

5 March 2014

**DETERMINATION OF THE CONCEPT PLAN  
FOR A RESIDENTIAL DEVELOPMENT  
AT THE CHANNEL NINE SITE, WILLOUGHBY MP10\_0198**

**1. CONCEPT PLAN PROPOSAL**

The Environmental Assessment (EA) submitted with the Concept Plan application sought approval for a residential development with a small retail component including:

- Indicative building envelopes for five residential flat buildings above basement parking and two rows of terrace houses ranging in height up to 18 storeys;
- A Gross Floor Area (GFA) of 59,100 m<sup>2</sup> comprised of 49,500 m<sup>2</sup> for residential and 1,500 m<sup>2</sup> for retail or community use;
- A Floor Space Ratio of up to 2.04:1; and
- An indicative dwelling yield of 600 dwellings.

The application, as amended by the Preferred Project Report (PPR), now seeks approval for:

- Indicative building envelopes for five residential flat buildings above basement parking and two rows of terrace houses, ranging in height from 3 to 12 storeys; (see Figure 1, Appendix 1)
- A Gross Floor Area (GFA) of 47,840 m<sup>2</sup> comprised of 46,290 m<sup>2</sup> residential; 500 m<sup>2</sup> non-residential (retail/food and drink/indoor recreation) located in Building F and 1,050 m<sup>2</sup> floor space in the Loft building for adaptive re-use;
- A Floor Space Ratio (FSR) of 1.6:1;
- An indicative dwelling yield of 450 dwellings, including 4% of floor space provided as affordable housing and dedicated to Council and 20% adaptable dwellings;
- Two publicly accessible parks; new internal roadways and public domain works; storm water infrastructure;
- Indicative staging for the project with four stages proposed;
- A super-lot subdivision consistent with the proposed staging; and
- Identification of permitted uses.

**2. DELEGATION TO THE COMMISSION**

On 20 January 2014, the Concept Plan was referred to the Planning Assessment Commission ('the Commission') for determination under Ministerial delegation dated 14 September 2011, as more than 25 objections were received and Willoughby City Council objected to the proposal.

The Chair of the Planning Assessment Commission, Ms Gabrielle Kibble AO constituted the Commission to determine the project with Ms Jan Murrell and Mr Paul Forward.

**3. ASSESSMENT REPORT**

The Director-General's Assessment Report provided an assessment of the following issues:

- Density;
- Visual impacts;
- Residential amenity;
- Traffic and transport impacts;
- Open space and public domain;
- Social infrastructure and community facilities; and
- Other issues including floorspace, dwelling numbers, unit mix, developer contributions, sustainability, telecommunication tower and electromagnetic radiation, contamination and stormwater.

The Assessment report concluded that the site is capable of accommodating the proposed development and would provide environmental, social and economic benefits to the locality.

The application was recommended by Planning and Infrastructure (P&I) for approval, subject to modifications and conditions.

The recommended modifications include:

- Stepping down in height of Building B towards the south (to meet specific solar access requirement);
- The maximum height for Building G be reduced by 4m to RL 113.7 at the southern end;
- Increase the southern setback of Building G and basement level;
- Increase southern setback of Building E and basement level; and
- Building C to step down to the south in accordance with the cross sections.

#### **4. MEETINGS**

##### Willoughby City Council

On 7 February 2014, the Commission met with Willoughby City Council to discuss Council's concerns and the assessment report and recommendations.

Council acknowledged that they, and the community, are supportive of the redevelopment of the site. However the current proposal is considered an overdevelopment with significant impacts on existing and future residential amenity and the environment.

Council's key concerns are density, traffic, overshadowing and provision of open space.

An alternative scheme was presented by Council, which also advised that the scheme had gone through extensive community consultation and has regard to Council's Local Environmental Plan and Development Control Plan requirements. (See Figure 2 of Appendix ...) The alternative scheme provides for:

- Seven residential buildings ranging in height from 1 to 8 storeys;
- Total GFA of 32,387 m<sup>2</sup>; and
- Dwelling yield of 318 units (while 300 units was the figure provided to the community by Council, Council's scheme submitted to PAC actually indicates up to 318 units).

