

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO. 214-9-2004

(FILE NO. 9035706)

**USE OF BUILDINGS B & C OF CIVIC RAILWAY WORKSHOP, MEREWETHER
STREET, NEWCASTLE**

I, the Minister for Infrastructure and Planning, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 7(2) of Newcastle Local Environmental Plan 2003 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 provide for the economic and orderly use of the subject site while managing environmental (waste), heritage, safety, security and noise issues, and
- (2) To preserve the existing and likely future amenity of the neighbourhood.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2005

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Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2005

SCHEDULE 1

PART A—TABLE

Application made by:	Honeysuckle Development Corporation PO Box 813, Newcastle
Application made to:	Minister for Infrastructure and Planning
Development Application:	No 214-9-2004
On land comprising:	Pt Lot 51 / DP1036132 Civic Workshops B & C, Merewether Street, Newcastle, 2300.
Local Government Area	Newcastle City Council
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$0
Type of development:	Local Development, Crown Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Not Integrated
Determination made on:	
Determination:	A 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 formal notification letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or ▪ a condition in Schedule 2, or ▪ the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 214-9-2004

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 for a development application, within 12 months after the date on which the applicant 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 Honeysuckle Development Corporation 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 Newcastle City Council.

DA No. 214-9-2004 means the development application and supporting documentation submitted by the applicant on 7 September 2004.

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.

Team Leader means the Team Leader 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.

Works Manager means a suitably qualified person engaged by the Crown to fulfil the requirements of part 116G(2) of the *Environmental Planning and Assessment Act 1979*.

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. 214-9-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 Development Description

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

- (1) Use, for a period of 5 years, of the former civic railway workshop buildings B & C for short-term cultural, entertainment and conference functions and events including:
 - Exhibitions;
 - Functions;
 - Meetings;
 - Presentations;
 - Concerts;
 - Markets; and
 - Performances.

A2 Development in Accordance with Plans

The development shall be in accordance with development application number 214-9-2004 submitted by the applicant on 7 September 2004, and in accordance with the following:

Statement of Environmental Effects entitled Statement of Environmental Effects Civic Railway Workshops Merewether Street Newcastle prepared by NSW Department of Commerce, dated October 2004
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HDC Building Management Document (Hire Conditions)

and as amended by the following conditions:

A3 Development in Accordance with Heritage Conditions

Use of the buildings is to be in accordance with the general conditions as identified in the Heritage Council of NSW exemption notification signed and dated 9 September 2004.

A4 Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the documents referred to above, the conditions of this consent prevail.

A5 Use for a nominated period

In order that use of the land remains consistent with the changing land uses of the surrounding area, the use of the land described below shall cease after a period of 5 years from the date of commencement of this consent.

A6 Prescribed Conditions

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

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

N/A – The development will not involve any construction and as such there are no Part B conditions relevant to this consent.

PART C—PRIOR TO COMMENCEMENT OF WORKS

N/A – The development will not involve any construction or works and is Crown Development and as such there are no Part C conditions relevant to this consent.

PART D—DURING CONSTRUCTION

N/A – The development will not involve any construction and as such there are no Part D conditions relevant to this consent.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION

N/A – the application was not made for subdivision and as such there are no Part E conditions relevant to this consent.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

F1 Waste Management Plan

(a) An Event Waste and Recycling Management Plan (EWRMP) is to be prepared by the applicant to address waste management requirements for all events and functions to be held at the site. The plan shall be prepared following the Department of Environment and Conservation's publication *The Seven Steps to A Waste Wise Function*. (URL <http://www.wastewiseevents.resource.nsw.gov.au/>) The EWRMP is to be submitted to and approved by the Team Leader prior to commencement of use.

(b) The EWRMP is to achieve:

- (i) the minimisation of packaging used for and at events;
- (ii) minimisation of the use of non-recyclable and non-reusable materials/packaging for and at events;
- (iii) appropriate control of litter during events; and
- (iv) effective waste management during events including guidance on the number and types of bins/recycling stations, placement, waste management responsibilities and collection details.

F2 Waste Facilities

Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, including any putrescible matter, contaminated or medical wastes, discarded or returnable packaging or other forms of trade wastes and arrangements being made for regular removal and disposal of the same.

Note: The required waste facility is to be suitable for the accommodation of Council approved wheelie bins or bulk waste containers.

F3 *Fire Safety Certificate*

A Fire Safety Certificate prepared by a suitably qualified person, shall be submitted to and approved by the Works Manager for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council.

