

Madam Chair and Commissioners. My name is Peter Wilton I am the president of the Artarmon Progress Association. I live at [REDACTED]

The Artarmon Progress Association "APA" was formed in 1906 and has 248 members. A number of our members are unable to be here this morning and have asked that I include some comments for them. As a result my submission today will be slightly longer than it would otherwise be.

The APA requests the Commission reject the Department of Planning and Environment's recommendation and not approve the modified scheme as proposed because:

- The Department's Assessment Report is misleading and less than objective;
- The Department fails to justify why the determination made by the Planning Assessment Commission should be overturned;
- The modified scheme is inferior to the approved development scheme.

The Department's Assessment Report is misleading and less than objective, consider the Report's key sections.

Section 3 Strategic Context

Section 3 Strategic Context. The Department incorrectly implies that the proposed modification is aligned with the aims and objectives of the Premier, the NSW Government, the Greater Sydney Commission, the North District and Willoughby City Council. The Department is highly selective in its comments, it only mentions strategic housing targets that support the proposed modifications and omits those strategic objectives that are contrary to it. For example:

1. It fails to report the Premier's objective for co-ordinated planning with development that is appropriate to its location;
2. it fails to set-out the GSC's & North District's broader objectives to align planning with Councils, and to eliminate adhoc site specific exceptions;
3. It fails to consider Council's planning strategy, its existing LEP and its planning intentions.

In Section 3.2 the Department misleadingly implies that the Channel 9 modifications are needed in order that the GSC's, North District's and Willoughby Council's housing targets are achieved. Neither are true. Council's targets will be met under their proposed housing strategy and LEP.

Willoughby City Council has objected and challenged the substantive modifications to the approved scheme. Despite this and numerous submissions from Council, the Department still claims in Section 3.2 that the proposed modification is consistent with the Council's strategy. If that were the case why would Council be objecting to it?

These concluding comments in 3.2 are misleading and reflect the Department's inability to objectively report on submissions that have been made to it.

Section 4 Statutory Context

Section 4 Statutory Context. The Department fails to show how the Proponent has the right to maintain multiple "live" modification proposals at the same time. The Proponent's Modification 1 is still under assessment and has not been dealt with or withdrawn, yet Modification 2 has been assessed and Modification 3 has been submitted ready to be processed.

The Proponent's use of multiple live modifications is an abuse of process, it appears that they are hedging their bets. It has the effect of confusing the community with the apparent aim of lessening engagement.

Modification 2 should not have been assessed, or determined, until Modification 1 had been dealt with. The Department fails to explain how the Proponent has the right to do this.

Section 5 Engagement

In Section 5 Engagement the Department fails to describe the engagement activities, or lack of activities, that were performed by the Proponent. The Proponent did not engage with the community on Modification 2, it did not perform any community consultation or similar activities.

We suspected that the Proponent was not interested in engagement when they lodged their Modification 2 application just one day before the Department of Planning's end of year shut down, this resulted in the public exhibition period for Modification 2 coinciding with the busy end of year Christmas period when the community and other stakeholders were otherwise distracted.

Our suspicions over the Proponent's lack of interest was confirmed in their March 2018 Response where, in Section 2.2, they dismissed 411 written public objections as "indicating that there is neither broad-based objection to, or interest in, the overall project and proposed modification". This is clearly not the case.

The Department fails to report on the Proponent's lack of engagement and creates the misleading impression that proper engagement was undertaken.

Section 6 Assessment

In Section 6 the Department provides its assessment of the proposed modification. Here the Department's less than objective approach continues.

The increase in apartment and storey numbers is the major element of the proposed modification. It was these items that were the main subject of the PAC determination and the subsequent Land & Environment Court appeal and conciliation agreement. It was the issue that attracted most objections.

In Section 6.2 the Department provides six reasons to justify the increase in apartment numbers at the site. These reasons however are either wrong, misleading or irrelevant and show the Department's less than objective and rigorous approach.

Consider the reasons offered by the Department for the increase in apartment numbers:

Reason # 1 Building heights have not increased - this is factually incorrect and misleading. The RL building heights along Richmond Road, Artarmon Road and on the south east corner have all increased. Likewise the number of storeys for six buildings have increased by at least one storey.

Building heights and building storeys have both increased, it is misleading of the Department to suggest otherwise.

