

# Manner of Approval

## Section 75Q(3) of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 14 September 2011, and in accordance with the decision of the Land and Environment Court on 22 December 2014 to uphold appeal proceedings No. 10362 of 2014, the Planning Assessment Commission of NSW (Commission) determines:

- (a) pursuant to Section 75O and s75Q(3) of the *Environmental Planning and Assessment Act 1979*, to approve the Concept Plan referred to in Schedule 1, subject to the terms of approval in Schedule 2 and the Statement of Commitments in Schedule 4, as determined by the Court;
- (b) pursuant to Section 75P(1)(a) and 75P(2)(c) of the *Environmental Planning and Assessment Act 1979*, that the further environmental assessment requirements for approval to carry out the development are as set out in Schedule 3; and
- (c) pursuant to section 75P(1)(b) of the *Environmental Planning & Assessment Act 1979*, that all future stages of the Concept Plan approval are subject to Part 4 of that Act.



Paul Forward  
Member of the Commission



Jan Murrell  
Member of the Commission

Sydney

23 December 2014

---

## **SCHEDULE 1**

### **PART A: PARTICULARS**

<b>Application No.:</b>	MP10_0198
<b>Proponent:</b>	Nine Network Australia Pty Ltd
<b>Approval Authority:</b>	Minister for Planning & Infrastructure
<b>Land:</b>	<ul style="list-style-type: none"><li>• Channel Nine Site, 6 – 30 Artarmon Road, Willoughby, including:<ul style="list-style-type: none"><li>○ Lot 1 DP820327;</li><li>○ Lot 1 DP 327266;</li><li>○ Lot 10 DP 1162507;</li><li>○ Lot 13 DP 6849;</li><li>○ Lot 12 DP1162507; and</li></ul></li><li>• Scott Street, Willoughby</li></ul>
<b>Project:</b>	<p>Residential development and small scale non-residential uses incorporating:</p> <ul style="list-style-type: none"><li>• building envelopes for five residential flat buildings above basement level parking and two rows of terrace houses incorporating;<ul style="list-style-type: none"><li>○ up to 400 dwellings; and</li><li>○ up to 500m<sup>2</sup> floor space of non-residential uses to support the development;</li></ul></li><li>• retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purposes;</li><li>• new internal roadways and other infrastructure works to support the development;</li><li>• publicly accessible open space and through site link;</li><li>• temporary exhibition homes and / or exhibition villages; and</li><li>• superlot subdivision.</li></ul>

### **PART B: NOTES RELATING TO THE DETERMINATION OF MP No. 10\_0198**

#### **Responsibility for other approvals/ agreements**

The Proponent is responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant.

#### **Legal notices**

Any advice or notice to the approval authority shall be served on the Secretary.

## PART C: DEFINITIONS

**Act** means the *Environmental Planning and Assessment Act 1979* (as amended).

**Advisory Notes** means advisory information relating to the approved development but do not form a part of this approval.

**Council** means Willoughby City Council.

**Secretary** means the Secretary of the Department of Planning and Environment or their nominee.

**Environmental Assessment** means the Environmental Assessment prepared by JBA Urban Planning Consultants dated 26 March 2013.

**GFA** means gross floor area.

**Minister** means the Minister for Planning.

**MP No. 10\_0198** means the Major Project described in the Proponent's Preferred Project Report.

**Preferred Project Report (PPR)** means the Preferred Project Report and Response to Submissions prepared JBA Urban Planning Consultants dated 3 October 2013.