F4 *Place of Public Entertainment*

The applicant shall obtain approval under Section 68 of the *Local Government Act 1993* for a Place of Public Entertainment Licence prior to an event that requires such a licence being held.

PART G—POST OCCUPATION

G1 *Notifying Operators*

The applicant is responsible for ensuring that all lease holders / operators are aware of the conditions of this consent and the requirement to respect the heritage condition of the buildings.

G2 *Waste Management*

A clause is to be included in all lease agreements between the applicant and lease holders / operators requiring the lease holder / operator to make arrangements for waste management for and at their function and/or event that are in accordance with the approved EWRMP required by condition **F1** of this consent.

G3 *Annual Fire Safety Certification*

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. The purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

G4 *Catering*

- (a) All facilities and/or areas associated with food catering (including storage, preparation and sale of food) shall be designed, constructed, equipped and operated in accordance with the Australian Standard AS 4674-2004 Design, construction and fit-out of food premises dated 11 February 2004.
- (b) All forms of food functions or events must be notified to NSW Health either manually or on line at www.foodnotify.nsw.gov.au.

G5 *Public Transport*

- (a) Event managers are to ensure that patrons are encouraged to use public transport when attending any events or functions.
- (b) Details of the availability of public transport to the site are to be included in all "street press" advertisement of the event.
- (c) These requirements are to be included in all lease agreements.

G6 *Loading and Unloading*

All loading and unloading of service vehicles in connection with the use of the premises shall be strictly limited to the road between the Locomotive Boiler Shop and New Erecting Shop.

G7 Restrictions on Event Frequency – Concerts and Markets

The frequency of concerts and markets which are held outside the buildings (eg: under the shade structures) and/or involve amplified music or other amplified equipment and/or will be attended by more than 200 people and/or where noise associated with the event or function on the site will exceed 5dB(A) above the background noise level when measured at the boundary of the site is restricted as follows:

- (i) Concerts – 40 concert days/evenings per year; and
- (ii) Markets – 60 market days/evenings per year.

G8 Duration of Short-term Uses

Each event and/or function is to be held for no longer than 2 weeks and in accordance with condition **G9**.

G9 Hours of Operation

The hours of operation shall be restricted to between:

Day	Set-up Commencement time	Event Commencement time	Event Cessation time	Pack up Cessation Time
Sunday to Thursday	7:00am	8:30am	10:00pm	11:00pm
Friday and Saturday	7:00am	8:30am	11:00pm	12:00am

Except for events held outside the buildings (ie: under the shade structures), for which outdoor use is to cease at 9pm.

G10 Noise Management – All Events

- (a) The lease holder / operator of the event or function shall ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the surrounding neighbourhood. In this regard, the lease holder / operator shall be responsible for the control of noise, loitering and litter generated by patrons of the premises and shall ensure that people leave the premises and area in a respectful and timely manner.
- (b) An employee or agent of the applicant is to be present at events held during the weekend and/or after 6pm to provide security for the site and patrons attending the events, to ensure respectful use of the site and to ensure that the operator is conducting the event in accordance with the conditions of this consent.

G11 Noise Management – Events Using Amplified Sound Systems / Other Amplification Equipment

- (a) The operator must at all times retain ultimate control of the noise level caused by any amplified sound systems and/or other amplification equipment in operation.
- (b) During events and functions at which amplified sound systems and/or other amplification equipment is used, the operator must ensure that an employee or agent of the operator is present, and is able to exercise ultimate control of the noise levels from the amplified sound system and/or other amplification equipment operated during the event or function.
- (c) The operator of an event using amplified sound systems and/or other amplification equipment must operate a telephone complaints line for the purposes of receiving any complaints from members of the public in relation to noise generated from the event or

function in addition to any other complaint. The complaints line is to be attended throughout the course of the function or event.

- (d) The operator must ensure that both the telephone complaints line and the employee or agent nominated in conditions **G11(b) and (c)** of this consent can be contacted in real time (by mobile phone or two way radio).
- (e) The telephone complaints number shall be prominently and clearly displayed at site security gates or equivalent locations for each event or function at which amplified sound systems and/or other amplification equipment is used. The number shall be displayed throughout the duration of the function and/or event.
- (f) A legible record of all complaints made to the operator, or any employee or agent of the operator, must be kept in relation to noise arising from any activity to which the consent applies. The record of complaint must be kept for at least two (2) years after the complaint is made.

