

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

DETERMINATION OF DEVELOPMENT APPLICATION No. DA 334-11-01

THE ERECTION OF SHORE SHED BUILDINGS ATTACHED TO THE EXISTING JONES BAY WHARF BUILDINGS INCLUDING ALTERATIONS AND ADDITIONS TO THE EXISTING SHORE SHED STRUCTURE AND A SINGLE LEVEL OF BASEMENT CAR PARKING.

JONES BAY WHARF, PYRMONT

I, the Minister for Planning, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 ("The Act"), and clause 14 of Sydney Regional Environmental Plan No. 26 - City West, determine the development application referred to in Schedule 1 by granting consent to the application subject to the conditions of consent referred to in Schedule 2.

The reason for the imposition of the conditions is to:

- i. Protect the environment and amenity of the locality and the safety of current and future residents and users of the area while works are in progress and beyond; and
- ii. Ensure the urban design of the buildings and their environs is sympathetic to existing heritage items and built form in terms of materials, bulk and scale, and environmental and amenity impacts.

Andrew Refshauge
Minister for Planning

Sydney

2002

SCHEDULE 1

APPLICATION MADE BY: Jones Bay Wharf Pty. Ltd.

TO: The Minister for Planning

DEVELOPMENT APPLICATION: 334-11-01

IN RESPECT OF: Wharf 19, 20, 21 (Jones Bay Wharf) Pirrama Road,
Pyrmont. Lot 34 DP 835994 & Lot 54 DP 837953.

FOR THE CARRYING OUT OF: The erection of shore shed buildings attached to the
existing Jones Bay Wharf buildings including alterations and additions to the existing Shore
Shed structure and a single level of basement car parking.

**NOTES RELATING TO THE MINISTER'S DETERMINATION OF DEVELOPMENT
APPLICATION No. 334-11-2001**

To ascertain the date upon which the consent becomes effective refer to section 83 of the Act.

To ascertain the date upon which the consent is liable to lapse refer to section 95 of the Act.

Section 97 of the Act confers upon an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of this notice.

The applicant should ensure that all additional consents and agreements are obtained from other authorities, as relevant.

All reference to:

1. the consent authority means the Minister for Planning;
2. the Director General means the Director General of Planning;
3. the Director Urban Assessments means the Director of the Urban Assessments Branch of DoP; and
4. the Council means the Council of the City of Sydney.

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

**SCHEDULE 2
CONDITIONS OF CONSENT**

DEVELOPMENT APPLICATION NO. 334-11-2001

The erection of shore shed buildings attached to the existing Jones Bay Wharf buildings including alterations and additions to the existing Shore Shed structure and a single level of basement car parking.

1. Approved Plans

The development must be in accordance with Development Application No. 334-11-2001-i, submitted by Jones Bay Wharf Pty Ltd in respect of the development at Jones Bay Wharf and the following:

- Statement of Environmental Effects dated October 2001 prepared by S.A Smits & Associates Pty Ltd;
- Drawings prepared by Bates Smart: Peddle Thorpe & Walker, identified as follows:

Plan No.	Title	Date
S9627	Site Plan	10/10/01
A-200-a	Location Plan Ground Level	30/04/02
A-202-a	Level 1 Carparking	30/04/02
A-203-a	Lower Deck Plan	30/04/02
A-204-a	Lower Deck Mezzanine Plan	30/04/02
A-205-a	Upper Deck Plan	30/04/02
A-206-a	Upper Deck Mezzanine Plan	30/04/02
A-207-a	Upper Deck Loft Plan	30/04/02
A-208-a	Roof Plan	30/04/02
A-209-a	Eastern Elevation	30/04/02
A-210-a	Southern Elevation	30/04/02
A-211-a	Western Elevation	30/04/02
A-212-a	Street Elevation Eastern Building	30/04/02
A-213-a	Street Elevation Western Building	30/04/02
A-214-a	Section a-a	30/04/02
A-215-a	Section c-c	30/04/02

- The Statement of Heritage Impact for Proposed Commercial Development Shoreside Buildings – September 2001 At Jones Bay Finger Wharf Jones Bay, Pyrmont for Jones Bay Wharf Pty Ltd prepared by Otto Cserhalmi & Partners Pty Ltd.
- SEPP 1 Objection to Height – Shore Buildings Jones Bay Wharf Objection to Development Standard in clause 23 of SREP No.26 prepared by S A Smits & Associates;
- Request to Waive Need for Master Plan – Shore Buildings Jones Bay Wharf Clause 40 of SREP No.26 prepared by S A Smits & Associates.

