



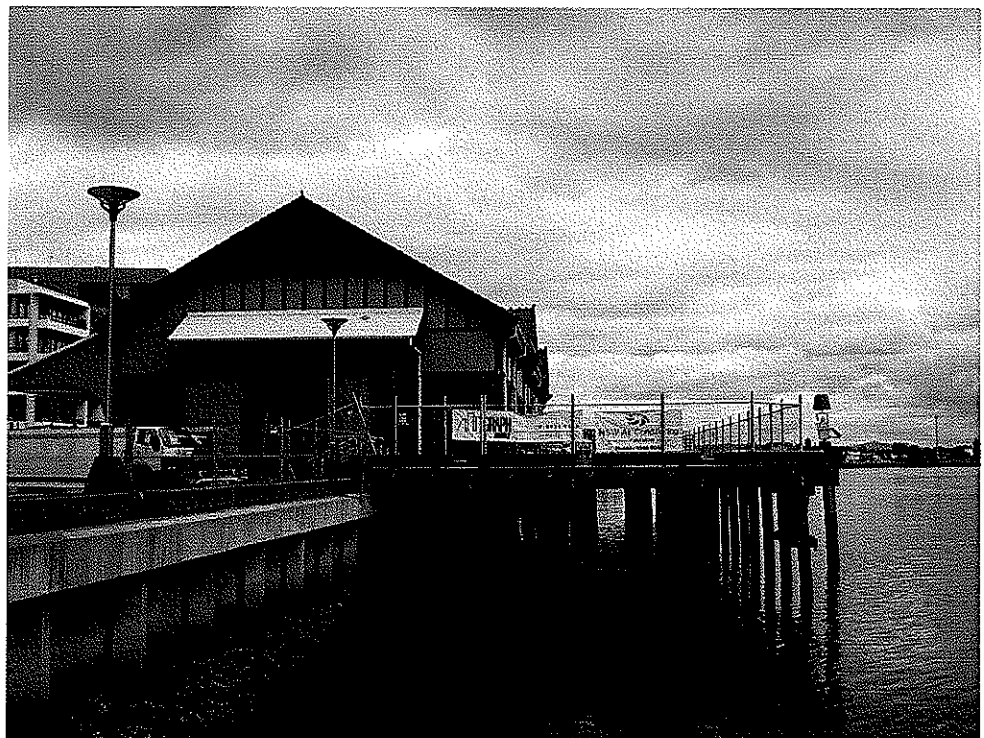
Planning

SECTION 75W MODIFICATION APPLICATION LEE WHARF BUILDING C NEWCASTLE

MP 05_0007 (MOD 2)

Modification of Minister's Approval under section 75W
of the *Environmental Planning and Assessment Act*
1979

August 2010



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1. INTRODUCTION

This is a report on an application seeking to modify project approval MP 05_0007 for the adaptive reuse of Lee Wharf Building C and Stage 3 public asset works, Newcastle.

The subject site is situated at 9 Honeysuckle Drive, Newcastle within the Newcastle Local Government Area (LGA). The subject site also forms part of the Honeysuckle Development Corporation precinct (HDC precinct), which comprises 50 hectares of land along the Newcastle Harbour directly north of Newcastle CBD. Newcastle Harbour and the steel works form the northern backdrop to the HDC precinct.

Lee Wharf Building C and the public foreshore promenade are located directly north of the approved Stage 3 Buildings A3, A4/A5 and A6. Lee Wharf Building C occupies the north-western part of Lot 1 in DP 1111305.

The site is owned by Honeysuckle Development Corporation and comprises a total area of approximately 6,923m². The site is bounded by Newcastle Harbour to the north, mixed use/residential development to the south and existing mixed use/residential development to the east and undeveloped land to the west (see Figure 1 – site location).

