

# INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

## URBAN ASSESSMENTS

### *Development Application: Supplementary Information*

File No:	S03/01475 pt 1
Application Number:	DA 172-04-2003
Date of lodgement:	23 April 2003
On land comprising:	Site 36 under SREP 16, part Lot 3, DP 737193, known as Bond Store 2, 24 Hickson Road, Walsh Bay
Application made by:	Tesrol Walsh Bay Pty Ltd 405 Victoria Street, Wetherill Park NSW 2164
Application made to:	Minister for Infrastructure and Planning
Local government area:	City of Sydney
State electorate:	Port Jackson, Sandra Nori MP The views of the Member are not known.
Notification:	Advertised in the Sydney Morning Herald on Wednesday 11 June, 2003
Public Exhibition	Start: 11 June 2003. End: 11 July 2003
For the carrying out of:	Subdivision of Bond Store 2 into 13 lots for strata leasehold office space; works to construct inter-tenancy walls on all levels; and installation of a new automated car stacker at ground level to provide 8 additional car spaces.
Estimated cost of works:	\$264,000
FTE Jobs created:	0.16 full time equivalent construction jobs
Type of development:	State Significant Development, Integrated Development, Advertised Development.
Was a public inquiry held?	An inquiry under s.119 of the Act was not held.
Integrated approval bodies:	Heritage Council
Main Issues:	Refer to attached page.
Compliance with the Act	The application has been considered with regard to the matters raised in section 79C of the Act. The application was notified in accordance with the Regulations and all submissions received in the period have been considered. On balance, it is considered that the proposed development is acceptable and that development consent should be granted.
Applicant views on draft conditions:	Applicant expressed general support for proposed draft conditions.



## **Planning Assessment Report Development Application**

**DA 172-04-2003**

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### **1 SUMMARY**

This report is an assessment of the proposed development the subject of Development Application number DA 172-04-2003 located at Bond Store 2, 24 Hickson Road, Walsh Bay (refer to site plan tagged "B").

The application seeks consent for strata subdivision, installation of a car stacking apparatus and erection of internal partitioning walls.

The Minister for Infrastructure and Planning is the consent authority under the provisions of the *Walsh Bay Development (Special Provisions) Act 1999 (WBA 99)* and *State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56)*. The site is also subject to *Sydney Regional Environmental Plan No. 16 – Walsh Bay (SREP 16)* and the *Walsh Bay Masterplan*. The proposed works are integrated development where approval is required from the Heritage Office under Section 58 of the Heritage Act 1977.

It is recommended that the development application be granted **consent**.

### **2 BACKGROUND**

#### **2.1 Site Context**

The site is located at 24 Hickson Road, Walsh Bay in the City of Sydney Local Government area.

The development application was lodged with the Department on 23 April 2003 in accordance with the *Environmental Planning and Assessment Act, 1979 (the Act)*.

The subject building is a five storey former industrial warehouse of heritage significance. It is situated between Bond Store 1 and 3 and across Hickson Road from the Shore 8/9 apartment building. Bond Store 2 has frontage onto Hickson Road at ground level to the north and onto Windmill Street at third floor level to the south. The building consists of external masonry walls and internal floors supported on timber and cast iron columns.

Development consent has been granted for the refurbishment of Bond Store 2 under DA 408-11-2000. In addition, development consent has been granted for the demolition of Bond Store 1 and the construction of a 7 storey office building on the site (DA 135-5-2002). Bond Store 3 has been redeveloped recently (DA 407-11-2000) and contains a theatre with commercial space above.

The *Walsh Bay Development (Special Provisions) Act 1999 (WBA 99)* validated permanent Conservation Order 559 for the Walsh Bay Conservation Zone. Permanent conservation orders have subsequently been superseded by the State Heritage Register and approval is required from the Heritage Office under Section 58 of the *Heritage Act 1977* to carry out development within the Walsh Bay Conservation Zone.

