

Item Number	Existing Condition	Suggested Amended Condition	Explanation and Justification
-------------	--------------------	-----------------------------	-------------------------------

CONCEPT PLAN APPROVAL

DETERMINATION			
	I, the Minister for Planning, under the Environmental Planning and Assessment Act 1979 determine: ... (b) Under Section 75P(1)(b), all future stages of the project be subject to Part 4 of the Act and Wollongong City Council shall be the consent authority; and	I, the Minister for Planning, under the Environmental Planning and Assessment Act 1979 determine: ... (b) Under Section 75P(1)(b), all future stages of the project (including further approvals for matters such as tenancy fitouts, public art and signage relating to Stage 1) be subject to Part 4 of the Act and Wollongong City Council shall be the consent authority; and	We suggest that the Minister may need to give directions in the Concept Plan approval, in relation to future fitout and signage DAs being assessable by Council (as referenced in Advisory Note AN1 to the project application approval). Refer also our comment on Condition No. 7 to the Concept Plan approval.
	Date of Determination Sydney, 28 May 2008	Date of Determination Sydney, 28 May April 2008	It would appear that an error was made in dating the Concept Plan approval <u>28 May 2008</u> , while the Project Approval was dated <u>28 April 2008</u> . We understand that both the Concept Plan and Project Applications were approved on the same day, being <u>28 April 2008</u> . In order to avoid confusion and potential issues (relating to a project approval being dated prior to the concept approval), we request that the date be corrected to <u>28 April 2008</u> . If this has already occurred, could you please provide us with an updated version of the determination.
PART A – TABLE			
	On Land Comprising ... Lot 1 DP 7974590 ...	On Land Comprising Replace Lot 1 7974590 with Lot 1 DP 797590 Also, Insert at end paragraph: Proposed Lot 12 (access from Regent Street); Part Keira Street, Part Richardson Street.	Two changes are requested to this condition: 1. There is a typo in one of the DP references 2. Certain land is missing from the list of allotments: <ul style="list-style-type: none">the access handle from Regent Street (proposed Lot 12 in a subdivision of the new AHM site – plan of subdivision awaiting registration), andthe Council roads on or over which works are proposed as part of the project (landowner's consent was granted by Wollongong City Council to lodgement of the application relating to certain affected land on Keira and Richardson Streets)
PART B – DEFINITIONS			
	In this approval the following definitions apply: ...	Add to list of definitions in alphabetical order: Building Height - As defined by the Wollongong City Centre LEP 2007 WCC LEP 2007 / Wollongong City Centre LEP2007 – Means the Wollongong City Centre LEP 2007 as in force at the date of granting of this approval	Two changes are requested to this condition: 1. It would be useful if the definition of 'building height' (as per the Wollongong LEP) was inserted into the Glossary. 2. We understand that the Wollongong City Centre LEP 2007 is to be incorporated into the new City Wide LEP. We further understand that Council is considering reviewing definitions/provisions relating to GFA, car parking and the like. As such, it is considered prudent to ensure that references in the consent to the LEP are tied to the LEP as in force at the time of determination

