

PANEL REFERENCE	PPSHCC-79 – [MA2021/00192]
LGA	Newcastle
PROPOSED DEVELOPMENT	Sec 4.55(2) modification to DA2010/1278 - Community Facility and Retail (Redevelopment of Newcastle Art Gallery) - change to floor plans, elevations and landscape including deletion of Darby Street retail premises.
ADDRESS	Lots 10, 11, 12, 13, 14 & 15, DP 1122031; Lot 1, DP 63100; Lot 1 DP 516670; and Pt Lot 18, Sec G DP 978941 [1 Laman Street, Cooks Hill]
APPLICANT	City of Newcastle (CN)
OWNER	City of Newcastle (Legally known as Newcastle City Council)
DATE OF LODGEMENT	07 May 2021
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none">• Attachment A: Amended Draft Schedule of Conditions – changes shown in red• Attachment B: Amended Draft Schedule of Conditions• Attachment C: Plans submitted with application – marked in red• Attachment D: Draft Instrument of Modification
RECOMMENDATION	Approval

Background

The subject application (MA2021/00192) was reported to the Hunter Central Coast Regional Planning Panel (HCCRPP) for determination on 17 November 2021.

This supplementary report provides further information in response to matters raised during the determination meeting and associated amendments to the recommended draft schedule of conditions.

Public Artwork

Review of the 'Council Assessment Report' identified that details of the assessment undertaken with respect to the public artwork controls of Section 6.01 Newcastle City Centre under NDCP 2012 had been omitted.

As outlined in the '*Council Assessment Report*', at the time the original development consent was granted, the development control plan applying to the site was the *Newcastle Development Control Plan 2005* ('NDCP 2005'). The NDCP 2005 has since been repealed and the relevant development control plan applying to the site is now the *Newcastle Development Control Plan 2012* ('NDCP 2012').

Specifically, Section 6.01 Newcastle City Centre of the NDCP 2012 commenced in September 2014 and introduced new controls requiring public artwork to be incorporated into significant development proposed within the Newcastle City Centre.

By way of clarification, the original development application (DA2010/1278) was lodged and determined prior to Section 6.01 Newcastle City Centre of the NDCP 2012 coming into effect and as such the provision of public artwork was not a requirement of the original development consent granted 18 April 2012.

Nevertheless, “Black Totem II”, a large Brett Whitely sculpture was installed in the Newcastle Art Gallery (NAG) forecourt on 21 October 2013 (refer to **Figure 1**, below). The 11-metre-high sculpture is a significant contribution to public art and in 2013 contributed to the regeneration of Newcastle’s cultural precinct.

For completeness, “Black Totem II” has been assessed against the relevant controls of ‘B5 public artwork’ - Section 6.01.03 of the NDCP 2012 was undertaken. “Black Totem II” is consistent with the intent of the public artwork controls of the NDCP2012, as summaries below:

- The “Black Totem II” is located outside the main entrance of NAG. The artwork has been located so it can be appreciated from streets and public spaces, specifically: Laman Street, Darby Street and Newcastle Civic Park. Refer to **Figure 2** below, which identifies the view lines towards the public artwork from surrounding public domain locations.
- The site is not a listed heritage item but is located adjacent to the “Newcastle War Memorial Cultural Centre” and is located within a heritage conservation area. Whilst, the “Black Totem II” does not interpret heritage components or interpret the former use of the site specifically, it is complementary and respectful of the surrounding heritage context.

No changes are proposed to “Black Totem II” as a result of the modified proposal and as such the modification application is considered satisfactory in this regard.



Black Totem II
Brett Whiteley

1993

cast steel, steel reinforcement bar and fibreglass

1100.0 x 45.0cm

(Source: Newcastle Art Gallery Foundation)

Figure 1: View of Black Totem II from Laman Street looking south east.



(Source: Urbis)

Figure 2: Aerial view showing view lines toward Black Totem II from adjacent streets and public places

Conditions

The following amendments to the recommended conditions have been included in the Amended Draft Schedule of Conditions (refer to 'Attachment A') to address off-site replacement tree planting and domain works, including the provision of low height planting within the Darby Street footpath.

The following amendments have been included in the Amended Draft Schedule of Conditions (refer to **Attachment A**) to address matters discussed during the HCCRPP determination briefing, including the provision of suitable low height planting within the Darby Street footpath and the location of compensatory planting.

- New Condition 1B – development consent has not been granted for street tree planting and associated works within Darby Street
- Amended Condition 3 – nominates the public domain works required to be carried out in connection with the proposed development within the road reserve adjacent the development site including; installation of low height planting within the Darby Street footpath; footpath replacement; kerb and gutter replacement; new driveway crossing; and associated drainage works.
- Amended Condition 67A – off site replacement tree planting is to be provided within a distance of 400 meters as measured from any point of the development site boundary

The plans submitted with the modification application have been marked in red in accordance with the new Condition 1B and Amended condition 3 (refer to **Attachment C**).

Instrument of modification

A recommended Draft Instrument for Modification has been prepared for inclusion by the HCCRPP in the determination (refer to **Attachment D**).

Conclusion

The above Supplementary Report, in combination with revisions to the draft conditions by the Regional Planning Panel and the City of Newcastle, comprehensively addresses the concerns and issues arising from the determination meeting. It is considered that the proposal could be supported on the combined basis of the 'Council Assessment Report' and this Supplementary Report subject to the Amended Draft Schedule of Conditions (refer to **Attachment A**).