planning Proposal**). The letter provides a response to the reasons provided by Willoughby Council for not supporting the Planning Proposal, which are considered, with respect, to be inaccurate and potentially misleading. More importantly, the purpose of this letter is to provide the Planning Panel with the comfort that the proposal seeks a change to the planning controls for the site that: has both site specific and strategic merit; would facilitate a SEPP 65 and Apartment Design Guideline (**ADG**) compliant development; and make provision for public land dedication.

## 2. Response to Willoughby Council concerns

Concern	Response
<i>a) Is a departure from the current planning controls on the site with the proposal seeking to utilize the floor space ratio for the part of the site zoned SP2 Infrastructure (Classified Road) on the remainder of the site zoned R4 High Density Residential under Willoughby Local Environmental Plan 2012, in addition to the maximum floor space ratio permitted.</i>	<p>This statement is incorrect.</p> <p>The Planning Proposal is wholly consistent with the endorsed Chatswood CBD Strategy including the FSR Map, which clearly applies a gross FSR of 6:1 to the whole site (see Figure 2). The WLEP 2012 should be updated in accordance with the Strategy and ADG. In any event, an FSR of 6:1 on the balance of the land, excluding the SP2 land can entirely be accommodated within the 90metre height control and facilitate a SEPP 65 and ADG compliant development. It would also facilitate dedication of the SP2 land to Transport for NSW for nil consideration (a VPA offer has been made in this regard).</p> <p>The Planning Proposal is also consistent with Part 2D FSR of the SEPP 65 ADG, which provides guidance in determining FSR standards for new individual development parcels within precincts, which include new street dedications. Refer to detailed discussion in the following section of this letter.</p>

<p><i>b) Is inconsistent with the Council endorsed Chatswood CBD Planning and Urban Design Strategy 2036 which does not change road widening requirements from Transport for NSW as expressed in Willoughby Local Environmental Plan 2012, with regard in this case to the Pacific Highway, or how such matters are processed.</i></p>	<p>This statement is incorrect and misleading.</p> <ul style="list-style-type: none"> <li>a) The Planning Proposal proposes to retain the SP2 zoned portion of the land and to dedicate this land to Transport for NSW at no cost in accordance with Transport for NSW advice. This is consistent with other LEPs and precinct plans in Sydney.</li> <li>b) There is no reference to SP2 land in the Strategy as Part 2D FSR of the SEPP 65 ADG provides guidance in determining FSR standards for new individual development parcels within precincts which include new street dedications</li> <li>c) The WLEP 2012 should be updated in accordance with the Strategy and ADG.</li> </ul>
<p><i>c) Is inconsistent with the strategic objectives of the Greater Sydney Region Plan and the North District Plan which encourages development to be appropriate to its site.</i></p>	<p>This comment is unsubstantiated.</p> <p>Council does not reference which strategic objective of either plan is inconsistent with the proposal. Furthermore, Council has not justified why the proposal is not appropriate.</p>
<p><i>d) Is inconsistent with the Council endorsed Chatswood CBD Planning and Urban Design Strategy 2036 which identifies this site as having a maximum floor space ratio of 6:1.</i></p>	<p>This statement is incorrect and misleading.</p> <p>As outlined above, the Planning Proposal is wholly consistent with the Willoughby Council endorsed Chatswood CBD Strategy FSR Map which applies a gross FSR of 6:1 to the whole site and is wholly compliant with the Strategy Built Form Envelope as anticipated.</p> <p>The Planning Proposal is also consistent with Part 2D FSR of the SEPP 65 ADG, which provides guidance in determining FSR standards for new individual development parcels within precincts which include public land dedications – see item 3 below.</p>

### 3. Assessment of Part 2D FSR of the SEPP 65 ADG

The ADG provides consistent planning and design standards for residential apartments to achieve the design principles identified in SEPP 65. Part 2D FSR of the ADG provides a tool to support the strategic planning process when preparing planning controls and explains the best practice application of applying building envelope and floor space ratio standards when assessing development proposals.