**Proponent** means Nine Network Australia Pty Ltd or any party lawfully acting upon this approval.

**Certifying Authority** has the same meaning as Part 4A of the Act.

**Regulation** means the Environmental Planning and Assessment Regulation 2000 (as amended).

**Subject Site** has the same meaning as the land identified in this Schedule.

**End of Schedule 1**

---

## SCHEDULE 2

### PART A - TERMS OF APPROVAL

#### Development Description

A1. Concept approval is granted to the development as described below:

Use of the site for a residential development with small scale non-residential uses, incorporating:

- building envelopes for five residential flat buildings above basement level parking and two rows of terrace houses incorporating;
  - up to 400 dwellings and
  - up to 500m<sup>2</sup> floor space of non-residential uses to support the development;
- retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purposes;
- new internal roadways and other infrastructure works to support the development;
- publicly accessible open space and through site link;
- temporary exhibition homes and / or exhibition villages; and
- superlot subdivision.

#### Development in Accordance with the Plans and Documentation

A2. The development shall be undertaken generally in accordance with:

- the Environmental Assessment dated 26 March 2013 prepared by JBA Urban Planning Consultants, except where amended by the Preferred Project Report dated 3 October 2013, including all associated documents and reports;
- the Statement of Commitments at Schedule 4; and
- the following drawings:

<i>Drawings Prepared by SJB Architects– Rev 5 dated 15 December 2014</i>	
<i>Drawing No</i>	<i>Name of Plan</i>
A-0202	Level 01 Plan
A-0203	Typical Plan
A-0204	Upper Floor Plan
A-0211	Illustrative Masterplan
A-0212	Staging Plan
A-0213	Allotment Plan
A-0214	Envelope Plan
A-0501	Elevation – Artarmon Rd

except as modified by the following pursuant to Section 75O(4) of the Act and the conditions below.

#### Inconsistencies Between Documentation

A3. In the event of any inconsistency between modifications of the Concept Plan approval identified in this approval and the drawings/documents including the Statement of Commitments referred to above, the modifications of the Concept Plan shall prevail. In the event of any inconsistency between the drawings/document listed in condition A2, the later drawing/document prevails.

## **Building Envelopes**

- A4. Building footprints and setbacks are to be generally consistent with A-0214 Envelope Plan Revision 5, except where amended by the Terms of Approval in Part A and the Modifications in Part B, Schedule 2 of this Approval.

## **Maximum Gross Floor Area (GFA)**

- A5. The maximum GFA for the development shall not exceed 37,136m<sup>2</sup> which may include:
- up to 35,886m<sup>2</sup> new residential GFA;
  - up to 500m<sup>2</sup> of non-residential GFA to support the residential use (incorporating neighbourhood shops; food and drink premises, indoor recreation facilities or community facilities); and
  - 1050m<sup>2</sup> adaptive retail/commercial reuse of No 6 Artarmon Road.

It is noted that these are maximum figures and are subject to the modifications and future environmental assessment requirements in Part B of Schedule 2 and Schedule 3 of this Approval. Compliance with these requirements may result in the maximum figures not being achieved.

## **Maximum Number of Residential Units and Height of Buildings**

- A6. (a) The maximum number of residential dwellings shall not exceed 400;
- (b) The maximum height of buildings shall be in accordance with plan no A-0214 Envelope Plan Revision 5.

## **Stormwater Concept Plan**

- A7. Prior to the submission of the first Development Application or issue of the subdivision certificate for the superlot subdivision (whichever occurs first), a Stormwater Concept Plan is to be submitted to and approved by Council to address Council's requirements for stormwater management across the site. The stormwater concept plan shall incorporate measures to harvest stormwater and reuse for irrigation of landscape gardens and open space. Where necessary, any subdivision plan is to incorporate appropriate easements to allow for stormwater management in accordance the approved plan.

## **Lapsing of Approval**

- A8. Approval of the Concept Plan shall lapse 5 years after the determination date shown on this Instrument of Approval, unless an application is submitted to carry out a project or development for which concept approval has been given.