##### Meeting with Proponent

The Commission also met with the proponent on 7 February 2014 for a briefing on the project.

The proponent briefly outlined the history of the project. The meeting then focused on the issue of residential demand in the area; the amenity, layout and traffic arrangements and the interface of the modified design with the surrounding residential development.

##### Public Meeting

On Wednesday, 19 February 2014, the Commission held a public meeting to hear the community's views on the assessment report and recommended conditions. Forty Two (42) speakers registered to speak at the meeting (refer **Appendix 1**).

Approximately 130 people (*including those registered to speak*) attended the meeting.

The Commission considered the community to be knowledgeable and articulate in their submissions, raising a number of key issues including density (height, number of units etc), traffic, parking, access to transport, public infrastructure, electromagnetic radiation and overshadowing.

#### **5. COMMISSION'S CONSIDERATION**

The Commission has reviewed P&I's Assessment Report and associated documents, submissions from Willoughby City Council, government agencies and the community, views expressed at various meetings including the public meeting and written submissions received before, during and after the public meeting.

The Commission notes that there is general consensus that the site should be redeveloped for residential development given its location and accessibility to employment and services. The key issue is whether the density as recommended by the assessment report is the most appropriate level for the site. In considering the density issue, the Commission has regard to the following:

### **5.1 Community Consultation**

The community representatives, when they presented to the Commission at the public meeting, highlighted that they were not opposed to the redevelopment of the site and had actively engaged in the process with both the proponent and Council with a view to achieving an acceptable redevelopment outcome. In their view, the consultation process was in line with the guidelines suggested by the draft Planning Act. A community accepted redevelopment project could be seen as a positive outcome of engaging the community at the beginning of, and during the process rather than at the end.

Council has engaged the community throughout its preparation of the alternative scheme. Although the scheme would still have an impact on the character of the area, it has the community's support as it would address most of the community's concerns when compared with the proposal assessed by P&I. The community showed unanimous support of the alternative scheme at the public meeting.

### **5.2 Built Form**

The key issues relate to built form are building height and the resulting overshadowing impact. Other issues include the maximum number of units to be provided on site and the protrusion of basement car park above ground level.

#### Assessment Report

Section 5.2.4 of the Assessment Report discusses built form in detail. The report also indicated that the Government Architect was engaged to review the concept plan, particularly in relation to the urban design aspects of the project.

Notwithstanding the proposed reduction in building height as indicated in the PPR, the Government Architect advised that the location and form of the tallest buildings is still:

- an uncomfortable disparity of scale within the site, particularly the relationship of Blocks E and G with the adjacent row housing; and
- Visible from the south.

The Government Architect recommends reduction of building height to a maximum of 10 storeys, with development along the southern and eastern boundaries not to exceed 6 storeys and provide for podiums or other methods to provide height transition with low scale development.

The Assessment Report acknowledges the concerns raised in submissions, and considered the reduction of the maximum building height to 12 storeys in the PPR and its recommended modifications to further reduce the height and step-down of Buildings B, C and G would satisfactorily address the concerns raised by Council and community.

The Commission disagrees and considers further reduction in building height is required to address the issues concerning integration with existing developments in the area, visual impact and overshadowing of adjacent properties.

#### Maximum building height

The PPR and the assessment report both support a maximum of 12 storeys. The Government Architect suggests a maximum of 10 storeys to be located in the centre of the site. The alternative scheme prepared by the Council proposes maximum of 8 storeys for 3 of the buildings.

The Commission has carefully considered the recommendations from the 3 authorities and concluded that a maximum of 8 storeys should be imposed on the site for the following reasons:

- Existing developments to the north, west and south-east of the area are mostly low-rise (1-2 storeys) and small scale and to the east are 3 to 6 storeys developments. The introduction of 10 to 12 storeys buildings on the site represents an over-development of the site and will generate unacceptable amenity impacts on the adjacent residents.

- The transition of building height from 10 or 12 storeys to 3 storeys is unsatisfactory (between Buildings G and H, between Buildings B and C and between Buildings C and E).
- 6 to 8 storeys buildings will be more in keeping with the existing character of the area (noting the residential development east of Scott Street).
- Council's alternative scheme with maximum building height of 8 storeys has unanimous community support notwithstanding the acknowledgement that such development would still have impact on the character of the area.