#### a. Assessment against 2D FSR of the ADG in relation to FSR incentives and building envelopes

The following guidance is provided in relation to whether it is suitable to accommodate the gross FSR for the whole site within the building envelope controls after street dedication (Figure 1 below provides an illustration of the clause below):

*“The GFA should fit comfortably within the building envelope as the envelope needs to also account for building elements and service areas that are not included in the GFA definition and to allow for building articulation”*

*“FSR is not a measure of the maximum capacity of the building envelope. The envelope provides an overall parameter for the design of the development.”*

The Willoughby Council Assessment Report fails to acknowledge that **the proposed FSR / GFA fits comfortably within the building envelope controls which apply to the development parcel excluding SP2 land**, as demonstrated by the concept proposal (see Figure 2 below), which results in:

- a 630m<sup>2</sup> tower floorplate which is well within the maximum 700m<sup>2</sup> tower floorplate control, ensuring a tall slender tower in relation to the site;
- an 87m building height (including overruns) which is well within the maximum 90m height control;
- full compliance with all setback controls (including to the SP2 land);
- 2.3x the minimum site area; and
- demonstrates 100% compliance with ADG and Key Elements of the Strategy.

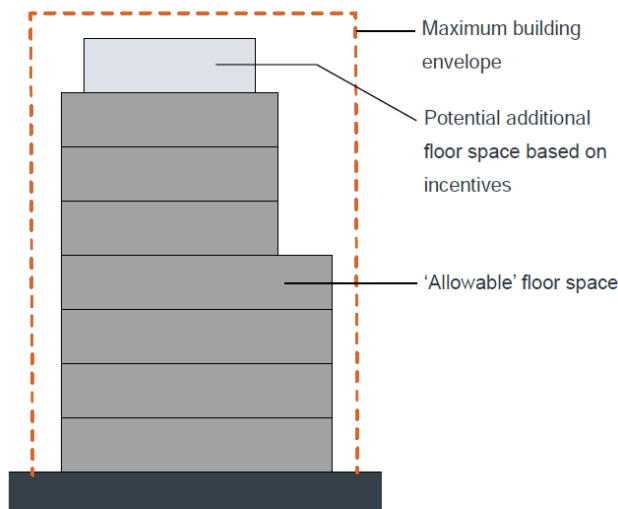


Figure 2D.2 When determining floor space ratio controls, maximum building envelopes can be used to test the FSR, including any potential incentives and bonuses

Figure 1. Figure 2D.2  
Source: SEPP 65 ADG

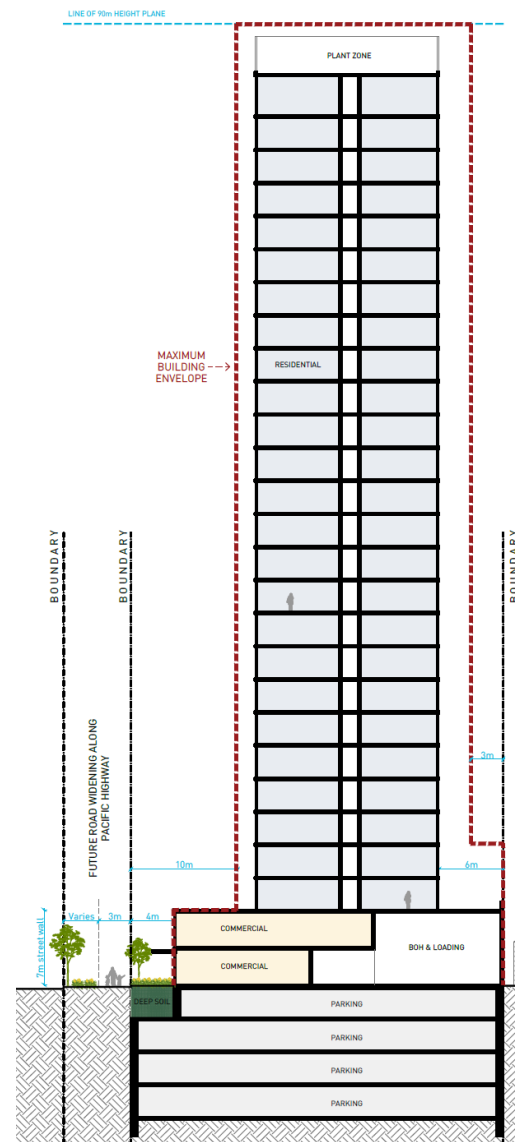


Figure 2. Max. Building Envelope  
Source: Subject PP 2020/10

**b. Assessment against 2D FSR of the ADG in relation to FSR incentives and land dedication**

Part 2D FSR of the ADG provides the following guidance in relation to determining new FSR and building envelope standards for individual development parcels within precincts which include public land dedications:

*“On precinct plan sites with new streets and/or open spaces, both the gross FSR for the whole site and the net FSR for individual development parcels need to be defined.”*

The net FSR may be higher than the gross FSR where there is dedication of land at no cost to government and ensures individual development parcels are not unfairly burdened with reduced FSR standards as a result of land dedication – see Figure 3 below. Several new precincts in Sydney apply these same principles.