Reason # 2 Built form on the site edges create a reasonable transition to the surrounding low scale character - this statement is misleading as the Department fails to state that:

- the transition is inferior to the approved development because of the greater height and additional storeys of the buildings directly on Artarmon Road and Richmond Ave;

- the removal of the park from the corner of Artarmon & Richmond in the modified scheme reduces the building set back and further reduces the transition established in the approved development;
- the increase in storeys on Richmond Avenue will increase the number of dwellings sited directly on the street and result in greater loss of amenity to existing Richmond Ave residents;

Reason # 3 Overshadowing is improved – this is irrelevant. Whether overshadowing has improved or not is completely irrelevant as to the suitability of this site to house more residences.

Reason # 4 Open Space has been increased and improved – this statement is misleading.

- Open **green** space has increased by 907 m² but total open space has reduced by 344 m².
- The increase in open green space has been largely achieved through a reduction in internal roads;
- The area however covered by buildings, that is the building footprint, has increased by 344 m² from 10,114 m² to 10,458 m², and this results in a reduction in the total open area;
- The Department fails to identify this. The calculations proving the numbers I have quoted are included as a footnote in my written submission;
- The Department's omission here creates the misleading impression that there will be more apparent open space with the modified scheme. But that is not the situation. The modified scheme has a larger area covered by buildings resulting in a greater sense of density and built form than with the approved scheme.

Reason # 5 Traffic generation remains acceptable. This is highly debatable.

The Department's assessment report relies upon a Traffic Assessment that lacks appropriate rigour:

- It is based on out of date traffic volumes that were measured in May 2016, since then traffic on Artarmon Road has noticeably increased;
- It does not account for the increase in traffic associated with the proposed child care centre nor the impact from the reduction in non-residential space that were identified for retail and other commercial amenities that would otherwise have reduced the need for residents to make a car trip;
- Is based upon RMS's traffic movement guidelines for similar sized developments which are normally sited closer to mass transport and commercial amenities than the Channel 9 site and as a result generate lower traffic movements than will occur at the more isolated Channel 9 site.

The Channel 9 site is a suburban site that has little mass transport or commercial amenities within walking distance. Residents in the area are highly dependent on car transport to access shops, health and other amenities.

Reason # 6 Proposal includes additional public benefits via the proposed voluntary planning agreement (VPA). This is not just misleading but completely incorrect. The issues here are:

- The Proponent has proposed \$1.5M in "Voluntary Planning Agreements". However the expenditure is tied to projects directly related to the development with little net benefit to the community. The proposed VPA projects are:
 - \$0.5M for an upgrade to Willoughby & Artarmon Road intersection that aims to mitigate the traffic impact caused by the development;

- \$1M to upgrade Walter St Reserve that will be largely to the benefit of residents of the new development;
- Most significantly the proposed modification excludes Scott Street:
 - Under the approved development, the Proponent was obligated to purchase the 1,003 m2 Scott Street public road area from Willoughby City Council, with the area incorporated into the site and becoming part of the development's internal road network;
 - With the proposed modification, Scott Street is not incorporated into the site and it will not be purchased by the Proponent. It however will be used exclusively by the development and for all intent and purposes remains part of the development's internal road network;
 - The Proponent paid around \$5,000/m2 for the Channel 9 site. This then values Council's Scott St property at \$5M. The residents of Willoughby are \$5M worse off as a result of the proposed modification.

The Department's assessment fails to state that the Proponent is already obligated to fund the proposed VPA projects under conditions 18 and 33 of PAC's approval.

The Department's assessment that the modification provides additional public benefits is factually incorrect. The Department is wrong. The proposed VPA projects provide little public benefit as they are directly related to the development and the Proponent has an existing responsibility to fund them under the approved scheme. Rather than the proposed modification providing an additional benefit, there is a loss of public benefit with the Proponent reneging on its obligation to purchase the Scott Street road resulting in a financial loss to the public of \$5M.

The Department is unable to justify their assessment that the "increase in density is acceptable". None of the Department's reasons that support this assessment stand up to scrutiny.

The key element of PAC's 2014 determination was their conclusion that the Channel 9 site was unsuitable for the then proposed 450 apartment development which the Department had recommended. PAC scaled back the development to 350 apartments, this was later increased to 400 apartments after conciliation in the Land & Environment Court.