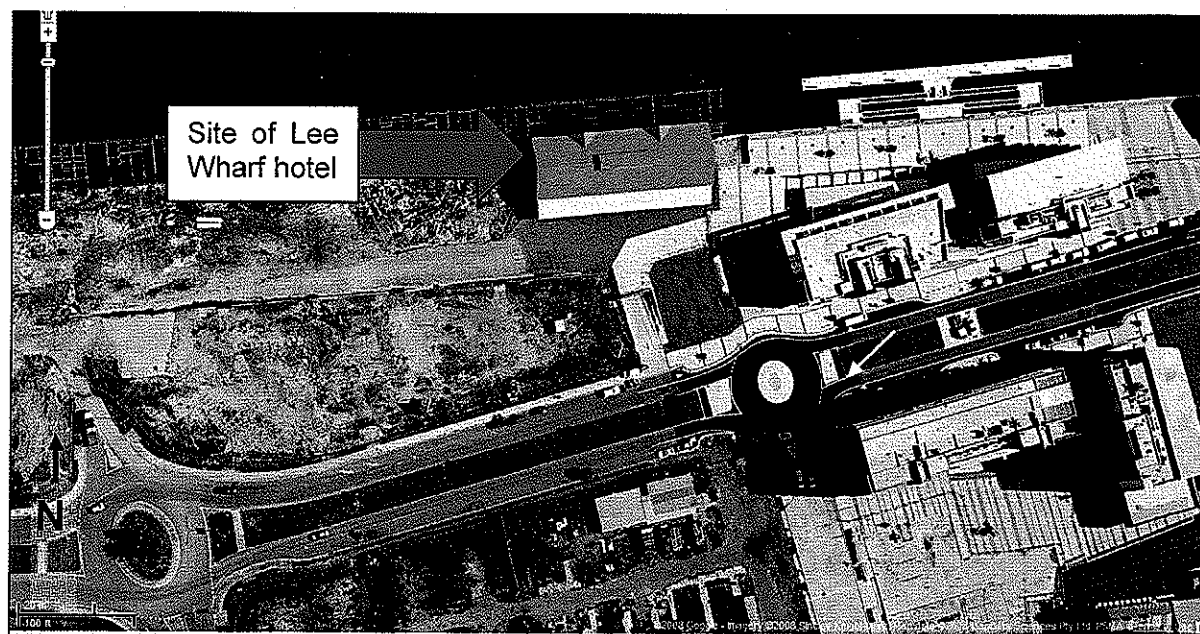


Figure 1 –Aerial view of the site and surrounding properties

2. BACKGROUND

On 9 July 2008, the Minister for Planning approved the Major Project 05_0007 for the construction of the Lee Wharf Development, in accordance with section 75J(2) of the EP&A Act.

On 20 February 2009, the Executive Director, Major Projects Assessment, acting under delegation from the Minister for Planning, approved the modification of MP 05_007 to delete condition G1 of the approval, which restricted the total number of persons in the premises to 150.

3. PROPOSED MODIFICATION

On 25 May 2010, EJE Architecture submitted an application under section 75W of the EP&A Act to modify the project approval MP 05_0007. The proposed modification seeks approval for a new shade structure erected on the northern elevation of the building. The proposed shade structure is larger in size than has been previously approved.

4. STATUTORY CONTEXT

4.1 MODIFICATION OF A MINISTER'S APPROVAL

Section 75W (2) of the EP&A Act provides that a proponent may request the Minister to modify the approval of a project. The Minister's approval is not required if the project as modified will be consistent with the original approval. As the subject modification seeks to change the terms of the Minister's determination through amending the approved shade structure, the modification requires approval.

4.2 ENVIRONMENTAL ASSESSMENT REQUIREMENTS (DGR's)

Section 75W(3) of the EP&A Act provides the Director General with scope to issue environmental assessment requirements (DGR's) that must be addressed with respect to the proposed modification. DGR's have not been issued for the modification as it is considered that its impacts are similar to the original proposal and issues relating to the modification application are adequately covered by the previous DGR's.

5. CONSULTATION

While section 75W of the EP&A Act does not require a modification application to be publicly exhibited, the application was placed on the Department's website in accordance with section 75X(2)(f) of the EP&A Act and clause 8G of the Environmental Planning and Assessment Regulation 2000.

Newcastle City Council and the Heritage Branch of the Department of Planning were notified of the proposal and invited to make submissions.

A summary of the agency issues is provided below:

Newcastle City Council

Newcastle City Council raised no objections to the proposal, however provided some comments as detailed below:

- The sail structure is separated from the building and this is desirable. Certification of the separation should be provided.
- Building is listed as having State Heritage Significance and should be referred to the Heritage Branch of the Department of Planning
- Sound walls should be verified that they will manage noise emissions.

Comment:

The approved plans illustrate the separation via a glass roof. Application was referred to the Heritage Branch. Sound walls do not form part of the application.

Heritage Branch of the Department of Planning

Initially the Heritage Branch raised concerns about the size and scale of the proposal. However, after a site inspection was undertaken by the Branch on the 28 July 2010, the application was supported, subject to a condition being imposed to prevent the enclosure of the awning.

Comment:

Agree. A condition will be imposed to ensure the awning is not enclosed.

6. CONSIDERATION OF PROPOSED MODIFICATION

Heritage

The building is listed on the State Heritage Register within the Civic Railways Group. The item is also listed as a heritage item of State significance on Newcastle City Centre LEP 2008. As previously discussed in Section 5, both Council and the Heritage Branch lodged submissions in respect of the modification request. Neither raised concerns about the proposal's impact on the heritage significance of the building.