## **PART B - MODIFICATIONS**

No modifications

**End of Schedule 2**

---

## **SCHEDULE 3**

### **FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS**

#### **Design Excellence**

1. Future Development Applications shall demonstrate that the development achieves a high standard of architectural design incorporating a high level of modulation and articulation to the buildings, and in particular to the facades of the residential flat buildings, and the incorporation of a variety of high quality materials and finishes.
2. Future Development Applications shall demonstrate variety in the presentation between each of the residential flat buildings, including incorporation of a different palette of materials and finishes for each building.
3. The future Development Application for Building G shall include design measures (such as articulation to the built form and facades) to achieve a visual relationship with the scale of the Building H to the west.

#### **Built Form**

4. Future Development Applications shall ensure that basement parking levels are designed to be below existing and finished ground levels.
5. Future Development Applications shall demonstrate an appropriate interface with new and existing streets and public domain areas at pedestrian level, and shall include main pedestrian entrances facing towards the adjoining streets to ensure each building has a clear street address.
6. Future Development Applications shall provide for utility infrastructure, including substations, within the building footprint, wherever possible. If this is not possible, infrastructure shall be located outside of the public domain and appropriately screened and not on any external site boundary. All services, where possible, are to be located underground.

#### **Internal Streets and Public Access**

7. Future Development Applications shall incorporate a consistent street design throughout the entire development. All streets shall include visitor kerbside parking and / or drop-off bays, a pedestrian footpath, bicycle racks and appropriate street tree planting and landscaping generally in accordance with plan no. A-0214 Revision 5 Envelope Plan.
8. Future Development Application/s for Stage 2 are to incorporate a publicly accessible through site link from Artarmon Road to the southern boundary of the site aligning with the western side of Building G and are to demonstrate an accessible path of travel for the entire route.
9. Future Development Applications are to make all internal roadways, the pedestrian through-site link, and all on-street parking in the vicinity of the publicly accessible park, publicly accessible. Future Development Applications are to incorporate an appropriate legal mechanism for creating a right of public access to the roadways, footpaths and parking areas, with the relevant instrument/s to be executed prior to occupation of the relevant stage. The future Development Applications are also to incorporate appropriate measures to ensure the roadways are managed and maintained to a high standard by the future body corporate.
10. Vehicle access to Artarmon Road to be left in/ left out only. Future development applications shall include measures to restrict vehicle movements entering and exiting the site to Artarmon Road to be left in/left out only. This can include median islands in Artarmon Road or seagull treatments at access points. The cost of the work is to be borne by the proponent and designed and constructed to the satisfaction of Council.

11. Future Development Application for Stage 2 shall incorporate the provision of a roundabout at the intersection of Artarmon Road and Richmond Avenue. The roundabout is to be constructed by the proponent to the requirements of Council.

### **Open Space**

12. Future Development Applications shall include detailed landscape plans for the embellishment of open space areas. These areas shall include high quality landscaping and paved areas and a variety of recreation facilities which may include BBQs, seating, water features, grassed areas, paths, shade trees, bicycle racks and exercise equipment/games.
13. A minimum of 3,178m<sup>2</sup> of publicly accessible open space at the corner of Artarmon Road and Richmond Avenue shown as the Nine Network Reserve on plan no. A-0212 Revision 5 Staging Plan shall be provided prior to occupation of any part of Stage 2. The future Development Application for the park is to incorporate an appropriate legal mechanism for creating a right of public access to the open space, with the relevant instrument/s to be executed prior to occupation of any part of Stage 2. The future Development Application is also to incorporate appropriate measures to ensure the park is managed and maintained to a high standard by the future body corporate.
14. A second internal open space, Cow Paddock Park, with a minimum size of 1,000m<sup>2</sup> is to be provided to the west of Building B prior to occupation of any part of Stage 1. At least 50 per cent of the area is to include deep soil landscaping with no structures below it and the remaining area is to include soil depths and drainage suitable for the provision of soft landscaping including grass, shrubs and small trees.
15. A third internal open space, Heli Pad Park, with a minimum size of 1000m<sup>2</sup> is to be provided to the south of Building E prior to occupation of any part of Stage 2. Trees identified for retention in the Arboricultural Assessment by Botanics Tree Wise People dated 20 July 2013, are to be retained and new tree planting is to be undertaken to provide effective visual screening of any future building (including basement car park).

