

RECORD OF DEFERRAL

HUNTER & CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DEFERRAL	28 May 2025
DATE OF PANEL BRIEFING	21 May 2025
PANEL MEMBERS	Alison McCabe (Chair), Stephen Leathley, Cr Dr Elizabeth Adamczyk
APOLOGIES	Roberta Ryan, Tony McNamara, Cr Charlotte McCabe
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 13 May 2025.

MATTER DETERMINED

PPSHCC-335 – MA2024/00381 – Sec 4.55 (2) Modification to DA2019/01169 - 124 – 126 Bull Street, Newcastle West 2302 (as described in Schedule 1).

REASONS FOR DEFERRAL

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

The Panel has had the benefit of several briefings from Council and the applicant. This is the second s4.55 modification relating to the development.

Council prepared a report recommending approval of the application and was satisfied on the merit of the proposal and was satisfied that the development was substantially the same development when considered against the original approval.

A supplementary report was subsequently prepared, which identified a significant inaccuracy in the solar access analysis as it related to the original approval, first modification and the current proposal.

The original approval and first modification were determined on the basis that approximately 70% of apartments received a minimum of two (2) hours of solar access in accordance with the ADG requirements. The original and modified approval was considered to exhibit design excellence.

However, what has come to light is that the analysis, and what was reported in the three (3) reports, was based on incorrect solar coordinates inputted into the model used to generate solar access diagrams.

The actual percentage of apartments achieving a full two (2) hours of sunlight is 35% for the original approval and first modification, and 32% for the current proposal.

The Panel requires a detailed analysis of the proposal against the development as originally approved. It also wants to understand, in detail, the differences between the Council numbers quoted in the supplementary report and the applicant's analysis.

The Panel also wants documented, for the record, how the mistakes occurred, the chronology of actions taken that culminated in the supplementary report. The Panel understands that there is a reduction in solar access between the original approval and first modification, and what is now being proposed, and wants to understand why this is occurring.

The Panel understands that the balconies, under the current modification, meet ADG requirements and that it is the living rooms that achieve either 1.5 hours or 1.45 hours of sunlight – not 2 hours.

This is a development that is on a relatively unconstrained corner site, that has limited development scale proximate to it.

The Panel wants documented all measures taken to achieve closer compliance with the ADG. To this end, the Panel requires:

- (i) A comprehensive analysis and comparison of the accurate solar access achieved by the original approval, first modification, and current modification.
- (ii) Demonstrate that the calculation of solar access percentage is based on a “minimum of 1 sqm of direct sunlight, measured at 1m above the floor level, achieved for at least 15 minutes”
- (iii) Clarifies the discrepancies between Council calculations and the applicants
- (iv) Documents how the mistakes came to be, the chronology, and actions taken.




The Panel agreed to defer the matter for the information to be provided, and a supplementary report prepared addressing the points (i) to (iv).

The decision to defer the matter was unanimous.

ACTIONS

The Panel deferred the determination of the modification application for:

1. The Applicant to provide the information at points (i) to (iv) and upload all documentation to the Planning Portal.
2. Council to provide an addendum assessment report responding to the matters above, which is to be uploaded to the Planning Portal.
3. When the updated assessment report is received the Panel will determine the application by way of electronic determination.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Stephen Leathley
 Elizabeth Adamczyk	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-335 – Newcastle - MA2024/00381
2	PROPOSED DEVELOPMENT	Modification Application - Sec 4.55 (2) Modification to DA2019/01169
3	STREET ADDRESS	124 – 126 Bull Street, Newcastle West 2302
4	APPLICANT/OWNER	GWH King Street Pty Ltd Western Suburbs (Newcastle) Leagues Club Limited
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 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 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 Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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 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 May 2025 Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Initial Briefing: 18 December 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Elizabeth Adamczyk, Charlotte McCabe <u>Council assessment staff</u>: Eliza Arnott, Brian Gibson, Amy Ryan <u>Applicant representatives</u>: Rob Bisley, David Gunter, Rob Miriams, Sam Coles <u>Department</u>: Leanne Harris, Holly McCann Site inspection: <ul style="list-style-type: none"> Alison McCabe: 27 December 2024 Elizabeth Adamczyk: 20 December 2024, Stephen Leathley: 15 May 2025 Final briefing to discuss the council's recommendation: 19 May 2025 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Stephen Leathley, Elizabeth Adamczyk, <u>Council assessment staff</u>: Eliza Arnott, Brian Gibson, Elle Durrant, Philip Pollard, Rajnesh Prakash

		<ul style="list-style-type: none">○ <u>Applicant representatives:</u> Rob Bisley, David Gunter, Rob Miriams, Sam Coles, Brent Alexander○ <u>Department:</u> Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report