As amended by the following conditions:

2. Use of Above Ground Floor Space

Approval is granted for use of the floor space above ground floor which is identified on the approved plans as "office space" provided the areas identified are used for the purposes of commercial office space including showrooms and the like. Any other use is required to obtain separate development consent. Any fit-out of the office spaces will require separate Occupation Certificates be obtained to ensure compliance with relevant provisions of the BCA. All lessees or tenants of these areas are to be advised of the restriction prior to occupation.

Reason: To ensure that uses which have the potential to impact on the amenity of nearby residential areas are the subject of further assessment.

3. Ground Level Commercial Uses

The ground floor areas of both shore shed buildings are approved for business uses, provided the operating hours are between 6:00 am and 10:00 pm seven days a week. Any use which proposes operating hours outside of the approved times is required to obtain separate development consent. All lessees or tenants of these areas are to be advised of the restriction prior to occupation.

Reason: To ensure that uses which have the potential to impact on the amenity of nearby residential areas as a result of the hours of operation are the subject of further assessment,

4. Use of the Terrace Areas

The terrace areas identified on the plans at the "upper deck loft plan" are not to be used for any form of entertainment purpose between 10:00pm and 6:00am unless prior consent is obtained from the consent authority. The use of the terrace area is restricted to that which is ancillary to the use of the approved adjoining commercial office space. All lessees or tenants of these areas are to be advised of the restriction prior to occupation.

Reason: To ensure the amenity of the nearby residential dwellings is not unreasonably affected.

5. Public Access to the Lift and Stair

Unrestricted 24 hour public access in perpetuity is to be provided between Pirrama Road and Bayview Street via the stair and lift located in the south-eastern corner of the eastern building. Details of any methods to restrict pedestrian access to the upper deck level of the wharf or any other area of the wharf not required for public access are to be submitted to the Director General for Approval prior to the issue of a Construction Certificate for that part of work. It is noted that if these control points are substantial structures or if they affect the heritage fabric of the building a separate development consent may be required to be obtained for that element of work. The right of public access is to be protected on the title

for the Jones Bay Wharf site. Details of how the right for public access is protected on title is to be submitted for Director General Approval prior to issue of the Occupation Certificate.

Reason: To provide public access between the Pirrama Road level and Bayview Street

6. Outdoor Seating

No consent is granted for any outdoor seating or the erection of any structure associated with the ground floor commercial floor space within the areas identified for public access/open space. A separate development application would need to be submitted to the consent authority prior to any such activity occurring. All lessees or tenants of these areas are to be advised of the restriction prior to occupation.

7. Signage

No consent is granted or implied for any business identification, building identification or advertising signage other than the building identification signage located across the frontage of the site indicated on the approved plans. All other signage, **including individual commercial business signs**, shall be the subject of a separate Development Application. No portable signs or displays shall be placed in the Public Domain.

Note: The separate Development Application for signage should take the form of an overall signage policy for the building seeking consent for all proposed signage locations on the building with detailed design and heritage guidelines etc but not necessarily specifying content. Signage not in accordance with such an application could be the subject of further separate applications.

8. Additional Lighting

With the exception of small task lighting, low level ambient lighting and lighting indicated on the approved plans, any additional external lighting is to be subject to a separate application for the approval of the Director-General. No lighting is approved for the building identification signage. A separate application for any lighting of the building identification signage is to be submitted for Director General approval prior to the any works for external lighting being undertaken. Any application for lighting approval must satisfactorily demonstrate that no adverse impacts are caused to the nearby residential dwellings by way of light spillage.

9. Communications Equipment

Satellite dishes, aerials and the like shall not be attached to the roof or terrace areas of the approved building. A separate development application is required for telecommunication facilities including satellite dishes, aerials and the like to be attached to the roof. Any proposal shall demonstrate impacts on view corridors, visual impacts and adequate screening of the telecommunication facilities.

10. Glazing & Material Reflectivity

All ground level external glazing, with the exception of the glazing to balustrades to the stair as indicated on the approved plans, in the development must be clear and untinted.

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20%, and they shall be otherwise designed so as not to result in glare that causes discomfort to nearby residents, or threatens the safety of pedestrians or motorists.

11. Compliance with the Building Code of Australia

The building works the subject of this consent are to comply with the minimum requirements of the Building Code of Australia at all times. This includes, but is not limited to, interim fire protection measures during the demolition and construction process and disabled access.