### **Adjoining Public Domain**

16. Future Development Applications shall provide the detailed design for the upgrade of road reserves adjacent to the development to the centre line of the carriageway, including landscaping, street trees, accessible pedestrian pathways and street lighting, and any other necessary infrastructure. The road reserve works on Artarmon Road are to be completed by the proponent prior to occupation of Stage 2. The road reserve works on Richmond Avenue are to be completed by the proponent prior to occupation of Stage 3.
17. Future Development Application/s for Stage 2 shall incorporate the provision of a raised pedestrian crossing on Artarmon Road, to council requirements unless it is demonstrated that warrants are not met for a pedestrian crossing, in which case a speed hump is to be provided. The delivery of the crossing/speed hump is to be negotiated with council and may either be provided as works-in-kind by the proponent, or constructed by council and funded by the proponent.
18. Future Development Application/s for Stage 2 shall incorporate the provision of an accessible bush track to council requirements through Walter Street Reserve connecting the through-site link with Walter Street. The delivery of the track is to be negotiated with council and may either be provided as works-in-kind by the proponent, or constructed by council and funded by the proponent.

### **Landscaping**

19. Future Development Applications shall include detailed landscape plans for public and private open space areas, street setbacks areas and for the landscape treatment of all internal roadways as well as existing adjoining public road reserves.



20. Landscape plans are to incorporate high quality landscaping to all boundary setbacks to improve the visual impacts of the development. In particular, landscape plans are to incorporate measures, including tree retention or significant new tree plantings, within the southern setback to Buildings E and G to screen the lower levels of the buildings as viewed from Naremburn to the south.
21. The landscape plans shall include details of a commemorative feature/s to be sited within the open space area which acknowledges Channel Nine's contribution to the locality and to telecommunications in general.
22. Landscape Plans are to incorporate best practice water sensitive urban design measures.

### **Tree Protection**

23. Future Development Applications are to demonstrate retention of trees and incorporation of measures in accordance with the recommendations of the Arboricultural Assessment by Botanics Tree Wise People dated 20 July 2013, except as amended by this approval. In this regard, tree numbers 17, 23, 24, 33 to 37 and 56 to 58 may be removed, despite the recommendation for retention, providing suitable replacement planting is incorporated into the landscape scheme. Notwithstanding the approved building envelopes, future applications are to include arborist assessments to demonstrate that the remaining trees recommended for retention can be retained with appropriate tree protection and construction measures and where necessary, building footprints are to be amended to ensure the protection and longevity of those trees.

### **Non-residential Use**

24. Future Development Application/s for Stage 2 may incorporate non-residential floor space to support the needs of the residents and local community. The floor space is to be located within Building F and oriented towards the park.

### **GFA**

25. Future Development Applications shall demonstrate the proportionate achievement of the cumulative maximum GFA and dwelling yield across the Concept Plan area.

### **Residential Amenity**

26. Future Development Applications shall demonstrate consistency with the provisions of the *State Environmental Planning Policy 65 – Design Quality of Residential Flat Development* (SEPP 65) and the accompanying *Residential Flat Design Code 2002* (RFDC), except where modified by this Concept Plan approval.

### **Unit Mix**

27. Future Development Applications for Stages 1 and 2 shall provide a variety of apartment types and sizes including studio, 1 bedroom, 2 bedroom, 3 bedroom and 3+ bedroom units. The proposed apartment mix is to be justified by consideration of population trends and market demands.

### **ESD**

28. Future Development Applications are to incorporate an ESD plan to demonstrate the incorporation of best practice ESD principles in the design, construction and ongoing operation phases of the development.