The Willoughby Council endorsed Chatswood CBD Strategy FSR Map (Figure 4 below), clearly provides a gross FSR of 6:1 across the whole site.

The subject Planning Proposal applies the gross 6:1 FSR standard to the whole site, in accordance with the Strategy, and subject to a clause that facilitates the dedication of the SP2 Land to Transport NSW for road widening, at nil cost.

This approach to FSR is consistent with Part 2D FSR of the ADG. We also note that the net FSR cannot be less than the gross FSR where there is land dedication to government.

Willoughby Council’s approach essentially applies a gross FSR of 5.1:1 across the whole site, which is inconsistent with the FSR Map that clearly applies an FSR of 6:1 to the whole site (Figure 4). Furthermore, such an approach would disincentivise any land dedication or the amalgamation of all four blocks.

Lastly, in July 2021, Willoughby Council endorsed a planning proposal at 3 Ellis Street, Chatswood with an FSR of 4.5:1, however the maximum FSR for this site in the Strategy is 2.5:1. This particular site is also 400m<sup>2</sup> smaller than the minimum land size for B4 Mixed Use.

We are perplexed with Councils’ position given the prevailing ADG standards and their inconsistent approach to other planning proposals that do not result in any significant public domain dedication.

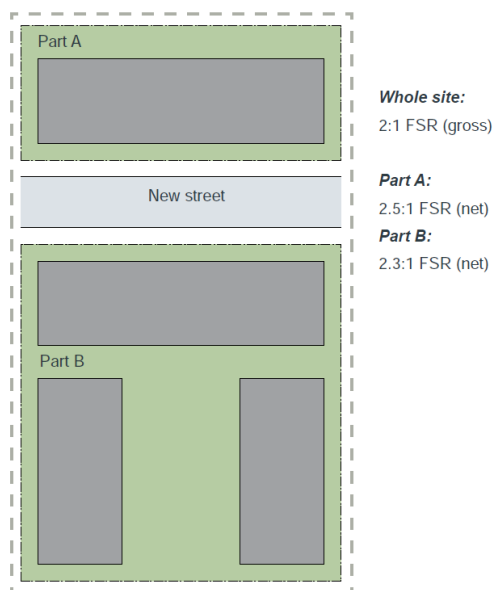


Figure 2D.3 On sites with subdivision and public domain dedication (e.g. a new street), the overall gross FSR is lower than the net FSR for each individual development parcel

Figure 3. Figure 2D.3  
Source: SEPP 65 ADG

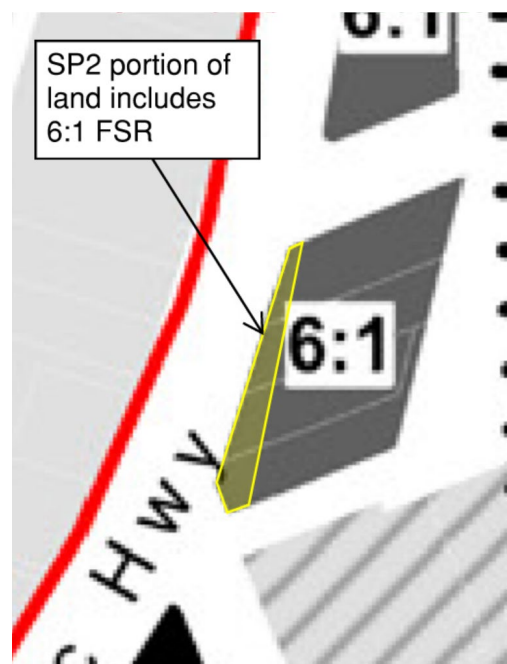


Figure 4. Proposed FSR Map  
Source: Endorsed Chatswood CBD Strategy

#### 4. Conclusion

This letter demonstrates the reasons provided by Willoughby Council for not forwarding the Planning Proposal to DPIE for gateway determination are, with respect, either incorrect, unsubstantiated or should otherwise not be accepted in view of the above.

The Planning Proposal is fully compliant with the endorsed Chatswood CBD Strategy, which illustrates a gross FSR of 6:1 in relation to the whole site. The Planning Proposal is also consistent with the guidelines included within Part 2D FSR of the ADG in relation to FSR incentives relating to public domain dedication and that the proposed FSR will suitably fit within the building envelope controls in relation to the site (excluding SP2 Land).

For the reasons set out in this letter and in the Planning Proposal, we respectfully submit that the Sydney North Planning Panel can be satisfied that the Planning Proposal has both site specific and strategic merit and should be recommended for a gateway determination.