12. Car Parking and Servicing

This condition is to be considered in conjunction with Condition No.14 of DA 37/98 as amended. The maximum number of car parking spaces approved within the single basement level car parking area is 20 spaces. The maximum total number of car parking spaces approved for the entire Jones Bay Wharf development site is 213 and shall include:

- not less than 7 service vehicle spaces, not less than 4 of which are to be suitable for trucks; and
- not less than 4 parking spaces designed for people with disabilities.

13. Use of Heritage Consultant

An experienced Heritage Conservation Architect is to be engaged by the applicant to work with the consultant team during the demolition and construction period. The Conservation Architect is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The Conservation Architect is to be provided with full access to the site and authorised by the applicant to respond directly to the consent authority where information or clarification is required regarding the resolution of heritage issues throughout the project. The applicant is to commission experienced trades persons that are skilled in traditional building trades to advise on the conservation of the place and carry out any work required.

14. Deletion of the Kitchen Area

The kitchen area located on the Upper Deck Plan in the eastern shore shed building may be removed and the internal plant/service area re-organised without any further development consent or modification application being obtained. Any deletion of the kitchen and internal re-organisation of service areas shall not result in any external changes or alteration of significant heritage fabric. The space is permitted to be converted to commercial office space.

15. Photographic Survey

Prior to the demolition of any part of the existing shore shed building or removal of any significant building fabric, fittings and equipment from it, the applicant shall submit the following to the Urban Assessments Branch of the Department of Planning for deposit in the City of Sydney Archives:

- a. photographic documentation of the site and its context, and the exterior and interior of the building, photographed where appropriate, using a camera/lens capable of 'perspective correction', comprising :
 - i. 35mm colour slides, numbered and referenced to the site and building plans, and presented in archival quality storage sheets;
 - ii. 35mm or 120mm black and white film, numbered and referenced to the site and building plans, with negatives developed to archival standards, and 2 copies of contact sheets printed on fibre-based paper to archival standards;
 - iii. selective black and white enlargements printed on fibre-based paper, to archival standards to a minimum size of 20cm x 25cm, illustrating the location and context of the site/building, the relationship of adjacent buildings, building elevations, and important interior and exterior spaces and features of the building/site;
 - iv. a summary report of the photographic documentation detailing :
 - a. project description, method of documentation, and any limitations of the photographic record; and
 - b. photographic catalogue sheets, which are referenced to a site plan and floor plans no larger than A3, and indicating the location and direction of all photos (black and white prints and slides) taken.
 - v. written confirmation that the Department and the Council has the right to use the photographs for its own purposes and for genuine research purposes.

Conditions that must be satisfied before a Construction Certificate is issued

16. Heritage Conservation Requirements

The following information shall be provided for the approval of the Director General prior to the issue of a Construction Certificate for any demolition works of the existing shore shed building and new works above ground level: -

A Conservation Strategy including:

- (i) Demolition of any significant heritage fabric identified within section 2.5 of the the CMP prepared by Design 5 including its conservation, removal, storage and identifying who is to have ongoing responsibility for its care. The demolition of heritage fabric is restricted to that as identified within Section 3.2 of the approved Heritage Impact Statement prepared by Otto Cserhalmi & Partners dated September, 2001;
- (ii) Details of how the heritage fabric identified as being retained in section 3.2 of the approved Heritage Impact Statement, including the external masonry walls, windows and roof form etc will be protected during the construction process; and,
- (iii) The recommendations and conclusions as identified within Section 6.0 of the approved Heritage Impact Statement prepared by Otto Cserhalmi & Partners dated September, 2001

No work on the identified heritage item shall be carried out unless it complies with the following:

- (a) Physical interventions in the fabric shall be as per the approved plans and the

- approved Heritage Impact Statement. All of the heritage fabric which is indicated as being retained shall be conserved and restored;
- (b) 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 General.

17. Heritage Interpretation Strategy

A Heritage Interpretation Strategy and an Implementation Plan for that strategy including identifying who shall be responsible for carrying out the interpretation works and their ongoing maintenance shall be prepared and submitted to the Director General for approval prior to issue of the Construction Certificate for any new above ground works. The interpretation strategy shall be consistent with the heritage interpretation strategy for the overall wharf structures.

18. Acoustic Details of Exhaust and Plant Systems

Prior to issue of the Construction Certificate for any new above ground works, an acoustic report is to be submitted for the approval of the Director General which certifies that the design of the car park and kitchen exhaust system and any other mechanical plant will not cause a noise nuisance, in accordance with EPA and other relevant criteria, to any nearby residents (nearest sensitive receptors). Any recommendations of the report shall be incorporated within the plans for construction provided they do not result in any external changes to the approved plans the subject of this consent.