### **Car Parking**

29. Future Development Applications shall provide on-site car parking at the following rates:
  - (a) 0.5 space per studio apartment;
  - (b) 1 space per 1 bedroom or 2 bedroom apartment;

- (c) 1.25 spaces per 3 bedroom apartment;
  - (d) 1 visitor space per 4 apartments;
  - (e) retail/recreation and bicycle parking are to be provided in accordance with the Willoughby Development Control Plan.
30. Visitor parking required by condition 29 shall be provided where possible as kerbside parking at street level. In this regard all streets are to incorporate visitor kerbside parking.
31. Future Development Applications shall incorporate the provision of a Car Share Scheme on the site.

### **Transport for NSW Requirements**

32. Future Development Applications shall include an assessment of any potential impacts to bus services (including school bus services) and pedestrian access to public transport infrastructure as a result of construction vehicles and construction works. Should any impacts be identified, the duration of the impacts and the measures proposed to mitigate these impacts must be clearly explained.

### **Traffic**

33. Future Development Application/s for each stage of development shall include a traffic study which includes figures on the current number of vehicles movements through the Artarmon Road / Willoughby Road / Small Street intersection. The traffic study is to be carried out to the RMS's and council's satisfaction and shall model the impact of the anticipated increase in vehicle traffic for that stage. Where the study reveals that the proposal would result in an unacceptable deterioration of the level of service at the intersection, concept design of the upgrade or modification of the intersection to mitigate those impacts is to be included with the Development Application. If considered appropriate by RMS and council, the works are to be completed by the proponent prior to occupation of any of that stage.

### **Section 94 Contributions**

34. Future Development Applications shall be required to pay developer contributions to the council towards the provision or improvement of public amenities and services. The amount of the contribution shall be determined by council in accordance with the requirements of the Contributions Plan current at the time of approval.

### **Adaptable Housing**

35. Future Development Applications shall provide a percentage of adaptable housing consistent with the Willoughby Development Control Plan.

### **Affordable Housing**

36. Future Development Applications shall provide dwellings equivalent to a minimum of 4 per cent of new residential floor space to council at no cost, to be made available by council as affordable housing consistent with the *Willoughby Local Environmental Plan 2012*.

### **Crime Prevention and Safety**

37. Future Development Applications shall demonstrate compliance with principles of 'crime prevention through environmental design' (CPTED).

### **Sydney Water Requirements**

38. Future Development Applications shall address Sydney Water's requirements in relation to:
- (a) required amplification works to existing drinking water mains;

- (b) potential required amplification works to the wastewater system;
- (c) approval for discharge of trade wastewater (where necessary); and
- (d) application for Section 73 certificates as necessary.

#### **Contamination**

39. Future Development Applications shall demonstrate compliance with the requirements of SEPP 55 and are to include a detailed contamination assessment including detailed remedial action strategy, and incorporation of any necessary remediation as part of future Development Applications.

#### **Electromagnetic radiation**

40. Future Development Applications shall include electromagnetic radiation reports and incorporation of appropriate building design measures to demonstrate that residents of all new dwellings will not be exposed to radiation levels (general public reference levels) as recommended by ARPANSA and meet the requirements of Australian Standard RP3 (Electromagnetic Radiation – Human Exposure Standard 2003).

#### **Ongoing community consultation**

41. A communication plan shall be prepared and implemented to establish ongoing consultation with the community during demolition and construction phases, including:
- The methods of consultation to communicate information about the progress of the development status to the community;
  - Providing contact details for enquiries and matters related to the site's development;
  - Providing details regarding development applications and construction management, especially truck movements, construction vehicle access and measures to minimise disturbance to local residents.