Item Number	Existing Condition	Suggested Amended Condition	Explanation and Justification
SCHEDULE 2 – MODIFICATIONS			
2	<p>Maximum Gross Floor Area (GFA)</p> <ul style="list-style-type: none">The maximum GFA for the entire development (Wollongong Central and West Keira sites) shall not exceed 126,363sq.m, which equates to a total aggregate FSR of 5:1, in compliance with the WCC LEP 2007.The maximum GFA on the West Keira site for the commercial tower component shall not exceed 20,500sq.m and the maximum GFA for the residential tower component on the West Keira site shall not exceed 11,598sq.m. <p>Note: This Concept Plan approves a maximum GFA across the entire development (Wollongong Central and West Keira sites) in accordance with the floor space requirements in the WCC LEP 2007. To ensure any future development does not exceed these floor space ratio controls, Modification 3 of this Concept Plan requires covenants to be placed on title for both sites of the development.</p>	<p>Maximum Gross Floor Area (GFA)</p> <p>The maximum GFA for the entire development (Wollongong Central and West Keira sites) approved under this concept plan shall not exceed 126,363sq.m (inclusive of 50% of any area of the building that is at or above existing ground level that is used for parking in respect of retail premises, and 100% of the area of the building that is at or above existing ground level that is used for parking in respect of retail premises), which equates to a total aggregate FSR of 5:1, in compliance with the WCC LEP 2007.</p> <p>The maximum GFA on the West Keira site for the commercial tower component shall not exceed 20,500sq.m (plus any above ground car parking for the commercial tower) and the maximum GFA for the residential tower component on the West Keira site shall not exceed 11,598sq.m (plus any above ground car parking for the residential tower).</p> <p>Note: This Concept Plan approves a maximum GFA across the entire development (Wollongong Central and West Keira sites) in accordance with the floor space requirements in the WCC LEP 2007. To ensure any future development does not exceed these floor space ratio controls, Modification 3 of this Concept Plan requires covenants to be placed on title for both sites of the development.</p>	<p>There are some issues with this condition.</p> <ul style="list-style-type: none">The <u>dictionary</u> definition of GFA in WCC LEP 2007 excludes car parking. It is Clause 22C in the LEP relating to car parking that triggers the need for car parking above ground to be counted wholly or partly as GFA <u>for the purpose of that clause</u>.The GFAs quoted for the residential and commercial towers <u>exclude</u> their respective car parking components, while the maximum GFA figure quoted for the entire development <u>includes</u> above ground car parking. Because areas used for above ground residential and commercial car parking (100%) and retail car parking (50%) are apparently intended to be included as GFA, it is necessary to clarify this in the condition.The condition appears to be based on the misperception that the proposed GFA is equivalent to the maximum GFA permissible on the land. This is not the case. While the concept plan proposes to develop the two sites to an FSR of 5:1, the maximum FSR across the two sites based on the concept plan is 5.7:1. This application of the mixed use formula in the LEP is set out in Section 4.7 of the EA.In order to address this, the following changes are proposed to the condition:<ul style="list-style-type: none">add “approved under this concept plan” to the first sentence of the condition;delete the note, or substantially reword to make it clear that the approved concept plan scheme does not take up the full FSR allowable on the sites.The issues raised in these comments are further discussed in relation to the following condition (“3. Covenant”)

Wollongong Central Development – CONCEPT PLAN
S75W Application No. 1 - Proposed Amendment to Conditions of Concept Plan Approval