19. Energy Conservation

Prior to the issue of a Construction Certificate for any new above ground works you are required to provide satisfactory evidence to the Director General that SEDA has provided comments/advice on the design and that these recommendations where possible have been incorporated within the construction plans.

20. Base Building Water Conservation

Measures are to also to be taken within the development to conserve water and help reduce the development's external water demands, including flow limiting restrictors and dual-flush or low volume toilets.

Water conservation devices must be installed, including tap flow regulators, shower heads roses and dual flush toilets with the following performance criteria:

- a) shower heads - 9 litres or less per minute;
- b) water tap outlets - 9 litres or less per minute; and
- c) dual flush toilets - 6/3 litre dual flush cistern or approved dual flush equivalent

21. Waste Management Plan

A Waste Management Plan for the demolition and construction period must be prepared and endorsed by the Sydney City Council prior to release of the relevant Construction Certificate for any works and must address the following requirements:

- a. certification that the Plan complies with the development consent, Council's "Code for Waste Handling in Buildings" and the Waste Minimisation Act 1995, must be submitted in the attached form W3 to the satisfaction of the Principal Certifying Authority. Such certification must be given by the architect or other appropriately qualified person experienced in waste handling design and environmental management;
- b. the Plan must address demolition, excavation and construction work (where relevant), describe procedures by which waste will be minimised, managed and recycled and address the following :
- c. compliance with the requirements set out in Annexure "A" of the Council's "Code for Waste Handling in Buildings, adopted on 17 October 1994";
- d. details of recycling and the removal of spoil and rubbish from the site during demolition, excavation and construction operations, including
 - i. type and quantities of material expected from demolition and excavation;
 - ii. name and address of transport company;
 - iii. address of proposed site of disposal;
 - iv. name and address of company/organisation accepting material;
 - v. types and quantities of materials that are to be reused or recycled, on and off site and procedures involved;
 - vi. name of company/contractor undertaking on and off site reuse and recycling, and address of recycling outlet;
 - vii. materials for disposal and justification of disposal;
- e. if details of items (ii) to (vii) are not known at the time of preparing the Plan, the information must be supplied immediately after the letting of contracts and prior to the commencement of any works;
- f. all requirements of the Plan must be implemented during the demolition, excavation and construction periods of the development.

22. Stormwater Drainage

Prior to the application for a Construction Certificate for new building works above ground level, details of the proposed stormwater disposal and drainage of the development shall be submitted for the approval of the relevant authority. All approved details for the disposal of stormwater and drainage shall be implemented in the development;

23. Environment Protection – Water and Sediment Control

A Water and Sediment Control Statement shall be submitted to the Director-General prior to the issue of a relevant Construction Certificate for demolition and building works under the Environmental Planning and Assessment Act 1979. The Statement is to be consistent with the principles and practices set out in the Department of Land and Water Conservation's "Erosion and Sediment Control Manual" and must include :

- a) the procedures by which stormwater and waste water deposited or generated on site

- is to be collected and treated prior to discharge including details of any proposed pollution control device;
- b) the proposed method of discharge;
- c) the procedures to be adopted for the prevention of run-off from the site onto the public way;
- d) the procedures to be adopted for the prevention of loose material and litter from being blown onto the public way;

The plan is to be implemented prior to the commencement of any works on the site.

24. Construction, traffic and pedestrian management plan

A Pedestrian and Traffic Management Plan shall be submitted for the City of Sydney's approval prior to issue of a Construction Certificate for the relevant works. The Plan shall address issues of pedestrian safety on the public domain areas within and external to the site during the works and, inter alia, shall include details of :

- a. Use of mobile cranes;
- b. Loading and unloading including construction zones;
- c. Details of hoardings, if any;
- d. Barricade permits;
- e. proposed ingress and egress of vehicles to and from the construction site;
- f. proposed protection of pedestrians adjacent to the site;
- g. proposed pedestrian management while vehicles are entering and leaving the site.

A copy of the plan is to be submitted to Sydney City Council prior to the commencement of works. All of the measures outlined in the management plan are to be implemented during the construction process.

25. Car Parking Facilities

The layout of car parks, access ramps etc and service vehicle parking shall comply with Australian Standards AS2890.1-1993 and AS2890.2-1989. Certification of such compliance shall be prepared by a suitably qualified person and submitted to the PCA prior to release of the Construction Certificate for new building works.