The record must include details of the following:

- (i) The date and time of the complaint;
 - (ii) The method by which the complaint was made;
 - (iii) Any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
 - (iv) The nature of the complaint;
 - (v) The action taken by the applicant in relation to the complaint, including any follow-up contact with the complainant; and
 - (vi) If no action was taken by the applicant, the reasons why no action was taken.
- (g) Noise associated with events and functions at which amplified sound systems and/or other amplification equipment is used, is not to exceed 5dB(A) above the background noise level when measured at the boundary of the site unless a noise study and management plan, prepared by a suitably qualified acoustic engineer, has been submitted to and approved by the Director.
 - (h) All concerts utilising amplified sound systems and/or other amplification equipment are to be contained wholly within the buildings unless a noise study and management plan, prepared by a suitably qualified acoustic engineer, has been submitted to and approved by the Director.

G12 Noise Levels

Events and/or functions shall not result in the 'emission of an offensive noise' as defined under the *Protection of the Environment (Operations) Act 1997*.

G13 Complaints Report

- (a) In the even that a complaint regarding an event and/or function held at the site is made to the lease holder / operator, applicant, Council, the Department or the Police, the operator shall submit to the Council a complaints report detailing the circumstances and issues surrounding the complaint(s) to the satisfaction of Council. A copy of the report is to be forwarded by the operator to the applicant.
- (b) If in the opinion of the Council, based on the quantity and types of complaints being made with regards to functions and/or events at the site, the events are having a detrimental impact on the amenity of the surrounding area, the Council may require the following steps to be taken:

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- That the Council and Police be notified in advance of future events, and that any issues raised by Council or the Police be addressed prior to and during the event(s); and
 - That a security, noise and/or parking plan be prepared for Council's approval prior to the event and/or function.

G14 Temporary Structures

An application under Section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of any temporary structures.

G15 Temporary Amenities

- (a) In the case that Building B amenities are not available to patrons of Building C, temporary amenities and wash hand basins are to be provided for the patrons of Building C.
- (b) Adequate amenities must be provided in accordance with F2 of the BCA.
- (c) Adequate toilet facilities and wash hand basins for each sex must be provided in accordance with the provisions of the BCA.
- (d) Any temporary amenities and hand wash basins are to be located either within Buildings B and/or C or immediately adjacent to them. External facilities are to be adequately lit to provide safety however no light is to spill outside the site boundaries as a result. The site security is to extend to this area.
- (e) Adequate access toilet facilities shall be provided for persons with disabilities in accordance with Part 5 of the BCA.

G16 Safety and Security

- (a) The applicant shall ensure that safety and security measures are implemented for the duration of all events and functions to ensure that no harm or nuisance is caused to patrons and/or neighbours or their property.
- (b) Security measures are to include, but not be limited to, the presence of security personnel for all events after 6pm and events held on weekends for the duration of the event and until patrons and operators have left the site.
- (c) Security measures are to be implemented to ensure the safety of patrons using outdoor amenities or amenities located in an adjoining building.

G17 Patron Numbers

The number of patrons for each of the uses shall not exceed the following:

- (a) 850 patrons for exhibitions, concerts, markets and performances; and
- (b) 600 patrons for functions, meetings and presentations.

G18 Outdoor Lighting

External lighting associated with the use of the premises for short-term events and/or functions shall not cause light spill beyond the site boundaries nor adversely impact on the area surrounding the site.

G19 Alterations to Heritage Buildings

The applicant is to include in any lease agreement a requirement that no alterations be made to the permanent building fabric.

G20 Access

The building is to be provided with adequate means of access for persons with disabilities in order to comply with the Building Code of Australia and the *Disability Discrimination Act 1992*.

G21 Neighbourhood Amenity

There is to be no interference with the amenity of the neighbourhood by reason of the emission of any “offensive noise”, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the proposed development.

G22 Public Areas

No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.

PART H—GENERAL TERMS

N/A – The application was not made for Integrated Development and as such there are no General Terms of Approval that apply to this consent.

ADVISORY NOTES**AN1 Noise Generation**

Any noise generated during and by the operation of events and functions on-site shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997*.

AN2 Temporary Structures

An approval under Section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of any temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

AN3 Licensed Premises

All appropriate licences must be held by the event/function operator regarding the sale and consumption of alcohol.

AN4 Place of Public Entertainment

An approval from Council under Section 68 of the *Local Government Act 1993* must be obtained for a “Place of Public Entertainment (POPE) Licence” prior to the commencement of use of the premises for any event requiring a POPE Licence. The applicant shall provide evidence of receipt of the approval to the satisfaction of the Works Manager prior to the commencement of use of the buildings for an event requiring a POPE Licence. The commencement of use of the premises for events that do not require a POPE Licence may commence without this requirement being fulfilled.