

## RECORD OF DEFERRAL

HUNTER & CENTRAL COAST REGIONAL PLANNING PANEL

|                                 |                                                                                           |
|---------------------------------|-------------------------------------------------------------------------------------------|
| <b>DATE OF DEFERRAL</b>         | 8 August 2023                                                                             |
| <b>PANEL MEMBERS</b>            | Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John Mackenzie |
| <b>APOLOGIES</b>                | None                                                                                      |
| <b>DECLARATIONS OF INTEREST</b> | None                                                                                      |

Papers circulated electronically on 21 July 2023.

### MATTER DEFERRED

PPSHCC-159 – Newcastle – DA2022/01316 at 711 Hunter St, Newcastle West – Stage 1 of a 26 storey mixed-use development (as described in Schedule 1).

This is one (1) of two (2) separate development applications being considered concurrently on the site known as 711 Hunter Street, Newcastle West. The Panel has had the benefit of a number of briefings on this matter from the applicant and Council.

A detailed assessment report has been prepared which the Panel has considered. The applicant also provided the Panel with a submission regarding a number of the proposed conditions of consent. The Panel also considered the comments and advice from the Urban Design Review Panel.

The Panel acknowledge that the proposal has been the subject of a design competition and review by the Urban Design Review Panel. The Panel also notes that the application seeks additional floorspace permitted above that permitted by clause 7.5 (6) Design Excellence. A clause 4.6 written request to FSR and Building separation accompanies the application. The Panel notes that it must be satisfied that the development exhibits design excellence having regard to the matters at 7.5 (3) (a) to (d).

The Panel's consideration of the proposed development has identified the following issues:

- (i) Calculations of GFA on architectural plans do not appear to be in accordance with the definition of GFA under NLEP 2012.
- (ii) There is a difference between the GFA calculation in the clause 4.6 written request and the GFA numbers on the architectural plans. The written request also refers to a variation of 10% which is not factually correct.
- (iii) The clause 4.6 FSR written request needs to identify the actual square metre variation to FSR for each of the developments, identify environmental planning grounds specific to the breach for each development, and if including references to the zone and zone objectives, update to correct zones and objectives.
- (iv) The clause 4.6 separation written request needs to ensure calculations are accurate and identify source.

- (v) General compliance with ADG amenity controls, specifically solar access, cross ventilation, south facing units, minimum room/apartment/balcony sizes as outlined in the Council report. These figures need to be clarified as they represent in some cases substantial variation from ADG benchmarks. The Panel questions how the building could exhibit design excellence if these figures are correct. The Panel notes that the applicant does not agree with the figures documented in the report.
- (vi) Podium landscape outcomes need to be reviewed and designed to the satisfaction of the Urban Design Review Panel to ensure the design integrity of the competition and review process.
- (vii) Material for carpark screens and lighting solutions to minimise light spill need to be finalised to the satisfaction of the Urban Design Review Panel to address both potential amenity impacts and ensure design integrity of the competition and review process.
- (viii) Capacity of lifts to service the development. The applicant indicated that there has been additional detail provided.

The Panel does not support the inclusion of deferred commencement conditions in regard to landscape outcomes, carparking material and light spill, and capacity of the lift as it considers that these matters are an integral part of the consideration of design excellence. It is noted that design excellence is one of the grounds relied on in the clause 4.6 written requests.

The Panel determined that the application should be deferred for the following:

- (i) Accurate GFA calculations in accordance with the definition of GFA under NLEP 2012.
- (ii) Analysis of compliance with the ADG and clear statement as to where differences in assessment have occurred, and in the event that there are significant breaches, justification for the degree of variation or amended plans to improve compliance.
- (iii) Revised clause 4.6 written requests that include correct calculations, detail the breaches, and provided arguments specific to the breach, addressing the requirements of clause 4.6 (3) (a) and (b).
- (iv) Revised landscaping proposal for the podium that address the outcomes anticipated by the winning scheme and avoids the use of artificial turf.
- (v) Amended plans and details relating to carpark façade and lighting including material finishes.
- (vi) Documentation detailing the capacity of the lifts to service the development.
- (vii) Arrangements for shelter in place.

On receipt of the additional documents, the matter is to be referred to the Urban Design Review Panel for advice including commentary regarding ADG compliance.

Council will need to prepare a supplementary report to specifically address the additional material, clause 4.6 (including 4.6 (5)), clause 7.5 (3), and any revised conditions including/ensuring that reciprocal rights of access have been addressed.

#### **REASONS FOR DEFERRAL**

The Panel agreed to defer the determination of the matter for the information outlined at (i) to (vii) above.

The Panel expects the revised information as referred to above be submitted to Council within four (4) weeks from the date of this deferral record.