Figure 3 in Appendix ... show the maximum building height approved for each building.

Although the Commission finds the maximum building height should be reduced to 8 storeys instead of the recommended 12 storeys, it agrees with the building envelopes modifications recommended in the assessment report as these requirements will significantly improve the final built form of the development and minimise amenity impacts on existing residents.

Recommended condition B1(e) requires Building G to be modified to have a maximum RL 113.7. Given the Commission's decision to restrict the maximum building height to 8 storeys, this recommended condition should be deleted as the final level of Building G will be lower than RL113.7.

#### Overshadowing

Residents of Walter Street raised significant concern in relation to overshadowing of their properties if the project were to be approved as recommended. The Commission is satisfied that its determination to reduce the maximum building height to 8 storeys together with the assessment report's recommendation to step down the buildings and increase setbacks from the southern boundary will minimise overshadowing impact on these residences.

#### Basement carpark protruding above existing ground level

Residents of Walter Street are very concerned that recommended condition 5 in Schedule 3 allows the basement parking level to be extended up to one metre above existing ground level. They consider this will increase the building height resulting in unnecessary increase in overshadowing of their properties. The Commission agrees and recommended condition 5 is amended by deleting the second sentence in the condition which allows protrusion above existing or finished ground level.

#### Number of units

The community questioned the reason for recommending a maximum of 450 units when the assessment report acknowledges that the recommended modifications to Buildings B, E and G could result in the loss of about 3500m<sup>2</sup> to 4000m<sup>2</sup> of floor space equating to about 35 to 40 dwellings. They believe this may encourage the increase in the number of 1 bedroom unit resulting in additional impacts.

The Commission notes the concern and the justification outlined in the assessment report that it is not necessary to change the maximum 450 dwellings. As discussed in the earlier section of this report, the Commission has concluded that the maximum building height for Buildings B, E and G should be 8 storeys. A corresponding reduction in the maximum number of units should also apply. The Commission's review of the indicative layout plans suggests a maximum of 350 units for the site is reasonable.

### **5.3 Traffic, Transport and Parking**

The community considered existing traffic and parking conditions are already very poor in the area and the surrounding road network is at capacity. The proposed development, if approved, could exacerbate traffic and parking conditions in the area through an increased demand for on-street parking and public transport.

### Traffic

Section 5.5.1 of the Assessment Report provided an in depth assessment of the traffic issues. P&I also engaged an independent traffic consultant, ARUP, to provide advice on the application. ARUP agreed with the proponent's consultant that traffic implications at intersections in the area will be satisfactory with the exception of Saturday peak hour traffic. It recommended further assessment, particularly of intersection capacity, be conducted as part of future development applications.

The assessment report also indicated that the Roads and Maritime Services (RMS) raised no objection to the proposed development and did not require the intersection of Artarmon and Willoughby Road to be upgraded as part of this project.

Council raised concern that the proposed entry/exit points provide for right turn movements into and out of the site which, given the limited line of sight distances, and the potential for queuing to occur at the junction of Artarmon and Willoughby Road's. It recommends that access into the site should be restricted to left in/left out with the addition of a roundabout at the junction of Richardson and Artarmon Road's to facilitate a right turn movement for vehicles leaving the site. Two conditions are recommended accordingly.

The Commission agrees with the Council and considers its recommended conditions are reasonable to ensure minimal impact on existing traffic flow on Artarmon Road and road safety. However, the Commission is of the view that the roundabout at the intersection of Richardson Avenue and Artarmon Road could be constructed by the proponent to Council's requirement. Council's recommended conditions are amended accordingly.

On the evidence, the Commission generally agrees with P&I's assessment that, subject to the imposition of future assessment provisions and the insertion of the additional conditions recommended by Council, the project would not result in any significant adverse impacts on the local road network, particularly the intersection of Artarmon and Willoughby Road, as a consequence of the increase in traffic generated by the residential development.

### Parking

Concern was raised at the public meeting regarding existing car parking issues associated with the site and as a result of people driving to, and parking near, one of the last bus stops prior to North Sydney or the CBD, at the junction of Small Street and Willoughby Road. Concern was also raised that the parking rate in the assessment report is reflective of a site within a transport corridor.