**End of Schedule 3**

---

## SCHEDULE 4

### Proponent's Statement of Commitments

Subject	Commitments	Approved by Whom	Timing
Approved Development	Future applications for development will be generally in accordance with Condition A2 of Schedule 2.	Relevant consent or approval authority	Ongoing.
Stormwater and Flooding	Future applications for development shall include a detailed Stormwater Management Plan addressing on-site stormwater detention measures, opportunities for rainwater reuse, water quality management measures to be implemented including Water Sensitive Urban Design.	Relevant consent or approval authority	Relevant application for development.
	Future applications for development will be accompanied by a draft Erosion and Sediment Control Plan.	Relevant consent or approval authority	Relevant application for development.
Affordable Housing	Completed dwellings with a gross floor space equivalent to at least 4% of the total residential floor space developed within the site will be dedicated to Council to be made available for rental below market rate to essential community workers such as teachers, nurses and police officers in accordance with the Willoughby Local Environmental Plan 2012.	Relevant consent or approval authority	Relevant application for development.
Closure of Scott Street	The proponent shall negotiate the closure and purchase of Scott Street with Willoughby Council.	Relevant consent or approval authority	Prior to Development Application for relevant development stage
Noise Report	Future applications for development will be accompanied by a Noise Report which demonstrates compliance with the relevant standards for internal amenity.	Relevant consent or approval authority	Relevant application for development.

Subject	Commitments	Approved by Whom	Timing
Environmentally Sustainable Development	Future applications for development shall address the environmental performance principles included at Section 3.7 of the Environmental Assessment Report and achieve in excess of BASIX requirements.	Relevant consent or approval authority	Relevant application for development.
Accessibility	Future applications for development will demonstrate compliance with the relevant provisions of the Disability Discrimination Act, Disability (Access to Premises-Buildings) Standards, Building Code of Australia 2014 and the applicable Australian Standards for access.	Relevant consent or approval authority	Relevant application for development.
	A minimum of 50% of all dwellings shall be provided as 'adaptable housing' in accordance with the Willoughby Development Control Plan.	Relevant consent or approval authority	Relevant application for development.
Archaeology	If Aboriginal objects are identified during the development, works must stop immediately and the Office of Environment and Heritage and an archaeologist be contacted.	Relevant consent or approval authority	Ongoing
Sustainability	Future Development Applications for residential development on the site will demonstrate that the project exceeds the minimum BASIX targets.	Relevant consent or approval authority	Relevant application for development.
Development Contributions	Development contributions shall be paid to Willoughby City Council in accordance with the S94 or S94A Development Contributions Plan which applies to the site at the time of lodgement for each future Development Application.	Relevant consent or approval authority.	Relevant application for development.
Willoughby Road/Artarmon Rd Intersection	Prior to the determination of the first Development Application for residential development on the site, the proponent shall liaise with the NSW Roads and Maritime Service to determine whether the weekday 'No Right Turn' signal for southbound traffic on Willoughby Road should be extended to include Saturdays.	Relevant consent or approval authority	Prior to determination of first residential Development Application.

Subject	Commitments	Approved by Whom	Timing
Contamination	A Site Audit Statement shall be issued by an accredited Site Auditor prior to the issue of a Construction Certificate for any future residential development on the site.	Relevant certifying authority.	Prior to issue of Construction Certificate for residential development.
Park Design	<p>The Development Application for the park fronting Artarmon Road and Richmond Avenue will demonstrate:</p> <ul style="list-style-type: none"> <li>• minimum park size of 3,178m<sup>2</sup></li> <li>• at-grade access from Artarmon Road;</li> <li>• provision of publicly accessible on-street parking on adjoining internal road; and</li> <li>• protection of street trees along park perimeter or planting of replacement mature trees.</li> </ul>	Relevant consent or approval authority	Application for development of park.
Electromagnetic Radiation	Future Development Applications for Blocks E, F, G and H shall be accompanied by EMR reports addressing compliance with the ARPANSA general public reference levels.	Relevant consent or approval authority	Relevant application for development.
Tree Retention	The condition of the Cabbage Palm located within the south-western corner of the site will be assessed by a qualified arborist prior to the commencement of works on site. Should the condition of the tree continue to be suitable for retention, the tree would be transplanted to a suitable landscaped location within the site.	Relevant consent or approval authority	Relevant application for development.

**End of Schedule 4**

---

