

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Concept Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin
Director
Key Sites Assessments

Sydney 17 August 2020

SCHEDULE 1

Concept Approval:	MP 10_0198 granted by the Planning Assessment Commission on 23 December 2014, as amended
For the following:	Residential development and small scale non-residential uses incorporating: <ul style="list-style-type: none">• building envelopes for nine residential flat buildings above basement level parking incorporating;<ul style="list-style-type: none">○ up to 460 dwellings;○ up to 42,557 m² of new residential gross floor area; and○ up to 300 m² 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
Proponent:	LEPC9 Pty Ltd
Consent Authority:	Minister for Planning
The Land:	Channel Nine Site, 6 – 30 Artarmon Road, Willoughby, including: <ul style="list-style-type: none">• Lot 1 DP820327;• Lot 1 DP 327266;• Lot 10 DP 1162507;• Lot 13 DP 6849;• Lot 12 DP1162507
Modification:	MP 10_0198 MOD 4 , comprising amendments to the Concept Approval, including: <ul style="list-style-type: none">• inclusion of additional lot (Lot 11 DP 1162507) into the site• increase the number of building envelopes by one (to ten)• increase total GFA by 4,296 m² (to 48,203 m²).

SCHEDULE 2

The Concept Approval (MP 10_0198) is modified as follows:

- (a) Schedule 1 Part A – Particulars, is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and underlined**~~ words/numbers as follows:

Application No.: MP 10_0198

Proponent: ~~LEPC9 Pty Ltd~~ **Mirvac Residential (NSW) Development Pty Ltd**

Land:

- Channel Nine Site, 6 – 30 Artarmon Road **and TX Australia Site, 15 Richmond Avenue** Willoughby, including:
 - Lot 1 DP820327;
 - Lot 1 DP 327266;
 - Lot 10 DP 1162507;
 - Lot 13 DP 6849;
 - Lot 12 DP1162507; and
 - **Lot 11 DP 1162507.**

Project: Residential development and small scale non-residential uses incorporating:

- building envelopes for ~~nine~~ **ten** residential flat buildings above basement level parking incorporating;
 - up to 460 dwellings;
 - up to ~~42,557~~ **46,853** m² of new residential gross floor area; and
 - up to 300 m² floor space of non-residential uses to support the development.
- retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purposes (within existing GFA of 1,050 m²);
- 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

- (b) Schedule 1 Part C – Definitions, is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and underlined**~~ words/numbers as follows:

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.

Channel Nine site means the main site of which the original Concept Plan related to

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~~ **Mirvac Residential (NSW) Developments 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.

TX site means the secondary site to the south of the Channel Nine site, included in the Concept Plan Approval in MOD 4.

- (c) Schedule 2 Part A – Terms of Approval, Condition A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

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 ~~nine~~ **ten** residential flat buildings above basement level parking incorporating;
 - up to 460 dwellings;
 - up to ~~42,557~~ **46,853** m² floor space of new residential; and
 - up to 300 m² floor space of non-residential uses to support the development (incorporating neighbourhood shops; food and drink premises, centre based child care facilities, indoor recreation facilities or community facilities).
- retention and adaptive reuse of No 6 Artarmon Road for retail/commercial purposes (within existing GFA of 1,050 m²);
- 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.

- (d) Schedule 2 Part A – Terms of Approval, Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

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, as amended by:
 - the Section 75W Modification Application by Ethos Urban dated 27 October 2017, Response to Submissions dated March 2018 and Amended Proposal provided on 29 August 2018 (**MOD 2**);
 - **the Section 75W Modification Application by Ethos Urban dated 8 April 2020, Response to Submissions dated 2 June 2020 and Supplementary Response to Submissions dated 17 July 2020 and additional information (MOD 4)**;
- the Statement of Commitments at Schedule 4; and
- the following drawings:

<i>Drawings Prepared by CHROFI</i>			
<i>Drawing No</i>	<i>Name of Plan</i>	<i>Revision</i>	<i>Date</i>
A-S75W-101	Site Plan	6 <u>8</u>	29.08.2018 <u>10.07.2020</u>
A-S75W-401	Staging Plan	6 <u>7</u>	29.08.2018 <u>02.04.2020</u>
A-S75W-402	Roof Plan-Building Envelope Plan	6 <u>8</u>	29.08.2018 <u>10.07.2020</u>
A-S75W-408	Draft Plan of Subdivision	5	13.08.2018

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

- (e) Schedule 2 Part A – Terms of Approval, Condition A5 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

Maximum Gross Floor Area (GFA)

- A5. The maximum GFA for the development shall not exceed ~~43,907 m²~~ **48,203 m²** which may include:
- up to ~~42,557 m²~~ **46,853 m²** new residential GFA (including affordable housing);
 - up to 300 m² of non-residential GFA to support the residential use (incorporating neighbourhood shops; food and drink premises, centre based child care facilities, indoor recreation facilities or community facilities);
 - 1050m² adaptive retail/commercial reuse of No 6 Artarmon Road.

