

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 172-04-2003

(FILE NO. S03/01475 PT 1)

**INTERNAL BUILDING WORKS AND STRATA SUBDIVISION OF THE BOND 2
BUILDING, WALSH BAY INTO 13 LOTS**

I, Robert Black, Director, Urban Assessments, as delegate of the Minister for Infrastructure and Planning, under Instrument of Delegation dated 4 August 2003, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 9 of the Walsh Bay (Special Provisions) Act 1999, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To maintain the heritage fabric of the building;
- (2) To protect the amenity of the area.

Robert Black
Director
Urban Assessments

Sydney,

2003

SCHEDULE 1**PART A—TABLE**

Application made by:	Tesrol Walsh Bay Pty Ltd 405 Victoria Street, Wetherill Park NSW 2164
Application made to:	Minister for Infrastructure and Planning
Development Application:	No. 172-04-2003
On land comprising:	Part Lot 3, DP 737192, known as Bond Store 2, 24 Hickson Road, Walsh Bay
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$264,000
Type of development:	State Significant Development Integrated Development Advertised Development
S.119 Public inquiry held:	No
BCA building class:	Class 5 and 7
Approval Body / Bodies:	Heritage Council
Determination made on:	
Determination:	Development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying letter.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: <ul style="list-style-type: none"> ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 172-04-2003***Responsibility for other approvals / agreements***

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

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

Applicant means Tesrol Walsh Bay Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

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

Council means the Council of the City of Sydney

DA No. 172-04-03 means the development application and supporting documentation submitted by the applicant on 23 April 2003.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

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

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2**CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 172-4-2003****PART A—ADMINISTRATIVE CONDITIONS****A1 Development Description**

Development consent is granted only to carrying out the development described in detail below:

- (1) Subdivision of part Lot 3, DP 737193 (known as Bond Store 2, Walsh Bay) into 13 lots for strata leasehold office space;
- (2) Works to construct inter-tenancy walls on all levels; and
- (3) Works to install a new automated car stacker at ground level to provide 8 additional car spaces.

A2 Development in Accordance with Plans

The development shall be generally in accordance with development application number DA No. 172-4-2003 submitted by the applicant on 23 April 2003, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

<ul style="list-style-type: none"> • Statement of Environmental Effects entitled Walsh Bay Development Application Bond Store 2, 24 Hickson Road, Walsh Bay, Site 36 under SREP 16 being part of Lot 3, D 737193 prepared by Tesrol Walsh Bay Pty Ltd, dated March 2003, as amended by letter from Tesrol Walsh Bay Pty Ltd dated 31/8/03. • Fire Safety Assessment Report, Walsh Bay Bond Store 2, prepared by Arup Fire and dated February 2003, Issue 4. • Strata Management Statement for Bond Store 2, Walsh Bay, Draft 1. • Addendum to Heritage Impact Statement for Bond Store 2, Walsh Bay, 21 March 2003, as amended by letter from Tesrol Walsh Bay Pty Ltd dated 31/8/03. 			
Architectural (or Design) Drawings prepared by <i>Wolff Architecture</i>			
Drawing No.	Revision	Name of Plan	Date
A101/B2	R	Bond Store 2 Ground Level Floor Plan	01-09-03
A102/B2	M	Bond Store 2 Level 1 Floor Plan	14-03-03
A103/B2	M	Bond Store 2 Level 2 Floor Plan	14-03-03
A104/B2	M	Bond Store 2 Level 3 Floor Plan	14-03-03
A105/B2	M	Bond Store 2 Level 4 Floor Plan	14-03-03
A106/B2	M	Bond Store 2 Roof Plan	14-03-03
A201/B2	D	Bond Store 2 A-A Section	21-05-03
A315/B2	A	Fire Separation Wall Details	26-02-03
Survey Drawings prepared by John McPherson Reid of Clement & Reid Pty Ltd			

Drawing No.	Revision	Name of Plan	Date
Strata Plan Form 1	6	Strata Plan Form 1	19.5.2003
Strata Plan Form 2	6	Location Plan	19.5.2003
Strata Plan Form 2	6	Ground Floor and Level 1	19.5.2003
Strata Plan Form 2	6	Level 2	19.5.2003
Strata Plan Form 2	6	Level 3 and Level 4	19.5.2003

A3 Prescribed Conditions

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

A4 Master Plan Consent

The applicant must comply with the conditions of consent listed under DA 60/97 for the overall redevelopment concept of the Walsh Bay precinct, except where modified by the development, previous development approvals and the following conditions of consent.