The Department agrees with both Council and the Heritage Branch. To ensure the awning does not have an unacceptable impact on the external face of the building and does not diminish the heritage significance of the subject building, the recommendations of the Heritage Branch are supported. Accordingly, a condition will be imposed that does not permit the enclosure of the awning at any time.

Bulk and scale

The proposed awning extends across the entire northern frontage of the building. The awning will be constructed of steel within an infill of metal framed glazing and PVC shade material. The use of these materials ensures that the awning has a lightweight appearance and maintains the visibility of the building's northern elevation in its entirety.

The awning will maintain public access along the promenade and sits behind two sound walls at the western and eastern ends of the building. The proposed structure is reversible and remains open at its northern frontage, thus negating the potential bulk and scale problems that exist with other awnings in the immediate vicinity which have drop-down sides. The Department considers a condition should be imposed to ensure the interpretability of the building and sympathetic awning addition is not compromised in the future by the addition of drop-down elements, such as screen walls, plastic screens or the like. Accordingly, a condition will be imposed that does not permit these additions.

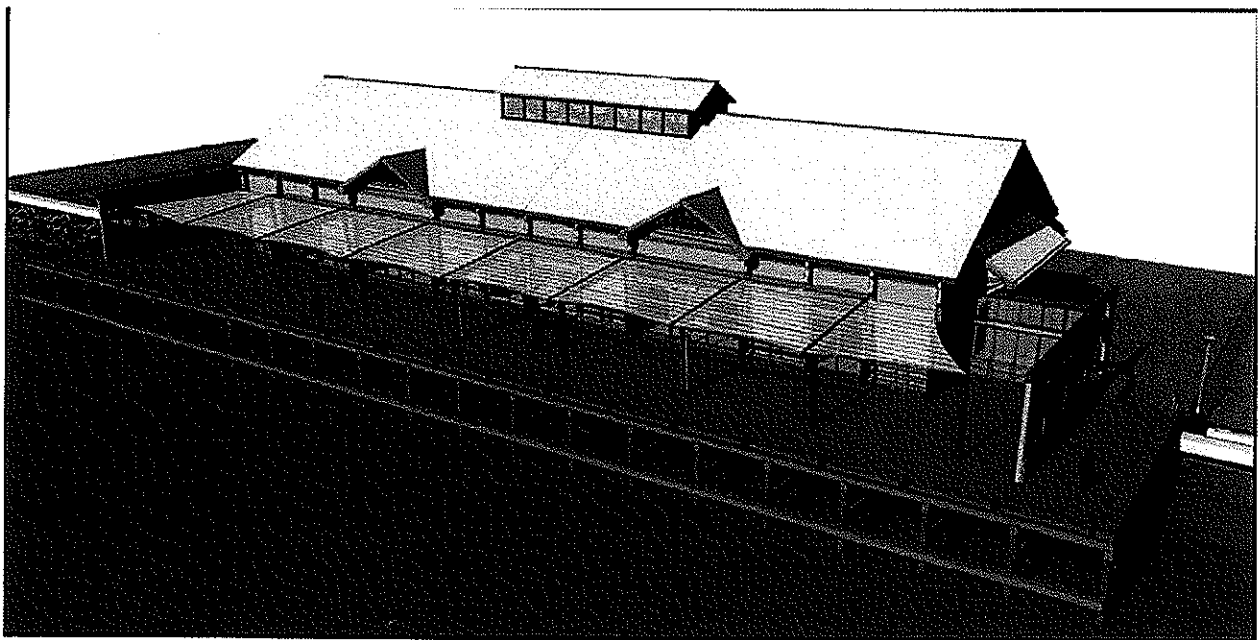


Figure 2 –View of the shade structure along the building's northern elevation

8. CONCLUSION

The Department considers that the proposed modification is acceptable as the works would not result in any heritage impacts. As such, the proposed modification application is supported, subject to conditions in the terms of approval.

9. DELEGATION


Under the Instrument of Delegation dated 25 January 2010, the Minister delegated his functions under section 75W of the EP&A Act to the Director, Government Land and Social Projects, where there are fewer than 10 public submissions in the nature of objections in respect of the modification request. As there were no public submissions, the modification application can be determined under delegation.

10. RECOMMENDATION

It is recommended that the A/Director, as delegate for the Minister for Planning:


- (a) **Consider** the findings and recommendations of this report; and
- (b) **Approve** the modification, under section 75W of the *Environmental Planning and Assessment Act 1979*; and
- (c) **Sign** the attached Instrument of Modification Approval (**TAG A**).

Endorsed by:

 10/8/10

Cameron Sargent
Team Leader
Government Land & Social Projects

Endorsed by:

 10/8/10

Daniel Cavallo
A/Director
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