The proposed development is therefore *integrated development* under Section 91 of the Environmental Planning and Assessment Act 1979.

### **3 THE PROPOSED DEVELOPMENT**

The proposed development seeks consent for:

- Strata Subdivision of Bond Store 2 into 13 lots for strata leasehold office space;
- Works to construct inter-tenancy walls on all levels; and
- Works to install a new automated car stacker at ground level to provide 8 additional car parking spaces.

The Statement of Environmental Effects (SEE) dated March 2003, states that the proposal seeks to expand the use of the building to allow individual strata leasehold offices to be created to meet market conditions and allow a wider and diverse range of commercial office users to gain access and use of Bond Store 2. The works involve the division of each of the upper floor levels of the building into 3 separate tenancies primarily through the provision of non-fire rated partitions. This partitioning reflects the proposed strata subdivision of the building. Fire rated partitions are also provided around the lift and stair wells. The SEE states that the works will involve minimal disturbance to the heritage fabric of the building with excavation of some material and the removal and replacement of 2 existing columns, in association with the provision of the car stacker.

### **4 STATUTORY FRAMEWORK**

#### **4.1 *Statement of permissibility***

The application is permissible with consent.

#### **4.2 *Instrument of consent and other relevant planning instruments***

The Minister for Infrastructure and Planning is consent authority under the provisions of the *Walsh Bay Development (Special Provisions) Act 1999 (WBA 99)* and *State Environmental Planning Policy No. 56 – Sydney Harbour Foreshores and Tributaries (SEPP 56)*. Walsh Bay is listed as a Schedule 1 site under SEPP 56 and is therefore declared State Significant Development.

#### **4.3 *Legislative context***

The Heritage Act 1977 applies to the site and as such the development is classified as integrated development and approval is required from the Heritage Office.

#### **4.4 *Other statutory provisions***

The site is also subject to *Sydney Regional Environmental Plan No. 16 – Walsh Bay* and the *Walsh Bay Masterplan*.

### **5 CONSULTATION**

#### **5.1 *Public consultation***

The application was notified in accordance with the Regulations, including:

<b>Notifications – landowners/occupiers</b>	Heritage Office, Sydney City Council, National Trust, Sydney Harbour Foreshore Authority, Department of Commerce, Otto Cserhalmi and Partners Pty Ltd, Waterways Authority, Sydney Water, Ministry for the Arts, Walsh Bay Finance Pty Ltd, Walsh Bay Wednesday Workshop, The Rocks Resident Action Group and Owners/occupiers in the surrounding area (through a letter box drop)
<b>Newspaper advertisements</b>	Advertised in the Sydney Morning Herald on 11 June 2003
<b>Site notices</b>	11 June 2003
<b>Exhibition dates</b>	Start: 11 June 2003. End: 11 July 2003
<b>Exhibition venues</b>	<ul style="list-style-type: none"><li>▪ Planning Information Centre, 20 Lee Street Sydney</li><li>▪ City of Sydney’s “One Stop Shop”</li></ul>

No submissions were received from the public regarding the proposal. One submission was received from the Heritage Office (as an Integrated Approval) and Sydney Water.

## **5.2 Referrals**

### **5.2.1 Integrated Approval Bodies**

The application was integrated under Section 58 of the Heritage Act and the Heritage Council has issued general terms of approval for the development (these are included in the proposed conditions of consent).

### **5.2.2 Council**

The application was referred to Sydney City Council on 10 June 2003. Council has not provided a response on the Development Application.

### **5.2.3 Other Agencies**

Sydney Water provided comments on the application on 17 June 2003. Sydney Water requested that a condition of consent be imposed to require the developers to obtain a certificate of compliance under the Sydney Water Act 1994 and requiring the installation of AAA rated water efficient plumbing fixtures.

The requirement for a Section 73 Certificate has been included in the consent as an Advisory Note, as the s73 Certificate is required under a separate Act and is therefore already a mandatory requirement prior to the issue of a Subdivision Certificate.