The Department fails to justify why PAC's determination should be overturned. Nothing has changed since the determination to the Channel 9 site or its location that now makes it more suitable for more apartments.

The existing Channel 9 scheme was determined by the Planning Assessment Commission with the Land & Environment Court after a rigorous consultation and assessment process. With the two highest independent planning bodies in NSW determining the existing approval, a credible case needs to be made to overturn it. The Department fails to do this, they do not identify why PAC's determination should be changed and fails to make the case to change it.

The overriding issue is that the proposed modified scheme is inferior to the approved scheme. The Proponent's justification for the increase in apartment and storey numbers is limited to:

- "design excellence" of the modified scheme;
- the financial benefit from their proposed VPA;
- and larger publically accessible green space.

But these provide little, if any benefit.

Like the VPA projects, the Proponent is already obligated under conditions 1, 2 and 3 of the approved scheme to demonstrate design excellence.

Any benefit from the increase in publically accessible green area is more than offset by its inferior location. We prefer the smaller public green space provided in the approved scheme which is more accessible and inviting to the public as it is located on the corner of Artarmon Road and Richmond Avenue. This space also has the advantage of providing a better level of building set-back.

The APA is a “progress association” and sees change and development as a necessary part of achieving progress. During the entire Channel 9 development saga, the APA has supported the residential redevelopment of the Channel 9 site to a medium density level, a level that is higher than the surrounding single dwelling lots.

At the Planning Assessment Commission public meeting held in 2013, the APA and each of the other 40 public speakers stated their support for the development of the site.

The panel’s Chair, Gabrielle Kibble, commented on this after she closed the meeting saying on behalf of the panel, that she had not held a public meeting with as many speakers where everyone supported the development, she said it was remarkable.

This morning I have demonstrated that the Department has been misleading in their Assessment Report. What better proof can be provided of this than from the Department itself. Late yesterday the Department issued a statement in which it states that the Channel 9 Assessment Report may be misleading. For the Department to admit this means that there is no question that the Assessment Report is misleading and it shows that the Department has not been objective or rigorous in forming its recommendation to the Commission to approve the modified scheme.

The proposed modification is inferior to the approved scheme. The Proponent fails to demonstrate any benefit with the modification. The Department has not been objective in their assessment. The Department’s report is materially misleading and incorrect, this makes the Department’s conclusions unreliable. The Department fails to justify altering PAC’s 2014 determination. Therefore the Department’s recommendations are not worthy of acceptance.

The Artarmon Progress Association requests the Commission not approve the proposed modified scheme. As a minimum the number of storeys and apartments should remain at the level determined by PAC in the approved scheme.

Thank you for allowing me to make this extended submission to you this morning.

Footnote: Building Footprint Calculation

Approved Scheme			
Building	Dimensions		Area m2
A	25.8	49.0	1,264.2
B	46.0	24.0	1,104.0
C	21.7	73.0	1,584.1
E	32.0	24.0	768.0
F	62.0	24.0	1,488.0
G	48.0	24.0	1,152.0
H	94.0	21.7	2,039.8
	94.0	7.6	<u>714.4</u>
Total Building Footprint			10,114.5

Modified Scheme			
Building	Dimensions		Area
A	63.0	20.0	1,260.0
B	59.0	20.0	1,180.0
C	51.5	24.0	1,236.0
D	51.5	26.0	1,339.0
E	25.0	19.0	475.0
	26.1	26.0	<u>678.6</u>
F	50.8	22.7	1,153.2
G	25.5	42.3	1,078.7
H	57.0	21.0	1,197.0
J	41.4	20.8	<u>861.1</u>
Total Building Footprint			10,458.6

Footnote: Department Statement



**Planning &
Environment**

Statement

Channel 9, Willoughby – Proposed Modification (MP10_0198 MOD 2)

It has come to the Department's attention that section 3.1 of the Department's Assessment Report discussing the relationship between the Premier's and State Priorities and the proposed modification may be misleading.

The discussion in section 3.1 of the Report is an expression of the Department's view. There is no suggestion that either the Premier or the Department of Premier and Cabinet has endorsed this proposed modification, or this report, as being consistent with the Premier's or State Priorities. The assessment made is solely the Department's view.

Neither the Premier, nor the Department of Premier and Cabinet have had any role in the assessment of the proposed modification.