A5 Variation to Master Plan Consent

A further 8 car parking spaces (in addition to the maximum number of car parking spaces approved under DA 135-4-2002) are approved for the Walsh Bay Precinct under DA 172-05-2003. This will increase the total car parking spaces within the Walsh Bay Precinct to a maximum number of 1120.

Note: this condition amends condition of 45 of the Masterplan DA 60/97 in accordance with Section 80(A)(1)(b) of the Environmental Planning and Assessment Act 1979 (as amended).

A6 Bond Store 2 Consent

The applicant must comply with all conditions of consent listed under DA 408-11-00 for the redevelopment and refurbishment of Bond Store 2, except where altered by the subject development and the following conditions of consent.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 External Appearance

No changes or alterations are to be made to the exterior appearance of the building as a result of this consent. This includes materials, wall openings, colour schemes and the like.

PART C—PRIOR TO COMMENCEMENT OF WORKS

C1 Fire Safety

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA, a statement and/or drawings prepared and signed by a suitably qualified practising Fire Safety Engineer that demonstrate compliance with Performance Requirements of the BCA with respect to Fire Safety.

Excavation Works

C2 Notice to be Given Prior to Excavation

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

C3 Construction Noise Management

The Applicant shall:

- (1) Schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours:
 - (a) between 9.00am and 12.00pm, Mondays to Fridays inclusive;
 - (b) between 2.00pm and 5.00pm, Monday to Fridays inclusive;
 - (c) between 9.00am and 12pm, Saturdays;
 - (d) no work on Sundays and public holidays.
- (2) Ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles.

C4 Section 94 Contributions

Pursuant to section 94AA of the Act and Conditions 49 & 50 of the Masterplan Consent (DA60/97), the applicant shall pay the Council of the City of Sydney a contribution of **\$1696.43** towards public services and amenities as follows:

- (1) **\$1696.43 towards traffic management works**, calculated as follows:
$$\$1696.43 = (8/1120) \times \$237,500$$

Where:

- (a) 8 is the number of car parking spaces provided by this development;
 - (b) 1120 is the total number of car parking spaces approved under the Masterplan; and
 - (c) \$237,500 is the total contribution for traffic management works under the Masterplan.
- (2) This contribution will be indexed from 20th August 1998 (the date of determination of the Masterplan) at the rate of the quarterly CPI. The indexed contribution shall be paid in the form of a bank cheque made out to the Sydney City Council and lodged with the Director, Urban Assessments prior to the commencement of works.

PART D—DURING CONSTRUCTION

Construction Management

D1 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

Heritage

D2 Impact of Below Ground (Sub-surface) Works – Aboriginal Relics

If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the National Parks and Wildlife Service and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

Compliance

D3 Compliance Report

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION

Easements

E1 Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas, and created pursuant to Section 88B of the *Conveyancing Act 1919*.

E2 Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

E3 Car parking restrictions

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant, tenant or lessee of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (1) restrictive covenant placed on title pursuant to Section 88B of the *Conveyancing Act, 1919*,
- (2) restriction on use under Section 68 of the *Strata Schemes (Leasehold Development) Act, 1986* to all lots comprising in part or whole car parking spaces, and
- (3) sign(s) visible at exits (excluding fire stairs and individual unit entries) from car parking areas. These should only be visible from the interior of the building and should not be visible from the street.