It is not considered relevant to include a condition relating to the installation of AAA rated appliances and fixtures as no works relating to this requirement are included in the development application.

## **6 CONSIDERATION**

### **6.1 The Environmental Planning & Assessment Act, 1979**

#### **6.1.1 Section 79C**

The application and the likely impacts of the proposed development have been considered in accordance with s.79C of the Act. Significant issues are discussed below in Section 6.2, and, where relevant, a detailed assessment is provided as noted in the table below.

The subject site is considered suitable for the proposed development. On balance, the proposed development is considered to be in the public interest.

Instrument / Policy	
Section 79C of the EP&A Act	Appendix A
SEPP 56 - Guiding Principles	Appendix B
SREP 16 – Walsh Bay	Appendix C

## 6.2 Issues

### 6.2.1 Heritage Impact

- Issue:* Absence of an approved void in the subdivision plans.
- Raised by:* Department of Infrastructure, Planning and Natural Resources
- Consideration:* DA 408-11-00 approved the use of the Bond 2 building for commercial purposes. Part of this consent involved the provision of a void between levels 2 and 3 of the building to function as a lightwell. The proposed subdivision and fitout does not include this void.
- Resolution:* The void was not an existing feature of the Bond 2 building and there is sufficient light from the glazed floor installed at the Windmill Street entry of the building which lights the darkest southern end of the floor. The vertical connection between levels 2 and 3 is also not required. It is therefore considered that by not creating a void between levels 2 and 3 of the development, that the heritage fabric is retained in situ, which is an improved heritage outcome.

### 6.2.2 Inconsistency with the Walsh Bay Master Plan

- Issue:* Addition of 8 new off street car parking spaces
- Raised by:* Department of Infrastructure, Planning and Natural Resources
- Consideration:* Condition 45 of the Master Plan approval (DA 60/97) gave consent to the provision of 1067 off street parking spaces within the Walsh Bay precinct. While no details of the allocation of car parking was provided in the Master Plan, a Walsh Bay Redevelopment Traffic, Transport and Parking Action Plan was prepared by Colston Budd Hunt & Kaffes, the latest version of this is dated May 2001. This report addresses the allocation of parking spaces within Walsh Bay. This report recommends a total of 6 spaces be provided within Bond Store 2, and also allocates a further 22 spaces to Bond Store 2 within Bond Store 1, bringing the total allocation of parking spaces for Bond Store 2 to 28 spaces.

Bond Store 2 was approved with 9 on-site car parking spaces. Bond Store 1 was approved under DA 135-05-2002, which required an additional 223 spaces to be provided on site to meet the requirements of the Sydney Theatre Company, subject to the submittal and subsequent approval by the Director, Urban Assessments of an updated Transport, Traffic and Parking Action Plan.

22 spaces have been provisionally nominated for Bond Store 2 within Bond Store 1, however, this will be subject to the revised Transport, Traffic and Parking Action Plan. This report had not been submitted at the time of preparing this report. Therefore, the issues that arise with regard to sharing of spaces and any allocation to Bond Store 2, have

not yet been fully resolved.

Notwithstanding the above, the applicant is seeking an increase in parking within Bond Store 2 under this current DA. This would increase the amount of parking on site by 8 spaces. Should the current proposal be approved, the total on-site car parking within Bond Store 2 will be increased to 17 spaces, resulting in an overall increase of 8 spaces across the Walsh Bay Precinct.