26. Storage And Waste Handling

The following requirements apply to storage and waste handling. Details to satisfy the following are required to be submitted to the Director General prior to issue of the Construction Certificate for above ground works:

- (a) The design of the building and the methods of storage and handling of waste and recyclable material must comply with Council's Code for Waste Handling in Buildings (adopted 17 October 1994). The Code requires the submission of a Waste Management Plan, except for minor partition work (Annexure "A" of the Code).
- (b) Certification and compliance with the design and constructional requirements of the Code including the associated Waste Management Plans and with the Conditions of

Development Applicant consent relating to waste must be submitted to and approved by the Certifying Authority in the attached form **W1** prior to issue of a Construction Certificate for above ground works under the EP&A Act 1979. Such approval must be given by the Architect or other appropriately qualified person experienced in Waste Handling Design and Environmental Management.

- (c) The Certified Plans and Specifications must address compliance with the Waste Code including details of the following, where applicable:
- (i) The location, design and construction of the garbage room, recycling rooms, bin washing areas and collection areas.
 - (ii) The natural or mechanical ventilation, in accordance with the BCA and Australian Standard 1668.
 - (iii) The location and design of any garbage chutes or compaction units required by Council's Code.
 - (iv) The proximity of waste handling facilities to commercial food areas or loading docks, with a view to avoiding cross contamination.

27. Kerb and Gutter Lay-over

The works to the kerb and gutter and the proposed lay by in Pirrama Road are to be approved by the Sydney Council's Traffic section prior to issue of a Construction Certificate for those works. A copy of the approval is to be submitted to the Director General for information.

Conditions that must be complied with prior to the commencement of works

28. Site Contamination Report

Prior to commencement of site excavation works for the building works and any other relevant building works, a Site Contamination Survey Report, prepared by a qualified Environmental Consultant, in accordance with the provisions of the *Contaminated Land Management Act 1997* must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or an accredited certifier).

29. Site Contamination and Remediation

Where a site is determined to be a "Contaminated Site" under the definition contained in ANZECC/NHMRC 1992 definitions prior to commencement of site excavation works: -

- e) A Remediation Action Plan (RAP), which details the proposed method for the proper cleaning of contaminated materials from the site is to be provided to the satisfaction of the PCA, (and a copy sent to Council if it is not the PCA).
- f) A suitably qualified and accredited "Independent Auditor" to the satisfaction of Sydney City Council and the Department of Planning, (in terms of Section 7A of the *Environmental Planning and Assessment Act 1979*) is to be appointed in accordance with the requirements of the *Contaminated Land Management Act 1997*, and *Regulations 1998*.

- g) The approved Remediation Action Plan, must be available on the site at all times during the progress of the work.
- h) The Independent Auditor is to provide a letter to the satisfaction of the PCA, that the RAP is appropriate to remediate the land to the standard suitable for the proposed redevelopment of the land and that the common or public areas meet the criteria for common property or designated public space.

On completion of the excavation works and prior to the construction of any part of the development, a validation certificate must be submitted to the PCA (and a copy sent to Council and the Department of Planning if it is not the PCA). The certificate signed by the Independent Auditor, must testify that the requirements detailed in the Remediation Action Plan, have been satisfactorily completed, and have achieved results as required under the requirements of the *Contaminated Land Management Act 1997, and Regulations 1998*.

30. Certification of structural work

The following documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA) prior to the commencement of works. A copy of the Certificate must be submitted to the Department and the Sydney City Council:

- a) Structural drawings prepared by an appropriately qualified practising Structural Engineer, corresponding with and attached to a Structural Certificate (see (b));
- b) A structural certificate for design, submitted in the form of Attachment S1, OR a Compliance Certificate after the structural drawings have been checked and comply with:
 - (i) The relevant clauses of the Building Code of Australia (BCA);
 - (ii) The relevant conditions of the Development Consent;
 - (iii) The Architectural Plans incorporated with the Construction Certificate; and
 - (iv) The relevant Australian Standards listed in the BCA (specification A1.3);

31. Geo-technical Report

Prior to the commencement of any excavation work, foundation work, shoring or underpinning works, the following documentation must be prepared by a suitably qualified geotechnical engineer and submitted to the satisfaction of the Principal Certifying Authority (PCA) and a copy of same submitted to the Department.