The Commission has carefully considered the proposed car parking rate, noting that the assessment report considers the car parking controls in the Willoughby Development Control Plan (DCP) is the most appropriate for the site and the wider precinct. Hence, the recommended condition requires parking to be provided in accordance with the DCP. The Commission notes that Council raised no issue with the proposed residential parking rates.

### Transport

The community raised concern that bus services into the CBD were full during peak hour periods, by the time they reach the intersection of Small Street and Willoughby Road. Also buses are subject to congestion on the Harbour Bridge due to bus movements within York Street. It is also not practical to rely on trains due to the '20 minute undulating walk' to Artarmon Station. The community challenged the P&I's conclusion that the site was located near a transport hub.

Transport for NSW initially advised (26 June 2013) P&I that the development should consider the impact of the proposal on the capacity of bus services. However following further information provided by the proponent, Transport for NSW subsequently advised P&I (11 November 2013) that the issues raised had been satisfactorily addressed.

Council considered that a contribution should be made to its 'Loop Bus' service which could potentially provide a service between the site and Artarmon Station. The assessment report noted the current service does not operate during peak periods and that the existing 'Loop Bus' service is funded by Section 94 contributions which could be levied at the development application stage and

therefore any further contribution would be 'double dipping'. The Commission agrees with P&I's assessment.

The Commission is satisfied that the transport issue has been adequately addressed in the assessment report.

#### **5.4 Open Space**

Council sought to ensure that the two proposed open spaces remain in community title and not be dedicated to Council. However both should be made publicly accessible. Further that both Council and the Government Architect consider the open space adjoining Artarmon Road should be at grade.

The Assessment Report recommends the two open spaces to remain in community title, but only the open space adjacent to Artarmon Road should be made publicly accessible.

Due to the location and size of the smaller open space within the site, the Commission agrees with the assessment report that it is not of a scale to be useful as a publicly accessible space.

The proponent advised the Commission that due to the topography of the site and Artarmon Road, that the larger open space would be terraced to suit the gradient. The Commission notes the assessment report recommends future development applications to include detailed landscape plans for the open space areas. Hence it is satisfied that the issue can be addressed at the development application stage.

The community also sought to have the significance of the site preserved through commemorative features. The Commission acknowledges the significant role the Channel Nine site has had in the locality and agrees that a condition for commemorative features to be incorporated within the open space should be imposed. Details are to be included in the landscape plans.

#### **5.5 Electromagnetic Radiation**

Electromagnetic Radiation (EMR) was raised as an issue by the community who noted the radio frequency hazard survey provided by the proponent had been predominantly conducted at ground level. EMR had not been adequately considered for residents living in multi-storey buildings.

The assessment report has recommended a condition which requires future development applications to include electromagnetic radiation reports and incorporate appropriate building design measures to demonstrate residents of all new dwellings will not be exposed to radiation levels above those recommended by ARPANSA.

The Commission considers the recommended condition should be strengthened to require the Australian Standard RP3 (Electromagnetic Radiation – Human Exposure Standard 2003) to be met.

#### **5.6 Education Facilities**

Additional demand on school facilities generated by the proposed development was a significant issue raised in the submissions and at the public meeting. The Commission heard that schools in the area are at capacity and some suggested the proposal should include a school to cater for the additional demand. Many considered the issue has not been adequately addressed in the assessment report.

Both Council and Department of Education and Communities (DEC) recommend a development contribution levy be imposed to ensure funding is available for the construction of additional facilities to meet the demand.

The Commission notes the Northern Sydney Council of P&Cs advised that the site was investigated for the development of a school but the finding was it is not a suitable site for such use. The P&C opposed to a school on the site on child safety reasons.

The assessment report found the existing Planning Circular (PS08-019) does not support the levy of contribution for the construction of classrooms for school. It further notes that the current NSW State Budget has included additional funding for the construction of new classrooms in the Lower North Shore to address the capacity issues. Having regard to the evidence, the Commission is satisfied

that the issue has been satisfactorily addressed in the assessment report, particularly when considering the final development density would be further reduced by the Commission with a restriction of maximum building height of 8 storeys.