*Resolution:* In support of the application, the SEE states,  
*“the proposal seeks to expand the use to allow individual strata leasehold offices to be created to meet market conditions and allow a wider and diverse range of commercial office users to gain access and use of Bond Store 2 and to provide additional car parking spaces due to the current lack of parking available on site.*

*The Central Sydney Local Environmental Plan 1996 sets maximum parking provisions for various land uses. The rates relevant to this development is 1 space for every 50m<sup>2</sup> site area for commercial uses. The Colston Budd Hunt & Kafes Pty Ltd (first edition) report submitted with the current Development Consent application noted that up to 20 car parking spaces could be provided. This proposal requests consent for only a total of 17 car parking spaces.*

*The Masterplan envisaged a commercial development on site and the subsequent Development Consent reinforced this objective. The proposal will generate a maximum of only 8 additional movements in/out per day in peak periods and is considered only of a minor impact on the existing road network”.*

It is considered that the increase proposed is acceptable. Given the complexity associated with the allocation of spaces for Bond Store 2 within Bond Store 1 and the relatively minor increase in spaces in the context of the overall Masterplan area, it is considered that a variation to the Master Plan is warranted. This would provide the tenants and occupiers of Bond Store 2 with on site parking.

Given the nature of the proposed car parking, which is an automated stacker system, it is considered that this is not readily accessible for public or visitor use and as a result, use of the car park should be wholly restricted to tenants of the building.

It is proposed to require as a condition of consent that a restrictive covenant be placed on the 88B instrument for the strata subdivision of the land that the car spaces will only be used by the tenants of the building and that they cannot be sub-let to any other party. It is not considered that the addition of 8 car parking spaces will have an adverse impact on traffic in the locality.

The consent for Bond Store 1 increased the Master Plan number of spaces to 1112 (condition 2 of DA 135-05-02). A further condition of

the consent is proposed to be incorporated into this consent that amends the Masterplan DA 60/97 to reflect an increase of 8 off street car parking spaces. The imposition of such a condition is in accordance with section 80A (1)(b) of the *Environmental Planning and Assessment Act 1979*.

Section 94 Contributions are also proposed to be charged in accordance with Masterplan Conditions 49 and 50 towards traffic management works in the locality.

### **6.2.3 Construction Impacts**

- Issue:* Construction noise associated with the development
- Raised by:* Department of Infrastructure, Planning and Natural Resources
- Consideration:* Construction works involve the fit out of interior partitions and excavation in the car parking area at ground floor level to install the car stacking apparatus and the removal and reinstallation of 2 existing columns.
- Resolution:* The conditions of consent for the refurbishment of the building (DA 408-11-2000) include conditions relating to permitted hours of work and noise management. A condition has been imposed on the consent requiring compliance with the conditions of consent for DA 408-11-2000, except where altered by the current development application. A further condition has been included relating to permitted hours of work for excavation.

### **6.2.4 Fire Safety**

- Issue:* Non-compliance with deemed-to-satisfy provisions of the BCA.
- Raised by:* Department of Infrastructure, Planning and Natural Resources.
- Consideration:* The SEE contains a Fire Safety Assessment Report prepared by Arup consulting engineers and dated February 2003. It notes that the subject building does not meet the *deemed to satisfy* provisions of the building code (BCA) and provides details of the assessment and calculations for *Alternative Solutions* to the nominated Performance Requirements of the BCA. The Fire Safety Assessment Report recommends a number of measures to ensure the building complies with Fire Safety Regulations.
- Resolution:* It is recommended that a condition be incorporated into the consent requiring the applicant to submit for PCA approval a statement and drawings demonstrating how the Performance Requirements of the BCA will be satisfied with respect to Fire Safety.

## **7 CONCLUSION**

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in s79C of the Act and the Heritage Council who were consulted and provided general terms of approval under the Integrated Development Provisions within the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be approved.

## **8 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS**

The applicant was asked to comment on the draft conditions of consent on 26 November 2003. The applicant responded on 27 November and objected to the inclusion of the condition preventing the sharing of carparking spaces within Bond Store 2 (Condition E3 Car Parking Restrictions) with adjoining Bond Stores. It was explained to the applicant that the condition had been imposed for a number of reasons, in particular, so that the car spaces would be for the sole use of the strata titled units being created as part of this development and that as the Masterplan approved number of car spaces was being exceeded, that we could not agree to the removal of this condition. The applicant then responded on 2 December 2003 and agreed that the condition could remain.