- (a) A **geotechnical report** which shall include the following information as appropriate:-
 - (i) Borehole/test pit logs or inspection records;
 - (ii) Field/laboratory test results;
 - (iii) General geotechnical description of the site;
 - (iv) Recommended safe bearing values and likely settlements of foundation material;
 - (v) Recommendations for stability and protection of excavations;
 - (vi) Opinion on the effect of the new works on existing buildings and

- recommendations for any underpinning or other measures required to maintain stability;
- (vii) Method of proving and assessing foundations underpinning and/or excavation stability in accordance with design.
- (b) The completed **Geotechnical Certificate** in the form of **Attachment G1**;
- (b) Included with (a) and (b), an **Inspection and Test Plan** that reflects the requirements of the geotechnical report, project drawings and specifications;
- (c) A **Diplidation Report** of adjoining building/s that may be affected by the proposed excavation/construction work and shall be approved by the Department of Planning prior to commencement of work;
- (d) **Test and inspection** results/records in accordance with the Inspection and Test Plan;
- (e) **Certification** of Geotechnical Inspection in the form of **Attachment G2** that foundation, underpinning and/or stabilisation works satisfy the requirements of the inspection and test plan.

Note:

The Department of Planning reserves the right to randomly audit any geotechnical documentation, proving foundation material and/or testing and either accept or reject the certification or part thereof.

32. Certification of Mechanical Ventilation

The details of any mechanical ventilation or air conditioning must be certified by a competent person to comply with Council's Ventilation Code, the Building Code of Australia and relevant Australian standards, to the satisfaction of the Principal Certifying Authority **prior to commencement of any mechanical services work.**

To enable certification, the mechanical ventilation documentation prescribed below shall be submitted to the Principal Certifying Authority:

- a) Certified plans (in duplicate), coloured so as to adequately distinguish the proposed alterations;
- b) A general description of the project plus mechanical ventilation drawings and documentation in duplicate, coloured to show ductwork and equipment as set out below. (Where appropriate a schematic drawing should also be submitted).
 - i) Supply Air Ducts, Shafts and Fans – Blue
 - ii) Return Air Ducts, Shafts and Fans – Pink
 - iii) Outside Air Ducts, Shafts, Intakes and Stair Pressurisation – Green;
 - iv) Exhaust Air Ducts, Shafts, Fans, Discharges and Smoke Spill – Orange;
 - v) Mixing Boxes and Conditions – Yellow
 - vi) Fire Dampers and Electric Heaters – Red

- c) Drawings which show where applicable the existing and proposed air intakes, air discharges and cooling towers and their relative position to each other, the boundaries of the site, openable windows, and adjoining buildings;
- d) A Mechanical Ventilation Design Certificate pursuant to Section 93 of the Local Government Act 1993 in the form of **Attachment M1**, together with the Curriculum Vitae of the Design Engineer or other appropriate Certifier must be submitted to the Principal Certifying Authority (PCA). A copy of the Certificate and a microfilm set of the certified drawings must be submitted to Council by the PCA;
- e) Documentary evidence in support of requests for departure from the prescribed or deemed provisions of the Building Code of Australia or any other requirements.

33. Sydney Water Certificate

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 (ie Notice of Requirements) shall be produced prior to the commencement of works for the buildings under the Environmental Planning and Assessment Act 1979 for the development. The Section 73 certificate must be submitted to the PCA and the Department of Planning/ Council prior to the occupation of the development / release of the linen plan.

34. Application for Hoarding

Prior to the commencement of construction the applicant shall apply to the Sydney City Council for a separate shoring and hoarding approval if required.

Conditions that must be complied with during construction

35. Site Controls

The following controls are to be complied with at all times during the construction period:

- a. All excavation and construction traffic shall use the Ultimo-Pymont Construction Traffic Route;
- b. Approved concrete driveways are to be constructed for all vehicular access to the construction site to the satisfaction of the Principal Certifying Authority;
- c. The adjoining areas or any public lands must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances.
- d. All sedimentation control measures are to be in place prior to the commencement of any works.

36. Archaeological Relics

During demolition and excavation works at or below ground level a heritage consultant / archaeologist, employed at the applicant's expense shall be on site at all times. Such persons are to supervise the work and ensure that the requirements of the Heritage Act 1977 are met with regard to any relics that may be discovered.

37. Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with section 91 of the National Parks and Wildlife Act, 1974.

