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The Minister for Planning and Public Spaces
Department of Planning, Housing and Infrastructure

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Via NSW Planning Portal

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Dear Minister

**Submission regarding proposed mixed-use development including in-fill affordable housing –
Chatswood Grand Residences**

Application: SSD-74319707

Proponent: Billbergia (BB Wilson Property Pty Limited)

We act for Tal Holdings Ltd & the Federal Group and refer to the development application SSD-74319707 for a mixed-use development including in-fill affordable housing – Chatswood Grand Residences (the **Proposed Development**), located at 849, 853, 859 Pacific Highway and 2-8 Wilson Street, Chatswood (the **Site**).

We are instructed to make this Submission on behalf of Tal Holdings Ltd & the Federal Group.

Tal Holdings Ltd is the owner of 812 Pacific Highway Chatswood.

This letter outlines Tal Holdings Ltd & the Federal Group's objection to the Proposed Development in its current form.

1. Background

- 1.1 Tal Holdings Ltd is the registered proprietor of Lot A DP 395105 known as 812 Pacific Highway, Chatswood (**TAL's Property**), located on the western side of the Pacific Highway and the Proposed Development.
- 1.2 The Federal Group is a family-owned business operating across the tourism, hotel and gaming industries with its office located at TAL's Property.
- 1.3 On 10 April 2025, Tal Holdings Ltd received from the Department of Planning, Housing and Infrastructure the Exhibition Notice of the Proposed Development which was dated 3 April 2025.

2. Objection to the Proposed Development

- 2.1 This Submission details the reasons Tal Holdings Ltd and the Federal Group (**We**) object to the Proposed Development. In summary, We object to the Proposed Development as the Proposed Development will have an unacceptable impact as a result of the following:
 - (a) Traffic;
 - (b) Breach of development standards;
 - (c) Noise and Vibration;
 - (d) Construction impacts;

In NSW, QLD, SA and VIC: Liability limited by a scheme approved under professional standards legislation.

- (e) Overshadowing;
- (f) Cumulative impacts.

We will address these impacts below.

3. **Traffic**

3.1 The Proposed Development will have unacceptable traffic impacts for the following reasons:

- (a) The Proposed Development includes a six-storey (+ mezzanine) basement car park. The car park contains the following:
 - (i) 342 x residential spaces;
 - (ii) 22 x visitor spaces;
 - (iii) 18 x commercial / retail parking spaces;
 - (iv) 8 x childcare centre parking spaces;
 - (v) 335 x bicycle parking spaces for residents and staff and,
 - (vi) 33 x bicycle parking spaces for visitors;
 - (vii) 20 x motorcycle parking spaces;
- (b) A single point of access to the Site will be provided by O'Brien Street at the southern end of the Site. This access point will then feed traffic from the Proposed Development into the intersection of the Pacific Highway and Railway Street.
- (c) The Transport Impact Assessment prepared by JMT Consulting dated 10 January 2025 provides that:
 - (i) Childcare parking is provided on basement level 1 adjacent to the dedicated childcare centre lobby, with easy access obtainable for parents/carers from the car park to the centre. We note that the Proposed Development provides the minimum number of 8 parking spaces required and relies upon '15 minute parking' to promote a high turnover of spaces;
 - (ii) In regard to on-street parking impacts, the Proposed Development reduces the number of driveways fronting the site from four down to one due to the removal of the existing driveways on the Pacific Highway, Wilson Street and O'Brien Street, however it only provides that this will facilitate the opportunity for Council to provide additional on-street car parking spaces. The Transport Impact Assessment fails to adequately address adverse on-street car parking impacts which We consider to be significant.
 - (iii) The outcomes of the future year traffic modelling demonstrates that the Proposed Development will not materially impact the surrounding road network. All intersections assessed in the modelling will maintain their existing level of service with negligible changes in overall delay times of one second or less compared to current conditions. Therefore, resultant traffic impacts are considered acceptable with no further road network upgrades necessary. Despite thus, the Transport Impact Assessment fails to adequately address the cumulative impacts from surrounding approved developments, and the future development of 845 Pacific Highway, Chatswood (SSD-61559214) for mixed-use build-to-rent development comprising of 369 dwellings and the impact to the intersection of Pacific Highway and Railway Street and the surrounding road network.
 - (iv) In regard to cumulative impacts, section 3.12 of the Transport Impact Assessment simply states that:

“It is important to recognise that the site at 849 – 859 Pacific Highway & 2 – 8 Wilson Street was considered as part of a broader strategic transport strategy undertaken to support the Chatswood CBD Planning and Urban Design Strategy (CCPUDS). The strategic transport study considered the cumulative traffic impacts of development within the Chatswood CBD – including lands adjacent to the site subject.