## **9 DELEGATION**

Under the instrument of delegation dated 4 August 2003, the Minister has delegated to Team Leaders and officers holding a higher position his functions under s.80(A) of the Act relating to determining development consents, except where they relate to designated development or development that is declared to be State Significant development (other than under SEPP56).

Having regard to the instrument of delegation, it is considered appropriate that the application should be determined by the Director, Urban Assessments for determination under delegation, being satisfied that the proposed development will not adversely affect the heritage significance of the Walsh Bay area or any building or work within Walsh Bay (as per Clause 9 of the instrument of delegation). The proposal is considered to fall within the scope of delegation issued to the Director, Urban Assessments in Schedule B, clauses (i) and (k) relating to subdivision and internal alterations to a building in the above instrument of delegation.

## 10 RECOMMENDATION

It is recommended that the Director, Urban Assessments, as delegate to the Minister for Infrastructure and Planning under Instrument of Delegation dated 4 August 2003, pursuant to section 80(1) and 80A of the Environmental Planning and Assessment Act, 1979 (as amended) and Clause 9 of the Walsh Bay Development (Special Provisions) Act 1999:

- (A) grant consent to the application subject to conditions (Tagged "A"), and
- (B) authorise the Department to carry out post-determination and notification.

Prepared by

Endorsed:

Christine Chadwick  
**Planner, Urban Assessments**

Robert Black  
**Director, Urban Assessments**

## APPENDIX A

### SECTION 79C EVALUATION

The following assessment is based on matters listed for consideration under Section 79C (1) of the "Amended Environmental Planning and Assessment Act 1979".

- (a) The provision of:**
- (i) any environmental planning instrument, and**
  - (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**
  - (iii) any development control plan, and**
  - (iv) the Regulations (to the extent that they prescribe matters for the purposes of this paragraph)**
- that apply to the land to which the development application relates,**

Relevant environmental planning instruments are considered in Section 4 and Appendices B and C of the Planning Report. There are no Section 94 plans or development control plans relevant to the proposal.

There are no matters prescribed by the Regulations relevant to the proposed development.

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality,**

The proposal is not considered to have a detrimental impact on the natural environment and no social or economic impacts in the locality. The impact on the built environment has been assessed in the Planning Report, particularly in relation to maintaining the heritage fabric of the building.

- (c) the suitability of the site for the development,**

The proposal is to strata subdivide an existing structure, provide a stack carparking system and internal fitout. The site is considered suitable for the proposed development and has been previously approved for commercial use (DA-408-11-00).

- (d) any submissions made in accordance with this Act or the regulations,**

No submissions were received from the public. One submission was received from Sydney Water and their comments have been incorporated as conditions of the consent.

- (e) the public interest.**

The proposed stratum subdivision and internal fitout will not have any detrimental impact in relation to the public interest.

**APPENDIX B**  
**GUIDING PRINCIPLES OF SEPP 56 – SYDNEY HARBOUR FORESHORES AND**  
**TRIBUTARIES**

(a)	Increasing public access to and use of foreshore land	Unaffected
(b)	The retention, management and use of land made available for public access or the use of other appropriate tenure mechanisms where public ownership is not possible.	Unaffected
(c)	The retention and enhancement of public access links between existing foreshore open space areas.	Unaffected
(d)	Conservation of significant bushland and natural features	Not relevant
(e)	Suitability of the site for open space	Not relevant
(f)	Protection of natural and cultural heritage	The application has been referred to the Heritage Office and the proposal is considered in keeping with the historical context of the area.
(g)	Protection and improvement of visual qualities of the Harbour	Not relevant
(h)	Relationship between the use of the water and foreshore activities	Not relevant
(i)	Conservation of heritage items	As for (f) above
(j)	Scale and character of development	The internal fitout works proposed will not have an impact on the scale and character of the existing approved development.
(k)	Character of development as viewed from the water.	Not relevant
(l)	Application of ecologically sustainable development principles	The proposal will increase the amount of carparking available on site by 8 cars. This is considered acceptable.
(m)	Retention of key waterfront industrial sites	Not relevant
(n)	Compatibility of uses	The internal fitout is compatible with the approved commercial use of the site.
(o)	Opportunities for water based public transport	Not relevant