38. Permissible Working Hours

The following requirements apply to the hours for demolition and construction work on the development :

- a. all work, including building/demolition and excavation work in connection with the proposed development must only be carried out between the hours of 7.30am and 5.00pm on Mondays and Fridays inclusive, and 7.30am and 3.00pm on Saturdays, with safety inspections being permitted at 7.00am on work days and no work must be carried out on Sundays or public holidays;
- b. prior to the commencement of the works the applicant shall forward to the Urban Assessments office of the Department of Planning and Council a 24 hour telephone number and shall ensure that the number is continually attended by a person with authority over the works for the duration of the development. The 24 hour contact telephone number must also be prominently displayed at a publicly accessible boundary of the site.;
- c. the approved hours of work and the 24 hour telephone contact number must be prominently displayed at all times on the building site and must be visible from a public street or public place;
- d. all work, including demolition, excavation and building work must comply with "City of Sydney Building Sites Noise Code" and Australian Standard 2436 1981 "Guide to Noise Control on Construction, Maintenance and Demolition Sites";
- e. this development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the "City of Sydney Building Sites Noise Code". A separate application for approval to use any of these appliances must be made to Council.

Conditions that must be complied with before the Building is occupied

39. Car Parking Restriction

On-site car parking spaces, except spaces within the public domain, spaces for service vehicles and visitors, shall not be used by other than an occupant, tenant, lessee or resident of the buildings. Any occupant, tenant, lessee or registered proprietor of the development or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to other than an occupant, tenant, lessee or resident of the buildings.

Prior to release of an Occupation Certificate by the PCA, a documentary Restrictive Covenant is to be registered on the Title of the development site pursuant to section 88E of the Conveyancing Act 1919, to the effect of the condition above. The covenant is to be created appurtenant to Council, at not cost, and to the satisfaction of Council.

40. Compliance Reports

The applicant, or another party acting upon the consent, shall submit to the Director Urban Assessments reports documenting the compliance with this consent and each condition prior to the issue of the Occupation Certificate. For the duration of the works a Compliance Report shall be issued on a three monthly basis to the effect that all or part of the works, including architectural details, is in accordance with the approved development application drawings and conditions of development consent and the approved Construction Certificate drawings and specifications.

41. Occupation Certificate

An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy furnished to Council in accordance with section 79L of the Environmental Planning and Assessment Amendment Regulation 1998 prior to commencement of occupation or use of the whole or any part of the public domain areas. A copy of the certificate shall be submitted to Sydney City Council if it was not the Principal Certifying Authority.

42. Structural Certification

Prior to issue of an Occupation Certificate and/or use of the premises, **a Structural Inspection Certificate in the form of Attachment S1C** OR a Compliance Certificate, must be submitted to the satisfaction of the PCA and a copy of the certificate and a microfilm set of the certified drawings submitted to the Council and the Department by the PCA **after**;

- (i) the site has been periodically inspected and the Certifier is satisfied that the structural works is deemed to comply with the final Design Drawings; and
- (ii) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate(s).

- Note :
- i. An appropriately qualified practising structural engineer certifying by completing **Attachment S1** must have
 - a. appropriate tertiary qualifications in civil or structural engineering,
AND
 - b. Corporate membership of the Institution of Engineers Australia or equivalent, **AND**
 - c. evidence of relevant experience in the form of a CV/Resume
AND
 - d. appropriate current professional indemnity insurance;

- ii. an appropriately qualified practising structural engineer certifying by issuing a **Compliance Certificate** must have accreditation as a certifier for Structural Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.

43. Geo-Technical Certification

Prior to the issue of an Occupation Certificate or use of the premises, a **Geotechnical Inspection Certificate** in the form of **Attachment G2**, or a Compliance Certificate must be submitted to the satisfaction of the Principal Certifying Authority and a copy submitted to the Department of Planning.

Notes

- a) An appropriately qualified practising geotechnical engineer certifying by completing **Attachment G2** must have:-
 - i) Appropriate tertiary qualifications in Civil or Geotechnical Engineering, **AND**;
 - ii) Corporate membership of the Institution of Engineers Australia or equivalent; **AND**
 - iii) Evidence of relevant experience in the form of a CV/Resume;
 - iv) Appropriate current professional indemnity insurance.
- b) An appropriately qualified practising geotechnical engineer certifying by issuing a **Compliance Certificate** must have accreditation as a certifier for Geotechnical Engineering issued by the Institution of Engineers Australia in accordance with the Environmental Planning and Assessment Act 1979.
- c) The Department of Planning reserves the right to randomly audit any geotechnical documentation.

44. Model

Prior to the issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979 for the development, a 1:500 scale model of the approved development shall be submitted to Council. The model shall comply with all of the conditions of the development consent. Council's model maker should be consulted prior to construction of the model. The model shall be amended to reflect any further approvals under Section 96 of the Environmental Planning and Assessment Act 1979.