Item Number	Existing Condition	Suggested Amended Condition	Explanation and Justification
3	<p>Covenant</p> <p>Covenants shall be placed on the title for the following sites:</p> <ul style="list-style-type: none">West Keira (Lot 262 & 260 DP 823263, lot 270 DP 847391, lot 250 DP 823262, lot 1 DP 503512, lot 100 DP 568649, lot 7 DP 521621, lot 1 DP 510608, lot A-B DP 403097, lot 1 DP 7974590, lot 1 DP 799494, lot 100 DP 734993, lot 1-2 DP 17888, lot 1 DP 154592) stating that the total floor space ratio shall not exceed 7.96:1.Wollongong Central (Lot 1 DP 804785) stating that for the purpose of calculating Floor Space Ratio (FSR), an FSR of 5:1 has already been utilised for the site. <p>The relevant planning authority benefiting from the covenants shall be Wollongong City Council. The proponent shall provide evidence to Council demonstrating that such covenant is registered on each title as per this modification prior to the release of a construction certificate for any building works.</p> <p>Note: Limiting the floor space ratio of Wollongong Central and West Keira sites by covenant will ensure the floor space ratio controls will be maintained for any future development across the aggregate of both sites.</p>	<p>Error in first dot point :</p> <ul style="list-style-type: none">Replace Lot 1 DP 7974590 with Lot 1 DP 797590Also, Insert at end paragraph: Proposed Lot 12 (access from Regent Street) <p>Clarification of content of dot points:</p> <ul style="list-style-type: none">Changes are required (discussed at right). <p>Change of timing of register of covenants:</p> <ul style="list-style-type: none">The proponent shall provide evidence to Council demonstrating that such covenant is registered on each title as per this modification prior to the release of a construction certificate for any building works an occupation certificate.	<p>The changes requested include:</p> <ul style="list-style-type: none">correction of errors in the DP reference and exclusion of an allotment;change of timing of register of covenants. <p>In addition, while we fully understand the need for such a condition, and support it, changes are required to the covenant requirements. This is discussed below.</p> <ul style="list-style-type: none">We are not sure that the figures of 7.96:1 and 5:1 are correct for a number of reasons.They may based on the incorrect site area. Could you please clarify which sites and what site areas were used for the West Keira and Wollongong Central sites.Could you please provide a clarification of what FSR has been used in order to calculate the allocation across the sites.Our key concern is that the while the concept plan proposes to develop the two sites to only 5:1, the maximum FSR across the two sites based on the concept plan is 5.7:1. This application of the mixed use formula in the LEP is set out in Section 4.7 of the EA.Indeed, a purely commercial scheme on the site would permit a maximum FSR of 6:1, and additional FSR could be approved under the design excellence provisions of the LEP. Therefore there should not be a permanent limit over the sites of 5:1.It is entirely unreasonable to permanently restrict the FSR across either or both sites, by way of a covenant, to less than that which the LEP allows.We also are concerned that it is not reasonable for these FSR caps to be applied in this manner. In particular, the Wollongong Central site remains underdeveloped following the concept plan development, however the covenant prevents any addition of floorspace on that site, even though the additional floorspace taken up by the West Keira development is less than the floorspace foregone on the Wollongong Central site. <u>There still remains an FSR of at least 0.7:1 across the two sites that could be utilised</u> and therefore the wording is not appropriate.<i>We suggest that if this issue cannot be resolved now, the condition be worded in order to enable agreement between Council and the Proponent of a suitable method of calculating and applying the appropriate FSR restriction to the allotments, provided that such calculation is in accordance with the LEP.</i>

Wollongong Central Development – CONCEPT PLAN
S75W Application No. 1 - Proposed Amendment to Conditions of Concept Plan Approval

Item Number	Existing Condition	Suggested Amended Condition	Explanation and Justification
4	Car Parking The number of car spaces to be provided for the entire development shall be a minimum of 1823 (inclusive of 610 existing car parking spaces).	Car Parking The number of car spaces to be provided for the entire development shall be a minimum of 1823 (inclusive of 610 existing car parking spaces). Car parking for Stage 1 shall be provided in accordance with the Project Application Approval. Car parking for Stage 2 shall comprise in the order of 245 spaces for the commercial tower and 131 spaces for the residential tower, subject to the final GFA and residential apartment mix in the Stage 2 application/s.	It is submitted that it is inappropriate for a specific number of car parking spaces to be identified at this stage. The Stage 2 components need to be the subject of separate development applications under Part 4 and their respective parking components will be provided as part of those applications. The parking requirement will be calculated based on the actual floor area of the commercial tower, and the actual unit mix of the residential tower, and therefore may vary from that put forward in the Concept Plan.
7	Subsequent Approval Regime All future applications relating to Stage 2 of this development including the residential and commercial towers and associated car parking on the West Keira site shall be subject to Part 4 of the Act and Wollongong City Council shall be the consent authority.	Subsequent Approval Regime All future applications relating to: <ul style="list-style-type: none">matters such as tenancy fitouts, public art and signage relating to Stage 1 of this development; andStage 2 of this development including the residential and commercial towers and associated car parking on the West Keira site; shall be subject to Part 4 of the Act and Wollongong City Council shall be the consent authority.	We suggest that the Minister may need to give directions in the Concept Plan approval, in relation to future fitout and signage DAs being assessable by Council (as referenced in Advisory Note AN1 to the project application approval). Refer also our comment in relation to the Determination (ie front page) of the Concept Plan approval.