## APPENDIX C

### AIMS AND OBJECTIVES OF SREP NO. 16 – WALSH BAY (CI 12)

2(a)	Allow an appropriate range of uses to encourage the adaptive reuse of existing structures.	The commercial use of the building is in accordance with previous approvals for the site (DA-408-11-00)
2(b)	Protect the heritage significance of the area	The application has been referred to the Heritage Office and the proposal is considered in keeping with the historical context of the area.
2(c)	Compatible with scale and character of existing built structures	It is considered that the development is compatible with the scale and character of the existing building.
2(d)	Use of waterways compatible with commercial shipping	Not relevant
2(e)	Identify a consent authority	The Walsh Bay (Special Provisions) Act 1999 and SEPP 56 nominates the Minister for Infrastructure and Planning as the consent authority.
2(f)	Matters for consideration in the determination of development applications	Clause 16 matters of SREP 16 are addressed below.
2(g)	Public access to the waterfront	Not affected
2(h)(i)	Provide appropriate parking and traffic management, which minimises impact on the amenity of the area, adjoining residential areas and the Sydney Cove area	This issue has been addressed in the planning report. It is considered that the addition of 8 extra parking spaces proposed as part of this development will not have an adverse impact on existing parking and traffic management controls that are in place.
2(h)(ii)	Does not adversely affect the arterial road network in the City of Sydney.	It is not considered that the development will adversely affect the arterial road network in the City of Sydney.
2(h)(iii)	Preserves views to and from Sydney Harbour.	Not relevant
2(h)(iv)	Compatible with the adjacent residential community	The proposed development is a fitout of an approved commercial building, which has been previously considered to be compatible with the adjacent residential community.
2(h)(v)	Provides a public transport system.	Not relevant.

### WALSH BAY CONSERVATION ZONE OBJECTIVES (SREP 16, CI 12)

(a)	Allow an appropriate range of uses to encourage the adaptive reuse of existing structures.	Complies
(b)	Development is consistent with the heritage significance, scale, built form and materials of existing structures.	Complies. Heritage Office have provided comments on the application.
(c)	Development is compatible with the financial, commercial and retail functions of the CBD and Sydney Cove area.	It is considered that the commercial fitout of the building is consistent with the functions of the CBD and Sydney Cove area.
(d)	Development is compatible with and does not adversely affect the residential amenity and function of the adjoining area.	Complies. The proposed development involves the fitout and subdivision of an approved commercial building.

**MATTERS FOR CONSIDERATION (SREP 16, CI 16)**

(a)	The views of the Central Sydney Planning Committee	Sydney City Council, under delegated authority from the CSPC, provided no comments on the proposal.
(b)	Any conditions imposed by the Heritage Council	The Heritage Council have provided General Terms of Approval which have been incorporated into the consent.
(c)	The requirements of the Maritime Services Board in relation to development within Zone 2.	Not relevant
(d)	The Walsh Bay Redevelopment Conservation Guidelines	Consistent
(e)	Any relevant urban design guidelines	Not relevant
(f)	The Walsh Bay Regional Environmental Study 1989	Consistent
(g)	The Central Sydney Strategy 1988	Consistent
(h)	The adequacy of public access to the wharf aprons and to the foreshore.	Not relevant
(i)	Integration of public transport facilities with services	Not relevant
(j)	Whether the development affects the continued use of Wharf 4/5 as a theatre complex and certain sites for Maritime Services Board purposes	Not relevant
(k)	Any plan which indicates the location of, or the likely location of, any archaeological material	Not relevant
(l)	Whether the development generates traffic.	It is not considered that the addition of 8 carparking spaces within the development will generate significant additional traffic movements.