All costs associated with the above requirements are to be borne solely by the applicant.

E4 Common areas and facilities

No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant consent authority.

These requirements are to be made, at no cost to Council or the consent authority, and a restrictive covenant placed on title pursuant to Section 88E of the *Conveyancing Act, 1919*.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE***Engineering******F1 Road Damage***

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer prior to the issue of an Occupation Certificate.

Easements***F2 Registration of Easements***

Prior to the issue of an Occupation Certificate, the applicant shall provide to the PCA evidence that all easements required by this consent, approvals, and other consents have been or will be registered on the certificates of title.

PART G—POST OCCUPATION***G1 Unobstructed Driveways and Parking Areas***

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

PART H—GENERAL TERMS

Heritage Council

H1 Conditions of Approval

All work to the bond store 2 internal building works shall be in accordance with the recommendations contained within:

- (1) The conservation management plan for bond store no. 2 and accompanying action plans prepared by Tropman and Tropman architects dated November 2000.
- (2) Walsh Bay precinct heritage technology conservation management plan prepared by Tropman and Tropman architects dated May 1999.
- (3) The Walsh Bay precinct interpretation plan prepared by Tropman and Tropman architects, OHM consultants and HPA architects and Peddle Thorp and Walker dated November 1999.
- (4) The recommendations within the bond store 2 addendum to heritage impact statement prepared by Tropman and Tropman dated 21 March 2003 contained within the Statement of Environmental Effects.

Except as amended by these conditions:

H2 Approved Drawings

The proposed development being in accordance with drawings A101/B2 R, A102/B2 M, A103/B2 M, A104/B2 M, A105/B2 M, A106/B2 M, A201/B2 D AND A316/B2 A prepared by Wolff Architects.

H3 Finishes

An internal and external finishes schedule providing details of any original fabric to be removed, renewed or resurfaced, and the materials that will replace it and the proposed colours must be submitted and approved by the Director, Heritage Office. This condition is to ensure that as much as possible of the existing aged surfaces of the building shall be retained in situ.

H4 Fitout

Any future fitout design for bond store 2 shall be submitted for approval of the Director, Heritage Office.

H5 Archaeological Relics

If any archaeological relics are uncovered during the course of the work, then works shall cease immediately in that area and the NSW Heritage Office shall be contacted. Depending on the possible significance of the relics an archaeological assessment and an excavation permit under the NSW Heritage Act, may be required before further works can be considered in that area.

H6 Supervision of Work

Work involving heritage fabric shall be superintended on the site by consultants experienced in the conservation of similar heritage buildings.

H7 Qualified Tradesmen

Any work carried out on the heritage fabric shall be carried out by suitably qualified tradesmen with practical experience in the conservation and restoration of similar heritage buildings.

H8 Removal of Material

No material shall be removed from the site for disposal, until it has first been checked, recorded and approved for removal by an experienced conservation consultant approved by the Director of the Heritage Office.

H9 Heritage Interpretation and Conservation

The completed building shall not be occupied unless all the works relating to the interpretation and conservation of heritage technology on this site have been completed by the applicant to the satisfaction of the Director, Heritage Office

H10 Maintenance Plan

That a maintenance plan for all the retained and conserved industrial heritage items and other elements be produced and implemented according to the principles set out in action plan 18 in the Bond Store 2 conservation management plan.

H11 Heritage Act

All prospective owners of bond store 2 shall be advised of their responsibility under the Heritage Act to maintain the heritage fabric and the industrial heritage items as part of the contract for the sale/lease of various strata lots.

ADVISORY NOTES

AN1 Sydney Water

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the *Water Board (Corporatisation) Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan..

AN2 Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN3 Compliance with Building Code of Australia

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN4 Structural Capability for Existing Structures

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN5 Movement of Trucks Transporting Waste Material

The applicant shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN6 Construction Inspections

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN7 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN8 Compliance with Conditions

The applicant will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 172-04-2003 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to the issuing of Strata Plan of Subdivision.