Detailed traffic analysis was undertaken to support the strategic transport study utilising Transport for NSW’s Strategic Travel Model. This analysis was undertaken for the future year 2036 - taking into consideration expected levels of development across the CBD. The study concluded that “most links are operating with a LoS C or better” and “generally internal links within the CBD have acceptable Levels of Service”.

Whilst the *Chatswood CBD Planning and Urban Design Strategy* has given high level consideration to traffic and transport matters across the Chatswood CBD, the strategy document does not provide any detailed analysis of the cumulative traffic impacts focused on particular locations within the CBD, such as the Site. The Transport Impact Assessment therefore lacks any proper consideration of cumulative traffic impacts associated with surrounding developments and land use.

- (v) Any cumulative traffic impact assessment undertaken for the broader Chatswood CBD as part of the *Chatswood CBD Planning and Urban Design Strategy*, would have been based on a maximum FSR for the site of 6:1, whereas the EIS for the Proposed Development indicates that the Proponent is seeking approval for an FSR of 8.46:1 (which incorporates the 30% uplift under the *State Environmental Planning Policy (Housing) 2021* plus the additional exceedances sought by the Clause 4.6 variation). Accordingly, any cumulative traffic impact assessment undertaken as part of the *Chatswood CBD Planning and Urban Design Strategy*, could not have properly considered the proposed increase in the scale of development for this Site.
- (d) The traffic impacts as a result of the Proposed Development will be further exacerbated as a result of the proposed 390 car parking spaces and 20 motorcycle parking spaces on the Site. It is submitted that there will be unacceptable impacts to the traffic conditions of the Chatswood CBD within the already congested CBD. TAL’s Property is located at that intersection of Pacific Highway and Railway Street which experiences traffic congestion during peak periods;
- (e) Supporting excessive on-site private car parking for the Site that has access to a Transport Interchange including rail, metro and bus services is inconsistent with the following strategic directions of Transport for NSW’s *Future Transport Strategy 2022*:
 - C2.1 Support car-free, active, sustainable transport options;
 - C4.5 Improve the safety of people walking and cycling;
 - P1.2 Support growth around public transport;
 - P1.4 Improve parking provision and management;
 - P2.5 Improve the amenity of places along State Roads;
 - P3.2 Help the transport sector achieve net zero emissions by 2050;
 - P4.2 Improve air quality and reduce noise;
 - E2.1 Promote travel behaviour change to manage networks;
 - E2.2 Stabilise Greater Sydney’s traffic.

- 3.2 The SEARs for the Proposed Development requires the Environmental Impact Statement to consider:

“analysis of the impacts of the proposed development during construction and operation (including justification for the methodology used), including predicted modal split, a forecast of additional daily and peak hour multimodal network flows as a result of the development (using industry standard modelling), identification of potential traffic impacts on road capacity, intersection performance and road safety (including pedestrian and cyclist conflict) and any cumulative impact from surrounding approved developments.”

- 3.3 It is submitted that a further and targeted cumulative traffic impact assessment is essential to properly understand the impact that the Proposed Development will have on the already congested traffic network in and around Chatswood CBD prior to granting development consent to the Proposed Development. Chatswood is already an area of high traffic congestion, particularly on weekday afternoons and on weekends. The traffic impacts of the Proposed Development are likely to have an area specific impact that needs to be fully considered.
- 3.4 We request that any updated traffic impact assessment be placed on public exhibition to allow the opportunity for it to be reviewed and further submissions made to the Department if required.

4. Breach of development standards

- 4.1 The Proposed Development will have unacceptable impacts as it breaches development standards for the following reasons:
- (a) the proposed maximum height of 120.05 metres **exceeds the maximum building height control by 3 metres (above the 117-metre maximum height permitted under the 30% State Environmental Planning Policy (Housing) 2021 uplift)**. The protrusion over the height plane relates to the northern tower's lift overrun; and
 - (b) the maximum permitted GFA at the site is 33,493.2 sqm (including the 30% uplift FSR bonus under the *State Environmental Planning Policy (Housing) 2021*). In the event that the eastern and north-eastern facades incorporated balconies (rather than wintergardens), the Proposed Development results in a GFA non-compliance of 0.3 sqm. However, this would conflict with the *Transport Asset Standards Guide to Airspace and External Developments* (Part 5.4). The provision of wintergardens results in **an exceedance of the maximum GFA by 2,829.8 sqm, in addition to the 30% uplift FSR bonus**;
- 4.2 It is submitted that it is unreasonable that the Proposed Development seeks to breach these development standards and to also exceed the uplift bonuses.

