

Date of Determination	14 October 2021
Panel Members	Steve O'Connor (Chair) Jennifer Bautovich (Independent Expert) Graham Brown (Independent Expert) Bec Ho (Community Representative)
Apologies	NIL
Declarations of Interest	NIL

Public meeting held remotely via teleconference on 14 October 2021 opened at 5:00pm and closed at 5:47pm.

Papers circulated electronically on 1 October 2020.

MATTER DETERMINED

LDA2020/0435

120-122 Bowden Street, Meadowbank

Proposal: Establishment of use and fitout to a licensed restaurant and café.

The following people addressed the meeting:

1. Hugh Kim (objector)
2. Douglas Marr (objector)
3. Giovanni Navarra spoke on behalf of Sal Navarra who registered (objectors)

PANEL CONSIDERATIONS 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 listed at item 8 in Schedule 1.

DEVELOPMENT APPLICATION

The Panel determined to **approve** the development application as described in Schedule 1, pursuant to Section 4.16 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 following reasons:

1. The proposal is consistent with the objectives of the B4 Mixed Use zone and will contribute to the variety of uses in the surrounding mixed-use area.
2. The proposal will not result in any unacceptable impact on adjoining properties. Appropriate operational measures have been detailed by the applicant and conditioned by Council to ensure the use of the site will be of minimal environmental impact.
3. Issues raised in the submission received in response to this application have been considered and addressed in the report. None of the issues raised warrant the refusal of the subject DA.
4. The proposal has addressed the constraints of the site, and it is considered the proposal is suitable for the site.
5. The proposal is not contrary to the public interest.
6. The Panel considered it appropriate to reduce the operating hours on Monday to Wednesday and Sunday (Condition 41) and seek a validation report on the applicant's noise predictions (Condition 59(a)) to ensure the impacts on the nearby residential amenity is minimised.

The Panel adopts the recommendation and reasons for approval as outlined in the Assessment Officer's report with the amendments shown below.

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the amendment of **condition 41** and the addition of **condition 59(a)** as follows:

41. Hours of operation. The hours of operation are to be restricted to:

- 6am to 9pm (Monday-Wednesday)
- 6am to 10pm (Thursday-Friday)
- 7am to 10pm (Saturday)
- 7am to 9pm (Sunday)



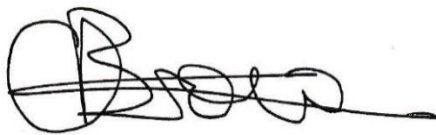

59(a) Acoustic Validation Report. Council will commission the preparation of an acoustic validation report, to be prepared within the first six months of the commencement of operations, at a time when there is maximum capacity at the restaurant/kiosk, to confirm the conclusions in the Noise Impact Report prepared by Rodney Stevens Acoustics, dated 14 July 2021. Council will commission the report and be fully reimbursed by the applicant for the cost of the Validation Report. Council may require amendments to the operation of the restaurant/kiosk to satisfy the noise requirements in the Rodney Stevens Acoustics Report if the Validation Report does not confirm the conclusions in this report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel.

The Panel noted the proximity of the site to residential properties and the comments made by objectors who spoke at the Panel meeting. The Panel considered that reduced hours were appropriate during parts of the week and that the conclusions in the applicant's acoustic report should be fully tested once the facilities became operational.

The Panel considers that the concerns raised by the community have been adequately addressed in the assessment report and with the additional conditions imposed by the Panel.

PANEL MEMBERS	
Steve O'Connor (Chair)	
Jennifer Bautovich	
Graham Brown	
Bec Ho	

SCHEDULE 1		
1	DA No.	LDA2020/0435
2	Proposal	Establishment of use and fitout to a licensed restaurant and café.
3	Street Address	120-122 Bowden Street, Meadowbank
4	Applicant / Owner	Xs Espresso Mb Pty Ltd / AIT Investment Group Pty Ltd
5	Reason for referral to RLPP	Contentious Development – development which receiving more than 10 submissions objecting to the development
6	Relevant mandatory considerations	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 - Remediation of Land (SEPP55) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 State Environmental Planning Policy (Infrastructure) 2007 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Ryde Local Environmental Plan 2014 Draft environmental planning instruments: <ul style="list-style-type: none"> Draft Remediation of Land State Environmental Planning Policy Draft Environment State Environmental Planning Policy Development control plans: <ul style="list-style-type: none"> Ryde Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clauses 93 and 94 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 Written submissions during public exhibition: 72 Verbal submissions at the public meeting: <ul style="list-style-type: none"> In support - Nil In objection - Hugh Kim, Douglas Marr, Giovanni Navarra Council assessment officer - Nil On behalf of the applicant - Nil Bernard Lee (objector) initially registered to speak but withdrew his request and sent a note for the Panel's consideration instead.

8	Meetings, briefings and site inspections by the Panel	<ul style="list-style-type: none"> • Site inspection: At the discretion of Panel members due to COVID-19 restrictions • Briefing: 14 October 2021 <p>Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Steve O'Connor (Chair), Jennifer Bautovich, Graham Brown, Bec Ho ○ <u>Council assessment staff</u>: Sandra Bailey, Madeline Thomas, Daniel Pearse <ul style="list-style-type: none"> • Papers were circulated electronically on 1 October 2021
9	Council Recommendation	Approval
10	Draft Conditions	Attachment 1 of assessment report