### 5.7 Other Matters

The Commission is satisfied that other issues raised in submissions and during the public meeting, have been adequately addressed in the Assessment Report and recommended conditions.

### COMMISSION'S DETERMINATION

The Commission has carefully considered the information available including the Director-General's Environmental Assessment Report and associated documents including the PPR, submissions made to P&I and the Commission. It notes the PPR proposed a smaller development to address issues raised in public submission through a reduction in building height from 18 to 12 storeys and number of units from 600 to 450. The assessment report recommends further modifications to the PPR proposal to further address the residual impacts.

The Commission notes the consultation process and the background to the application highlighted almost unanimous support for the redevelopment of the Channel Nine site. However, the support is for a development with maximum building height of 8 storeys as envisaged in the Council prepared alternative scheme.

Following careful consideration of the character of the area, the adjacent development in the locality and the location of the site, the Commission finds the recommended building height of maximum 12 storeys represents an overdevelopment of the site. The project as recommended should be further amended to reduce the building height as indicated in Figure 3 of Appendix 1.

Having regard to the relevant issues, the Commission finds that the proposal, as amended by the Commission, will be beneficial to the community and that the environmental and amenity impacts of the proposal can be adequately mitigated or managed by a suite of stringent conditions. Therefore, the Commission has determined to approve the application as recommended by Planning & Infrastructure subject to the recommended modifications as well as approval conditions as amended by the Commission. The Commission's amendments are:

1. Maximum number of units 350;
2. Maximum building height of 8 storeys as shown in Figure 3 of Appendix 1;
3. Access to the site is restricted to left in/left out only;
4. Provision of a roundabout at the junction of Richardson Street and Artarmon Road;
5. Commemorative features to be incorporated within the open space to acknowledge Channel Nine's contribution to the locality;
6. Recommended condition B1(e) to be deleted;
7. No basement carpark to be protruded above existing or finished ground level; and
8. Amended plans to be submitted for the Director-General's approval reflecting all modifications in the approval conditions within 6 months from the date of approval.

