

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	2 September 2024
DATE OF PANEL DECISION	2 September 2024
DATE OF PANEL MEETING	19 August 2024
PANEL MEMBERS	Roberta Ryan (Chair), Stephen O'Connor, John Mackenzie, Peta Winney-Baartz
APOLOGIES	Tony McNamara
DECLARATIONS OF INTEREST	Alison McCabe – Declared a potential perceived conflict of interest due to work undertaken by SJB on this site.

Public meeting held by teleconference on 19 August 2024, opened at 2:30pm and closed at 3.30pm.

MATTER DETERMINED

PPSHCC-296 – Newcastle – MA2022/00433 - 185 Hunter Street, Newcastle 2300 - Sec 4.55 (2) Modification Application to amend hours of use for rooftop terrace (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel considered the modification application at a public meeting on the 19th August 2024. Following this meeting and in the Panel's deliberation of the matter additional consideration and information was sought with respect to:

- Inconsistencies in the assessment report which were raised during the public meeting.
- Clarification of the acoustic assessment and comments made by submitters.
- Clarification of total patron numbers and smoking arrangements.

In response, Council provided a supplementary report and revised conditions which were received and published on the NSW Planning Portal 27 August 2024. This supplementary report provides clarification of the matters raised with and by the Panel during the meeting of the 19th August 2024.

The supplementary report also includes additional and further amended conditions

The proposed development is considered to be substantially the same development when considered against the original approval. The Panel considered that the application could be approved on a trial basis as recommended by the Council.

Modification application

The Panel determined to approve the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the council's assessment and supplementary reports and for the following reasons:

1. The Panel considers that the concerns raised by the community have been adequately addressed in the assessment and the supplementary reports.
2. The approval is subject to a 12-month trial period.
3. Key issues are addressed in the Conditions of Consent.
4. The revised Plan of Management and public access to the complaints register provide a basis from which to assess any impacts following the 12-month trial period.
5. The proposed hours during the 12 – month trial period are consistent with the adopted Newcastle After Dark Strategy which aims to foster the night time economy.

CONDITIONS

The Panel in its deliberations required further amendments to the recommended conditions of consent to address:

- Details surrounding the trial period
- Acoustic monitoring
- A complaints register being publicly available
- Amendments to the required Plan of Management.
- Details surrounding the operation of the awning on the outdoor terrace.




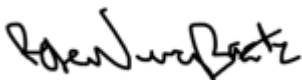
The modification application was approved subject to the modification of conditions in Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered all written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Noise impacts, acoustic report inaccuracies
- Change from original residential uses – submitters pre-dated these changes
- Lack of sleep study, echo study,
- Don't support a trial as recommended
- Not substantially the same development
- Substantial noise impact
- Inaccuracies in assessment
- Proposed mitigation measures not adequate
- Existing noise impacts without the extended trading hours
- Antisocial behaviour

The Panel considers that concerns raised by the community have been adequately addressed in the assessment and supplementary reports

PANEL MEMBERS	
 Roberta Ryan (Acting Chair)	 Stephen O'Connor
 John Mackenzie	 Peta Winney-Baartz

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-296 – Newcastle – MA2022/00433
2	PROPOSED DEVELOPMENT	Modification to DA2019/01150 to amend condition 76 to allow use of the outdoor terrace (associated with the rooftop bar) between 10.00pm and 12.00 midnight, Monday to Saturday.
3	STREET ADDRESS	185 Hunter Street, Newcastle 2300
4	APPLICANT/OWNER	Urbis Pty Ltd East End Stage 1 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021 Newcastle Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Part 5, Divisions 1, 2 and 3. Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 12 August 2024 List any council memo or supplementary report received: 27 August 2024 Written submissions during public exhibition: 39 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Micah Jenkins, Phil Dibben, Paris Stowell, Peter Zygodlo, Tony Geran, Carol Geran, Doug Fryer On behalf of the applicant –Naomi Ryan, Luke Barbeler; Michael Stamboulidis, Warwick Bowyer, Peipei Feng Total number of unique submissions received by way of objection: 39
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 18 June 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Roberta Ryan (Acting Chair), Stephen O'Connor, John Mackenzie, Peta Winney-Baartz <u>Council assessment staff</u>: William Toose, Amy Ryan <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> - Roberta Ryan: 10 August 2024 - John Mackenzie: 16 August 2024 - Peta Winney-Baartz :12 August 2024 - Stephen O'Connor: 5 August 2024 Final briefing to discuss council's recommendation: 19 August 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Roberta Ryan (Acting Chair), Stephen O'Connor, John Mackenzie, Peta Winney-Baartz <u>Council assessment staff</u>: William Toose, Holly Hutchens

		○ <u>Department:</u> Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment and supplementary reports