5. Noise and Vibration

- 5.1 The Proposed Development will have unacceptable noise impacts for the following reasons:
- (a) The impact to Tal's Property was assessed by the Noise and Vibration Impact Assessment prepared by E-LAB Consulting dated 15 November 2024 (**NVIA**) (receiver RC2) and provided the following results:
 - (i) Predicted noise levels - Demolition – 2dB Noise Management Level Exceedance;
 - (ii) Predicted noise levels - Excavation, Retention & Foundations - 2dB Noise Management Level Exceedance;
 - (iii) Project noise trigger levels (PNTL) to be applied to each surrounding receiver catchment for Commercial – 63db(A) Project Amenity Noise Level – 63db(A) Project Noise Trigger Level that shall be applied for any assessment of impacts of mechanical plant and equipment noise on the surrounding receiver catchments;
 - (b) Whilst the NVIA concludes that the Proposed Development is acceptable and warrants approval, this is subject to the implementation of mitigation measures. However, the assessment fails to include in the assessment the impact of the proposed retail &

commercial use and childcare use of the Site that form part of the Proposed Development.

- 5.2 It is submitted that a further noise impact assessment that addresses the impact of the proposed retail & commercial use and childcare use is essential to properly understand the impact that the Proposed Development prior to granting development consent to the Proposed Development.
- 5.3 We request that any updated noise impact assessment be placed on public exhibition to allow the opportunity for it to be reviewed and further submissions made to the Department if required.

6. Construction impacts

- 6.1 The NVIA provides that the Construction Noise and Vibration Assessment is based on preliminary/assumed construction methodologies and activities. It is expected that a detailed construction noise and vibration assessment will be undertaken as part of the documentation for Construction Certificate.
- 6.2 The demolition and construction of the Proposed Development will generate significant noise, dust and vibration impacts which will likely impact the use of Tal's Property. We therefore submit that a detailed Construction Environmental Management Plan, Construction Management Plan, and Construction Traffic Management Plan be prepared which includes all mitigation measures to effectively manage and reduce noise and vibration impacts associated with demolition and construction.
- 6.3 The SEARs for the Proposed Development requires a Construction Traffic Management Plan detailing predicted construction vehicle routes, access and parking arrangements, coordination with other construction occurring in the area, and how impacts on existing traffic, pedestrian and bicycle networks would be managed and mitigated.
- 6.4 We also request that We are provided with a Detailed Dilapidation Report prior to the commencement of works.

7. Overshadowing

- 7.1 Tal's Property currently has uninterrupted access to sunlight. The shadow diagrams for the Proposed Development show that there are overshadowing impacts to the west and specifically at TAL's Property particularly in the morning.
- 7.2 The Land and Environment Court of NSW has established a Planning Principle for access to sunlight in *The Benevolent Society v Waverley Council* [2010] NSWLEC 1082, which provides the following matters of consideration (our emphasis):
- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
 - *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
 - *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
 - *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*

- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
- *Overshadowing by fences, roof overhangs and changes in level should be taken into consideration. Overshadowing by vegetation should be ignored, except that vegetation may be taken into account in a qualitative way, in particular dense hedges that appear like a solid fence.*
- *In areas undergoing change, the impact on what is likely to be built on adjoining sites should be considered as well as the existing development.*

7.3 It is submitted that the impact to Tal's Property access to sunlight would be reduced with a better design, such as the adoption of slender tower forms that result in fast moving shadows and ensuring that the maximum permitted GFA at the Site complies with the development standards and the 30% uplift FSR bonus under the *State Environmental Planning Policy (Housing) 2021*), thereby reducing the bulk and shadow of the Proposed Development.

8. Cumulative Development Impacts

8.1 The Proposed Development is not an isolated redevelopment of a site in close proximity to the Chatswood CBD with numerous approved and likely future developments relevant in the cumulative impact assessment of the Proposed Development listed in section 2.3 of the EIS.

8.2 The EIS only provides that:

There are several State significant and local projects operating or intended to operate in and around the locality which may contribute to cumulative impacts on the proposal. To minimise the potential for cumulative social impacts and impacts to surrounding residents during construction, there should be consideration of coordinating construction activities and management measures across associated adjoining developments. This could include consideration of pedestrian access, to ensure continuous pathways remain available during construction and coordinating construction 'relief' days and consultation mechanisms (i.e. complaints handling procedures) as appropriate.

8.3 We submit that the cumulative impacts of all of these developments, including traffic and car parking, overshadowing, noise, and construction impacts need to be considered in depth.

For the above reasons, We submit that the Proposed Development in its current form should not be approved.

Yours faithfully



Patrick Holland
Partner



Ben Swain
Special Counsel