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

- (f) Schedule 2 Part A – Terms of Approval, Condition A7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~bold and strikethrough~~ words/numbers as follows:

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 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. Any necessary sign off and approval is to occur prior to the approval of the first residential application. Where necessary, any subdivision plan is to incorporate appropriate easements to allow for stormwater management in accordance the approved plan. **The approved plan is to be updated to the satisfaction of Council to take into account the changes made in Modification 4 prior to the submission of a development application for Building K.**

- (h) Schedule 3 – Future Environmental Assessment Requirements, Condition 6A is added by the insertion of the **bold and underlined** words / numbers as follows:

Building K Height

- 6A Future Development Applications for Building K shall demonstrate that any part of the building, within the approved envelope, which extends beyond the top of the embankment in the southern part of that site is designed to respond to the topography of the site so it does not create any overbearing visual impacts on the adjacent reserve.**

- (i) Schedule 3 – Future Environmental Assessment Requirements, Condition 16 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~bold and strikethrough~~ words/numbers as follows:

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 Richmond Avenue and Artarmon Road (adjoining Stage 1) are to be completed by the proponent prior to occupation of Stage **1**. The road reserve works on Artarmon Road (adjoining Stage 2) and Scott Street are to be completed by the proponent prior to occupation of Stage 2 **and the road reserve works on Richmond Avenue adjoining Stage 3 are to be completed by the proponent prior to occupation of Stage 3.**

- (j) Schedule 3 – Future Environmental Assessment Requirements, Condition 20 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~bold and strikethrough~~ words/numbers as follows:

Landscaping

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 H, **K** and J to screen the lower levels of the buildings as viewed from Naremburn to the south. **Landscape plans for Building K are to demonstrate an improvement to the provision of native vegetation on that site.**

- (k) Schedule 3 – Future Environmental Assessment Requirements, Condition 21 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

Landscaping

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. **Where feasible or appropriate, this should include adaptive reuse of elements of the transmission tower.**
- Further investigations will be conducted to determine whether this may include the repurposing of materials from the demolished transmission tower. This will be subject to confirmation of their suitability for reuse within the future public domain as an interpretive or artistic element.**

- (l) Schedule 3 – Future Environmental Assessment Requirements, Condition 23 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

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 Redgum Horticultural dated 15 January 2018, except as amended by this approval. In this regard trees numbered 18, 19, 20 and 96 are to be retained and protected. Notwithstanding the approved building envelopes, future applications are to include arborist assessments to demonstrate that the trees recommended for retention can be retained with appropriate tree protection and construction measures and where necessary, building footprints and public domain are to be amended to ensure the protection and longevity of those trees.

Future Development Applications for Building K (including alignment of any pedestrian paths) are to demonstrate that removal of native trees has been minimised by the design and offset by improved plantings of native species on the site.

Note: Any trees located within adjoining properties and Council's verge (Artarmon Road and Scott Street) are to be retained and protected, unless their removal is approved by Council in future Development Applications.

- (m) Schedule 3 – Future Environmental Assessment Requirements, Condition 40 is deleted and replaced by a new condition by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

Electromagnetic radiation

- ~~**40. Future Development Applications shall include electromagnetic radiation reports and incorporation of appropriate building design measures to demonstrate that resident40s 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).~~

Photographic Survey

40. Prior to commencement of demolition of the transmission tower (subject to separate approval) the Proponent shall undertake a photographic survey of the tower including:
- A front cover marked with the name / location of the survey, date of the survey name of the company or persons responsible for the survey
 - A layout plan of the existing tower and any building on the site, identifying the features of the tower shown in the photographs
 - Photographs of the tower, ground and a streetscape view of the tower, labelled to indicate their location in relation to the layout plan. Photographic records of each elevation and distant views of the tower are to be included.

- (n) Schedule 4 – Proponent’s Statement of Commitments is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~**bold and strikethrough**~~ words/numbers as follows:

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 of at least 1,435 m ² plus 5% of any residential gross floor area on the site exceeding 35,886 m ² <u>on the Channel Nine Site</u> be dedicated to Council at no cost, 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.
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.

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.
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	The Development Application for the publicly accessible open space will demonstrate: <ul style="list-style-type: none"> • minimum total size of 6,385 m² for the Village Square (348 m²), Village 	Relevant consent or approval authority	Application for development of park.

	<p>Green (2,933 m²) and Village Lawn (3,104 m²);</p> <ul style="list-style-type: none"> • direct accessibility is to be provided from Artarmon Road where relevant; • provision of publicly accessible on-street parking on adjoining internal road; and • protection of street trees along park perimeter or planting of replacement mature trees. 		
Electromagnetic Radiation	Future Development Applications for Blocks C, D, E 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	<p>Tree retention and protection measures are to be implemented in accordance with the recommendations of the Arboricultural Assessment by Redgum Horticultural dated 15 January 2018. 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.</p> <p>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.</p>	Relevant consent or approval authority	Relevant application for development.
Wind Assessment	Future Development Applications for Buildings D, E and F and the central public open space shall be accompanied by a Wind Assessment Report demonstrating that pedestrian areas will be suitable for their intended use.	Relevant consent	Relevant application for development
Construction Management	A Construction Pedestrian Traffic Management Plan is to be prepared and submitted to Council prior to the commencement of any works.	Relevant consent or approval authority	Prior to commencement of works
<u>Transmission Tower</u>	<u>A future Development Application will be submitted for the removal of the Transmission Tower on the TX Site.</u>	<u>Relevant consent or approval authority</u>	<u>Prior to commencement of works</u>

**End of Modification
(MP 10_0198 MOD 4)**