45. Certification of Mechanical Ventilation

Prior to issue of an Occupation Certificate under Environmental Planning and Assessment Act 1979 and following the completion, installation, and testing of all the mechanical ventilation systems covered by the approval, a **Mechanical Ventilation Certificate of Completion and Performance** in the form of **Attachment M2** must be submitted to the Principal Certifying Authority (PCA). A copy of the Certificate and a microfilm set of the certified drawings must be submitted to Council.

46. Acoustic Certification of Plant

Following the installation and completion of the car park and kitchen exhaust system and any other mechanical plant, a suitably qualified person is to certify that the equipment has been built in accordance with the approved plans and that its operation does not result in a noise nuisance for nearby residential areas in accordance with relevant EPA and other criteria. Evidence of the certification are to be submitted for the approval of the Director General prior to issue of the Occupation Certificate.

47. Certification of Waste Facilities

Prior to issue of the Occupation Certificate for the commercial building it is required that certification be provided that the Waste facilities have been provided in accordance with the approved plans and to the satisfaction of Sydney City Council. This certification is to be acknowledged by the City of Sydney Council and is to be submitted to the Director General.

48. Heritage Interpretation Works

All works and displays relating to the heritage interpretation and conservation of the wharf buildings are to be completed in accordance with the approved Heritage Interpretation Strategy to the satisfaction of the Director General prior to release of the Occupation Certificate.

49. Updated Conservation Management Plan

The following information shall be provided, for the approval of the Director General prior to the issue of an Occupation Certificate: -

- (a) A review of the conservation plan including:
 - (i) Its general updating as a Conservation Management Plan;
 - (ii) Incorporation of the works for this development and its heritage implications;
 - (iii) Incorporation of the Heritage Interpretation Strategy and an Implementation Plan.
- (b) A Management Plan to be attached to all leases (being any lease or sub-lease including the head lease and leases for any part of the development including any strata, common area or area of public domain), and including:
 - (i) A maintenance plan for all heritage fabric and machinery and heritage interpretation installations;
 - (ii) Design details for any signage (see Condition relating to signage strategy);
 - (iii) Details of the life-cycle costing of the building, including funding details and identifying who is to take responsibility for the work; and,
 - (iv) References to the Conservation Management Plan and the Heritage Interpretation Strategy and Implementation Plan to be used as the basis for all decisions affecting the heritage significance of the Wharf or its significant fabric or machinery.

Integrated Development - Waterways Authority Terms Of Approval

50. No works are to commence at the site prior to a Part 3A Permit under the *Rivers and Foreshores Improvement Act 1948* being obtained from the Waterways Authority.
51. The proposed works are carried out so that:
- a) no materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Darling Harbour; and
 - b) no materials are likely to be carried by natural forces to the bed, shore or waters of Darling Harbour.
52. Any material that enters Darling Harbour is removed immediately.
53. A plan to manage erosion, sedimentation and other pollutants during demolition and construction works is to be prepared by suitably qualified person and submitted to the Waterways Authority prior to a part 3A Permit being issued. In particular, the methods to be implemented to manage excavation and stockpiling of any contaminated soil, is to be addressed in the plan.
- Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in *Managing Urban Stormwater – Soils & Construction* issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.
54. The erosion and sediment controls for construction shall be installed and stabilised before commencement of site works. This does not include the works associated with the construction of the appropriate controls.
55. The erosion and sediment control system is to be effectively maintained at or above design capacity for the duration of the remediation works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
56. Any material that is to be stockpiled on site is to be stabilised to prevent erosion or dispersal of the material.
57. None of the proposed structures shall be constructed on land owned by Waterways Authority without first seeking the relevant approvals.

NOTES RELATING TO MINISTER'S DETERMINATION OF DEVELOPMENT APPLICATION

1. To ascertain the date upon which the consent becomes effective refer to Section 83 of the Act.
2. To ascertain the date upon which the consent is liable to lapse refer to Section 95 of the Act.
3. Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right to appeal to the Land and Environment Court exercisable within 12 months of the receipt of this notice.
4. The applicant should ensure that all additional approvals and agreements are obtained from other authorities, as relevant.
5. All references to:
 - the consent authority means the Minister for Planning;
 - the Minister means the Minister for Planning;
 - the Director-General means the Director-General of the Department of Planning;
 - the Council means the City of Sydney Council;
 - planningNSW means the Department of Planning;
 - SHFA mean Sydney Harbour Foreshore Authority
 - the BCA means the Building Code of Australia; and
 - the PCA means the Principal Certifying Authority

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

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