The amended package and information regarding podium landscape outcomes, carpark external screening and lighting solutions, lift capacity, and ADG compliance is to be referred to the Urban Design Review Panel for comment.

The Panel expects an addendum assessment report from Council responding to the material and the matters raised above. The Panel will determine the matter electronically.

The decision to defer the matter was unanimous.

| PANEL MEMBERS                                                                                              |                                                                                                      |
|------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| <br>Alison McCabe (Chair) | <br>Roberta Ryan   |
| <br>Tony McNamara         | <br>John Mackenzie |
| <br>Peta Winney-Baartz  |                                                                                                      |

| SCHEDULE 1 |                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------|-------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1          | PANEL REF – LGA – DA NO.                              | PPSHCC-159 – Newcastle – DA2022/01316                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2          | PROPOSED DEVELOPMENT                                  | DA2022-01316 - Stage 1 involving demolition of existing structures and the erection of a mixed use development proposing 136 apartments, retail premises and associated parking, landscaping, services and associated two lot subdivision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 3          | STREET ADDRESS                                        | Lot 1 DP 867617 - 711 Hunter Street Newcastle West                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 4          | APPLICANT OWNER                                       | Urbis Pty Ltd<br>Hunter Street JV CO Pty Ltd                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 5          | TYPE OF REGIONAL DEVELOPMENT                          | General development over \$30 million                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 6          | RELEVANT MANDATORY CONSIDERATIONS                     | <ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Newcastle Local Environmental Plan 2012;</li> </ul> </li> <li>Draft environmental planning instruments:</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Newcastle Development Control Plan 2012</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul> |
| 7          | MATERIAL CONSIDERED BY THE PANEL                      | <ul style="list-style-type: none"> <li>Council assessment report: 20 July 2023</li> <li>Cl4.4 – Floor Space Ratio NLEP 2012</li> <li>Cl7.4 – Building Separation NLEP 2012</li> <li>Written submissions during public exhibition: three (3)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 8          | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> <li>Kick-off Briefing: 21 February 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Peta Winney-Baartz and John Mackenzie</li> <li><u>Applicant representatives</u>: Luke McNamara, Justyn Ng, Naomi Ryan, Andrew Harvey, Kirraly Northey, Rido Pin, Hong Nguyen, Mark Kuhne, Jojo Navarro, Sam Shepherd and John Carr</li> <li><u>Council assessment staff</u>: Damian Jaeger and Amy Ryan</li> <li><u>Department staff</u>: Leanne Harris and Lisa Foley</li> </ul> </li> <li>Briefing: 21 June 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John Mackenzie</li> <li><u>Council assessment staff</u>: Damian Jaeger, Amy Ryan and Priscilla Emmett</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

|    |                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|----|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    |                        | <ul style="list-style-type: none"> <li>o <u>Department staff</u>: Leanne Harris</li> <li>o <u>Applicant representatives</u>: Luke McNamara, Justyn Ng, Andrew Harvey, Kirraly Northey, Rido Pin, Hong Nguyen, Sam Shepherd and John Carr</li> </ul> <ul style="list-style-type: none"> <li>• Site inspection: <ul style="list-style-type: none"> <li>o <u>Alison McCabe (Chair)</u>: 13 January 2023</li> <li>o <u>Tony McNamara</u>: 21 June 2023</li> <li>o <u>Roberta Ryan</u>: 26 July 2023</li> <li>o <u>Peta Winney-Baartz</u>: 14 June 2023</li> <li>o <u>John Mackenzie</u>: 20 June 2023</li> </ul> </li> <li>• Final briefing to discuss Council's recommendation: 27 July 2023 <ul style="list-style-type: none"> <li>o <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John Mackenzie</li> <li>o <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan, Robert Manev, Rajnesh Prakash and David Ryner</li> <li>o <u>Department staff</u>: Tim Mahoney, Lisa Foley and Barbara Gilbert</li> </ul> </li> <li>• Applicant Briefing: 27 July 2023 <ul style="list-style-type: none"> <li>o <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John Mackenzie</li> <li>o <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan, Robert Manev, Rajnesh Prakash and David Ryner</li> <li>o <u>Department staff</u>: Tim Mahoney, Lisa Foley and Barbara Gilbert</li> <li>o <u>Applicant representatives</u>: Luke McNamara, Justyn Ng, Andrew Harvey, Naomi Ryan, Rebecca Elliot, Rido Pin, Hong Nguyen, Mark Kuhne, John Carr and Sam Shepherd</li> </ul> </li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p> |
| 9  | COUNCIL RECOMMENDATION | Approval                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 10 | DRAFT CONDITIONS       | Attached to the Council assessment report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |