

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC-153 – DA 16-2022-834-1
PROPOSAL	Mixed use development comprising 8 storey office premises with 3 ground floor neighborhood shops, café and restaurant premises and boundary adjustment between proposed lot 106 and 107 of DA 16-2009-324
ADDRESS	Proposed Lots 106 and 107 of DA 16-2009-324 within LOT: 11 DP: 1036501
APPLICANT	BARR Property and Planning Pty Ltd
OWNER	Commonwealth Government – Department of Defence leased by Greater Newcastle Aerotropolis Pty Limited
DA LODGEMENT DATE	25 October 2022
APPLICATION TYPE	Regionally Significant Development
REGIONALLY SIGNIFICANT CRITERIA	Clause 3(d), Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: Council related development over \$5 million
CIV	\$29,068,761 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
KEY SEPP/LEP	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> <i>State Environmental Planning Policy (Industry and Employment) 2021</i> <i>State Environmental Planning Policy (Precincts - Regional) 2021</i> <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> <i>State Environmental Planning Policy (Planning Systems) 2021</i> <i>Port Stephens Local Environmental Plan 2013</i>
TOTAL & UNIQUE SUBMISSIONS ISSUES SUBMISSIONS	Nil
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Attachment 1: Recommended Conditions of Consent • Attachment 2: Architectural Plans • Attachment 3: Civil Engineering Plan • Attachment 4: Landscape plan • Attachment 5: Preliminary Site Investigation

	<ul style="list-style-type: none"> • Attachment 6: Validation Report • Attachment 7: Visual Impact Assessment • Attachment 8: Wind Shear Assessment • Attachment 9: Lighting Advice • Attachment 10: Northrop Bird Strike Response • Attachment 11: Acoustic report • Attachment 12: Access report • Attachment 13: Cost estimate report • Attachment 14: Draft 88b Instrument • Attachment 15: Draft Deposited Plan • Attachment 16: ASSMP • Attachment 17: Bushfire report • Attachment 18: Geotechnical report • Attachment 19: Statement of environmental effects • Attachment 20: Traffic report • Attachment 21: Waste Management Plan • Attachment 22: Letter Response to RPP Briefing • Attachment 23: Public Art Strategy
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)	N/A
RECOMMENDATION	Approval with conditions
DRAFT CONDITIONS TO APPLICANT	Yes
SCHEDULED MEETING DATE	8 August 2023
PLAN VERSION	26 May 2023 Revision C
PREPARED BY	Dylan Mitchell – Principal Development Planner
DATE OF REPORT	8 September 2022

EXECUTIVE SUMMARY

The development application (DA) seeks consent for a commercial development comprising 8 storey office premises with ground floor retail and food and drink premises.

The proposed commercial building includes the following key elements:

- Eight (8) storeys including ground level retail and food and drink premises, one (1) floor of parking, five (5) floors of office space and one (1) floor comprising rooftop mechanical plant rooms, lift and stairway access and rooftop terrace;
- 17 on site car parking spaces including one (1) accessible parking space and storage racks for 25 bicycles;
- 120 offsite car parking spaces in a communal car park approved under a separate DA;
- 10m wide shared driveway access between Lot 104, 105, 106 and 107;
- Kitchenette and toilet amenities for each office level;
- Dual lift and stair access;
- Rooftop solar panels;
- End of trip facilities, including showers;
- Ground floor loading dock and waste storage area;
- Landscaping, including amenity and shade plantings;

- Office fit-out subject to future approval; and
- Operational hours of 7am – 6pm Monday to Friday.

A boundary adjustment is proposed between proposed Lot 106 and 107 to allow for the building to be contained wholly within one site. Once the boundary adjustment has occurred, the proposed building would be wholly located within Lot 106. The boundary adjustment involves moving the shared boundary between Lot 106 and 107, 3.5m eastward and results in the loss of 70m² from Lot 107 to be added to Lot 106.

The development is proposed to take place at 38 Cabbage Tree Road, Williamstown, legally identified as LOT: 11 DP: 1036501 (See **Figure 1** below). 38 Cabbage Tree Road is located to the south west of Newcastle Airport and the Royal Australia Air Force (RAAF) Base Williamstown. Development has recently commenced on the land for the purposes of a Defence and aerospace business park, comprising 101 lots known as the 'Astra Aerolab' (DA 16-2009-324-3). The proposed development is only the second proposal submitted to Council for development within Stage 1 of the Astra Aerolab. A common car park, which the proposed development relies on to satisfy its car parking demand, along with other development within Stage 1 of the Astra Aerolab was recently approved by Council and is located approximately 180m from the site.

Specifically, the development is proposed on Lot 106 and 107 within Stage 1 of DA 16-2009-324, which will herein be referred to as 'the site'. The sites topography is flat and entirely cleared of vegetation as a result of the recent subdivision works approved under DA 16-2009-324. Lot 106 is 1,822m² and Lot 107 is 2,125m². The site area of Lot 106 following the proposed boundary adjustment would be 1,892m². Lot 106 is a corner lot, with frontage of approximately 50 metres to Aerospace Avenue to the south and frontage of approximately 45 metres to Jeffries Circuit to the west. Lot 107 has frontage of approximately 40 metres to Aerospace Avenue. Aerospace Avenue is the main carriageway through the Astra Aerolab. The site is located approximately 980m from the centre line of the RAAF Base Williamstown/Newcastle Airport runway and as a result is affected by several Defence/airport related site constraints.

The broader Astra Aerolab business park, within which the site is located, is zoned B7 – Business Park. Land to the north, including the Newcastle Airport and Williamstown RAAF Base are zoned for various SP2 – Infrastructure purposes including Defence, Air Transport Facility and Public Utility Undertaking. Land to the east, south and west of the site primarily consists of rural land and is zoned RU2 Rural Landscape. A number of smaller lots exist to the north east, accessed off Williamstown Drive and include various commercial uses related to the airport and a 95 room Mercure Hotel.

The site is located within the draft Williamstown Special Activation Precinct (SAP) which is to be implemented under *State Environmental Planning Policy (Precincts-Regional) 2021* (Precincts Regional SEPP). The SAP seeks to capitalise on the emerging aerospace industry and become a leading defence and aerospace precinct.

The proposed development consists of the office premises, restaurant/café and neighbourhood shop land uses, all of which are permissible with consent in the B7 – Business Park zone.

The planning controls relevant to the proposal are Chapter C2 – Commercial of the Port Stephens Development Control Plan 2014 (the DCP) and the site specific controls within Chapter D15 of the DCP. The site is not subject to a maximum building height or floor to space ratio standard under the Port Stephens Local Environmental Plan 2013 (the LEP). Built form controls exist within the Draft Williamstown SAP Masterplan.

There were no concurrence requirements from agencies for the proposal and the application is not integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). Referral agency consultation was undertaken with the Department of Defence (Defence), Civil Aviation Safety Authority (CASA), Hunter Water Corporation, Ausgrid, the Environment Protection Authority (EPA) and the Regional Growth Development Corporation (RGDC), who are the lead authority responsible for delivering the SAP.

Jurisdictional prerequisites to the grant of consent imposed by the following controls have been satisfied including:

- Section 4.6 of the Resilience and Hazards SEPP for consideration of whether the land is contaminated;
- Section 2.48(2) of the Transport and Infrastructure SEPP in relation to an electricity distribution pole.
- Clause 7.2 of the Port Stephens Local Environmental Plan 2013 which requires the preparation of an acid sulfate soils management plan to be provided to the consent authority.

The proposal was exhibited for a period of 14 days from 15 November 2022 – 29 November 2022 in accordance with the EP&A Act, EP&A Regulations and the Port Stephens Community Participation Plan. No submissions were received during this time.

The application is referred to the Hunter and Central Coast Regional Planning Panel (HCCRPP) as the proposal is regionally significant development pursuant to Section 2.19(1) as it satisfies the criteria in Clause 3(d) of Schedule 6 of the Planning Systems SEPP as the proposal is a development for which Council is a party to an agreement or arrangement relating to the development, which has a capital investment value (CIV) of over \$5m. The nature of the arrangement is that Port Stephens Council is part owner of the Newcastle Airport Pty Ltd.

A briefing was held with the Panel on 11 July 2021 where key issues were discussed, including the following:

1. *Building Height* - The site does not have a maximum building height specified. Therefore, the proposed height has been assessed taking into consideration visual and amenity impacts, compatibility with the character of the area and potential impacts to the operations of the Newcastle Airport and the Williamtown RAAF base.

The presence of an office building is in contrast to the existing rural landscape, however, the visual impact is subdued by the tree canopy which leaves only the top of the building visible. However, the findings of the Visual Impact Assessment (VIA) and support provided by Council's UDP confirms the proposal would not result in any unacceptable visual impacts including views from rural land. The proposal is consistent with the built form provisions of the draft Williamtown SAP Masterplan and referral comments from Defence and the Civil Aviation Safety Authority, confirm the proposal would not impact Defence/Air transport operations.

2. *Urban Design* – The application was reviewed by Council's Urban Design Panel (UDP) prior to the lodgement of the application on 13 October 2022. The UDP supported the proposal subject to minor amendments recommended throughout the meeting. The proposal was considered by the UDP to offer a very positive

development for the precinct. The development has since been amended to conform with the comments made by the UDP.

The proposal is consistent with the future built form and landscape aims and performance criteria within Section 5.1 and bulk and scale aims within Section 5.2 of the Williamstown SAP Draft Master Plan.

3. *Car Parking* - The proposed development includes on-site car parking for 17 vehicles. The proposed development generates a demand of 133 car spaces based on the DCP requirements. As a result, the development would have a shortfall of 116 spaces, in accordance with the DCP. To address the shortfall in car parking, the proposal includes the use of 120 spaces within a common car parking area to be located to the north east of the site within the residual Astra Aerolab lot (Lot 115 of DP 129 5775). The common car park has been approved but is not yet constructed.
4. *Impacts to Defence Operations and Newcastle Airport* - The site is located in proximity to RAAF Base Williamstown and Newcastle Airport and therefore an assessment of the proposed developments impact on the operations of these facilities has been undertaken. Based on the findings of the acoustic, wind shear and lighting assessments submitted with the application and Defence referral advice, the proposed development would not cause any adverse impact to the operations of RAAF Base Williamstown or the Newcastle Airport.

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(a) of the *EP&A Act*, DA 16-2022-834-1 is recommended for approval subject to the reasons contained at **Attachment A** of this report.

1. THE SITE AND LOCALITY

1.1 The Site

The development is proposed to take place at 38 Cabbage Tree Road, Williamstown, legally identified as LOT: 11 DP: 1036501 (See **Figure 1** below). 38 Cabbage Tree Road is located to the south west of Newcastle Airport and the Royal Australia Air Force (RAAF) Base Williamstown. Development has recently commenced on the land for the purposes of a Defence and aerospace business park, comprising 101 lots known as the 'Astra Aerolab' (DA 16-2009-324-3), as shown in **Figure 2** below.

Specifically, the development is proposed on Lot 106 and 107 within Stage 1 of DA 16-2009-324, which will herein be referred to as 'the site'. The sites topography is flat and entirely cleared of vegetation as a result of the recent subdivision works.

Lot 106 is 1,822m² and Lot 107 is 2,125m². The site area of Lot 106 following a proposed boundary adjustment would be 1,892m². Lot 106 is a corner lot, with frontage of approximately 50 metres to Aerospace Avenue to the south and frontage of approximately 45 metres to Jeffries Circuit to the west. Lot 107 has frontage of approximately 40 metres to Aerospace Avenue. Aerospace Avenue is the main carriageway through the Astra Aerolab and connects to Williamstown Drive to the east which services the Newcastle Airport and a small number of commercial uses including a Mercure hotel. Roads within the Astra Aerolab are not currently accessible due to the subdivision certificate for the parent subdivision not having been released. Footpaths extend along the sites frontage and throughout stage 1 of the parent subdivision, along with landscaping and two (2) pocket parks.

The site is located approximately 980m from the centre line of the RAAF Base Williamtown/Newcastle Airport runway and as a result is affected by numerous Defence/airport related site constraints which have been listed below.



Figure 1: Aerial View of 38 Cabbage Tree Road Williamtown



Figure 2: Aerial Image of Proposed Lot 106 & 107

The site is subject to a number of environmental constraints (as mapped on Councils' GIS system) including:

- Weed Infestations;
- Bushfire Prone – Vegetation Buffer and Category 3;
- Koala Habitat – 50m buffer over cleared and link over cleared;
- Biodiversity value map;
- ANEF – 30-35 and 35-40;
- Defence Height trigger map;
- Bird Strike – Group C;
- Extraneous Lighting (Casa);
- Hunter Water Special Area;
- NSW Wildlife Atlas – Fauna;
- PFAS Management Area – Primary management zone;
- Flood Prone Land;
- Acid Sulfate Soils – Class 3 and 4; and
- Drinking water catchment.

A site inspection was carried out on 23 November 2022. The subject site can be seen in the Images below:



Image 1: View North West to Corner of Aerospace Avenue and Jeffries Circuit and Lot 106



Image 2: View south west across lot 107



Image 3: Example of shared path connection to common car park

1.2 The Locality

The proposal is located within Port Stephens Local Government Area (LGA), approximately 27.2km north of the Newcastle Central Business District (CBD). Williamstown contains a mixture of land uses including residential and rural development, the Williamstown RAAF Base and the Newcastle Airport.

The broader Astra Aerolab business park, within which the site is located, is zoned B7 – Business Park. Land to the north, including the Newcastle airport and Williamstown RAAF Base are zoned for various SP2 – infrastructure purposes including Defence, Air Transport Facility and Public Utility Undertaking. Land to the east, south and west of the site primarily consists of rural land and is zoned RU2 Rural Landscape. A number of smaller lots exist to the north east, accessed off Williamstown Drive and include various commercial uses related to the airport and a 95 room Mercure Hotel.

There is no public transport directly servicing the site. The nearest public transport includes two bus routes linking the Newcastle airport to Newcastle, Nelson Bay, Raymond Terrace and Maitland. The bus stop is located at the Newcastle airport terminal, approximately 550m from the site.

The site is located within the draft Williamstown Special Activation Precinct (SAP) which is to be implemented under *State Environmental Planning Policy (Precincts-Regional) 2021* (Precincts Regional SEPP). The SAP seeks to capitalise on the emerging aerospace industry and become a leading defence and aerospace precinct.

The department has exhibited the draft Williamstown SAP Master Plan on two occasions, the latest being in January-February 2023. At this time, the Master Plan was expected to be finalised in 2023.

The Astra Aerolab, including the site is located within the Northern Catchment of the SAP which has been identified as the commercial core of the precinct, as shown in **Figure 3** below. The site is currently zoned B7 Business Park in accordance with the Port Stephens Local Environmental Plan 2013 (the LEP) but is proposed to be rezoned to 'Regional Enterprise' as part of the SAP. The rezoning will be facilitated through the State Environmental Planning Policy (Precincts—Regional) 2021. The purpose of the rezoning is to provide a flexible land use zone that facilitates a range of employment and industrial uses.

The SAP is proposed to be delivered in stages which will be outlined within the Delivery Plan prepared for the precinct. The Delivery Plan has not yet been prepared however, the SAP draft masterplan has identified that development within the Northern Catchment is likely to be prioritised given the Astra Aerolab construction has commenced.

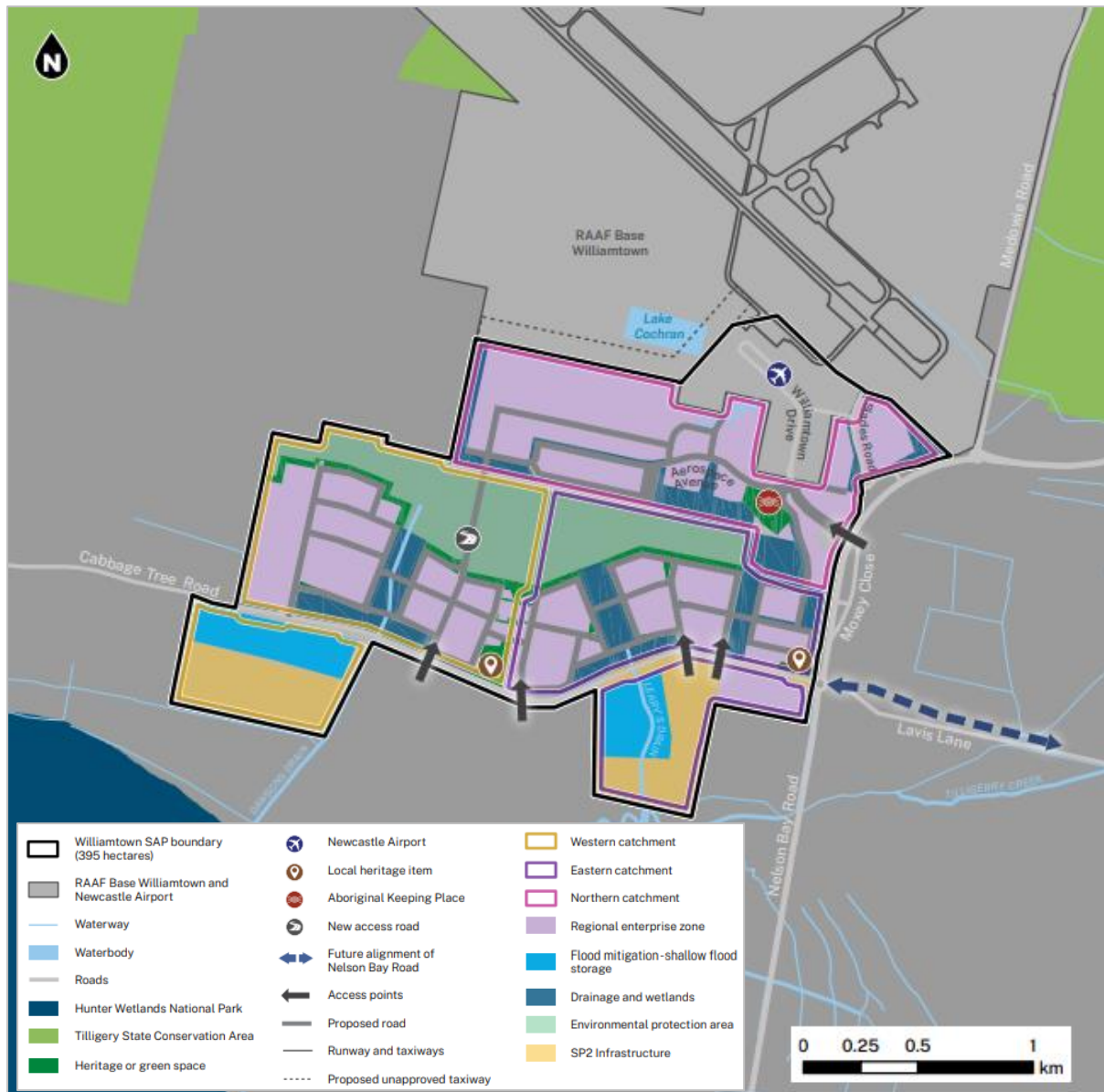


Figure 3: Williamtown SAP Structure Plan

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

The development application seeks consent for a commercial development comprising 8 storey office premises with ground floor retail and food and drink premises, as illustrated in **Figure 4-7** below.