Gabrielle Kibble AO  
Chair of the Commission

Jan Murrell  
Member of the Commission

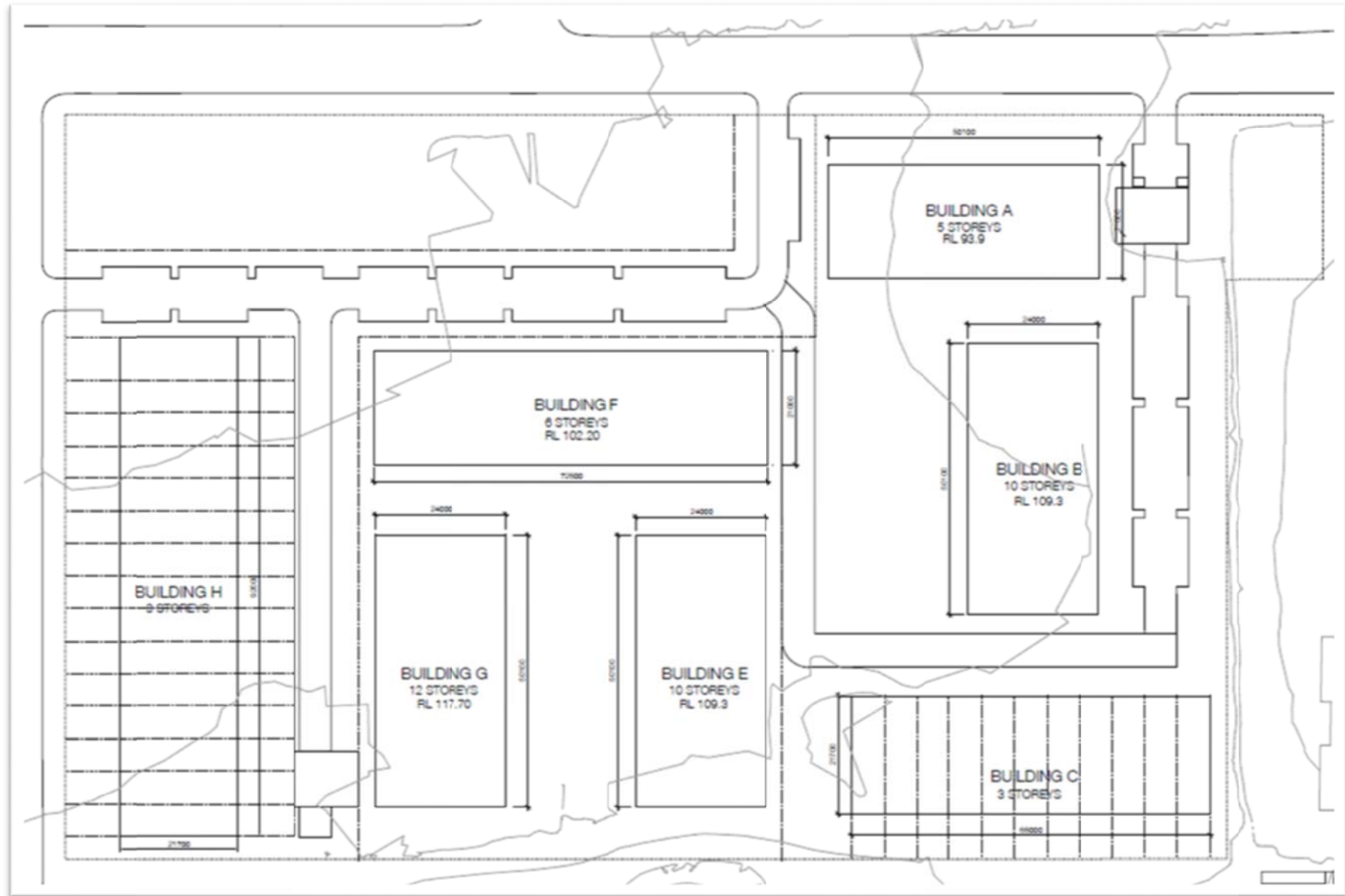
Paul Forward  
Member of the Commission

## **Appendix 1**

### Figures of Building Heights



## APPENDIX 1



**Figure 1: Proposed Building Envelope from Preferred Project Report (PPR)**

Source: Concept Plan Application Preferred Project Report –V2 (10\_0198), prepared by SJB Architects, dated 3 October 2013



Figure 2: Willoughby City Council Scheme





**Figure 3: Maximum Building Height**

Source: Concept Plan Application Preferred Project Report –V2 (10\_0198), prepared by SJB Architects, dated 3 October 2013

## **Appendix 2**

### List of Speakers at the Public Meeting

#### **Planning Assessment Commission Meeting Concept Plan for the Channel Nine site, Willoughby**

Date: 4 pm, Wednesday, 19 February 2014  
Place: Willoughby Uniting Church, 10 Clanwilliam Street, Willoughby

1. Willoughby City Council - Greg Woodhams
2. Willoughby South Progress Association – Robert Taffel
3. Artarmon Progress Association – Dale McKay, President
4. Kathryn Evans
5. Kerry Livingston
6. Viviane Leveaux
7. Matthew Farmer
8. Northern Sydney Council of Parents & Citizens Associations – Stephanie Croft, A/President
9. Clair Pisani
10. The Willoughby Area Action Group – Peter Wilton
11. Meshlin Khouri
12. Peter Stephenson
13. Louise Stephenson
14. ~~Karey Kettle~~ – not present (submission tabled)
15. Angelo Rozos
16. Matthew Wheeler
17. Frances O'Brien
18. Cllr Gail Giles-Gidney
19. Robert Ludecke
20. Jill Jenkins
21. Neil Mulcahy
22. Carl Kosutar
23. ~~Stewart Scott~~ – was not present
24. Stuart Coppock
25. Susan Kindersley
26. Gordon Shrubb
27. Malcolm Hyslop
28. Helene Kemp on behalf of Barry Shaw
29. Christine Kelley
30. Hilary Wright
31. Alfred Boccanfuso
32. Ian Jones
33. Andrew Cubie
34. ~~Rachel Murphy~~ - withdrew
35. Jean Furtado
36. Douglas Wilson
37. Cllr Michelle Sloane
38. Douglas Irvin
39. Pip Smith
40. Brendan Bond
41. John Owen
42. Naremburn Progress Association – Roger Primnitz