The proposed commercial building includes the following key elements:

- Eight (8) storeys including ground level retail and food and drink premises, one (1) floor of parking, five (5) floors of office space and one (1) floor comprising rooftop mechanical plant rooms, lift and stairway access and rooftop terrace;
- 17 on site car parking spaces including one (1) accessible parking space and storage racks for 25 bicycles;

- 120 offsite car parking spaces in a common car park approved under a separate DA.
- 10m wide shared driveway access between Lot 104, 105, 106 and 107;
- Kitchenette, toilet amenities for each office level;
- Dual lift and stair access;
- Rooftop solar panels;
- End of trip facilities;
- Ground floor loading dock and waste storage area;
- Landscaping, including amenity and shade plantings;
- Office fit-out subject to future approval; and
- Operational hours of 7am – 6pm Monday to Friday.

A boundary adjustment is proposed between proposed Lot 106 and 107 to allow for the building to be contained wholly within one site. Once the boundary adjustment has occurred, the proposed building would be wholly located within Lot 106. The boundary adjustment involves moving the shared boundary between Lot 106 and 107, 3.5m eastward and results in the loss of 70m² from Lot 107 to be added to Lot 106.

Key development data is provided in **Table 1** below.



Figure 4: South Western Elevation Render. Source: Cox Architecture August 2022



Figure 5: Western Elevation Render. Source: Cox Architecture August 2022

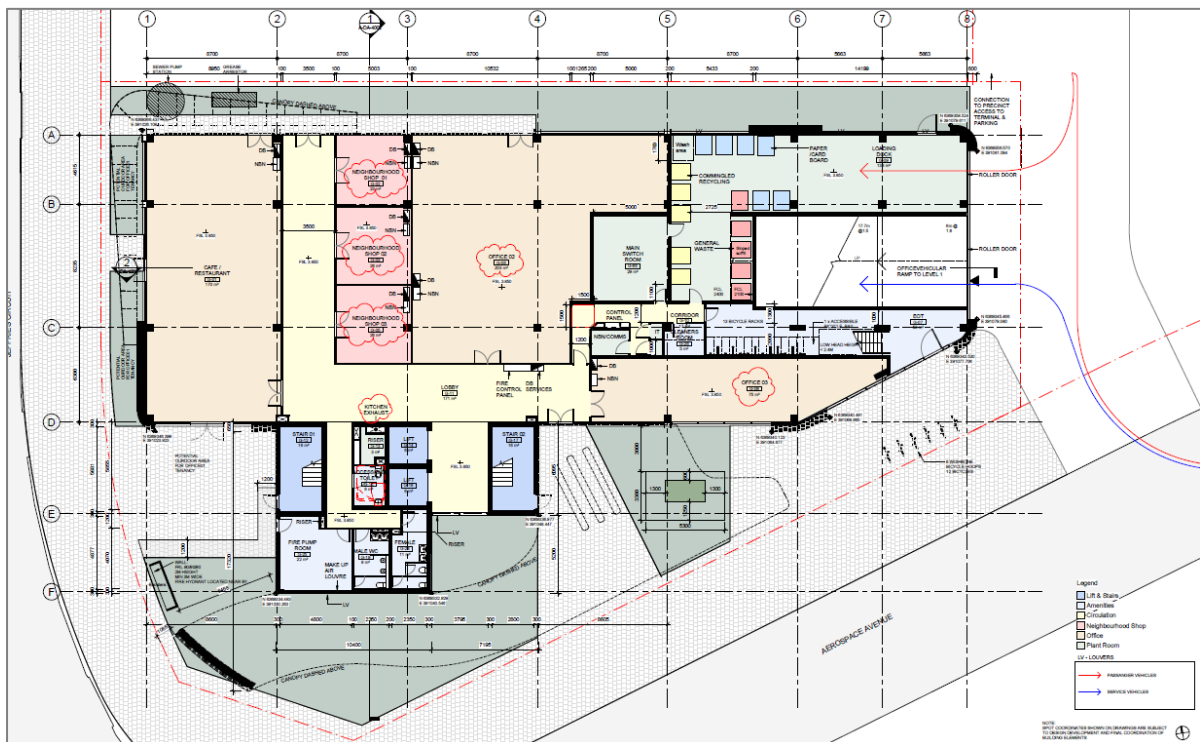


Figure 6: Proposed Ground Floor Layout. Source: Cox Architecture August 2022

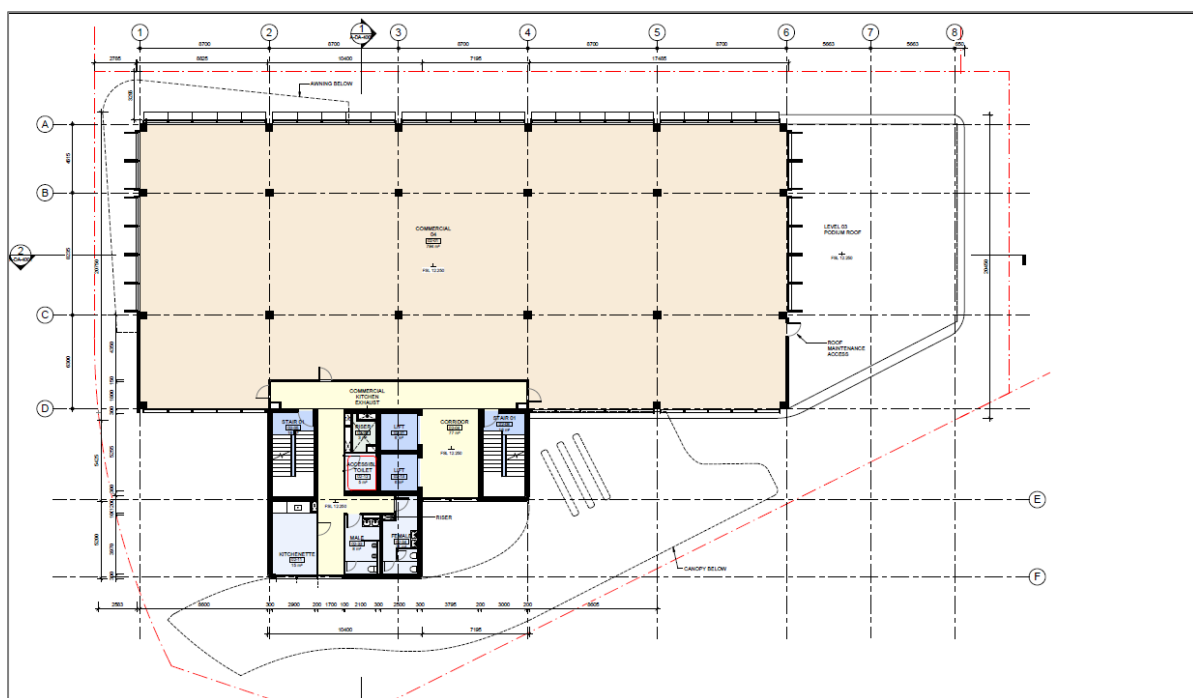


Figure 7: Typical Office Level Layout. Source: Cox Architecture August 2022

Table 1: Development Data

Control	Proposal
Site area	1,1892m ² (Lot 106 following boundary adjustment)
GFA	5,791m ²
FSR (retail/residential)	No FSR applies to the land
Clause 4.6 Requests	No
Max Height	33m
Landscaped area	487m ² (23%)
Car Parking spaces	17 on site and 120 in an off-site common car park
Minimum Setbacks	Front: 5.1m Side (west): 2.2m Side (east) 3m Rear: 3.2m

Building Design

The proposed development includes the construction and use of an 8 storey building. The gross floor area of the building is 5,791m² and comprises a number of uses as outlined in **Table 2** below.

Table 2: Summary of Gross Floor Area

Proposed Use	Level	Total Floor Area	Gross Floor Area
Office Premises (278m ²), Neighbourhood Shop (75m ²), Restaurant / Café (170m ²), End of Trip Facilities (loading dock excluded from GFA) (53m ²), Circulation area (235m ²)	Ground Floor	811m ²	
Storage (86m ²) and End of Trip Facilities and circulation (279m ²)	Level 1	365m ²	
Office Premises	Level 2-6	4,615m ²	
Building plant, stairs, circulation	Level 7	N/A	
Total			5,791m ²

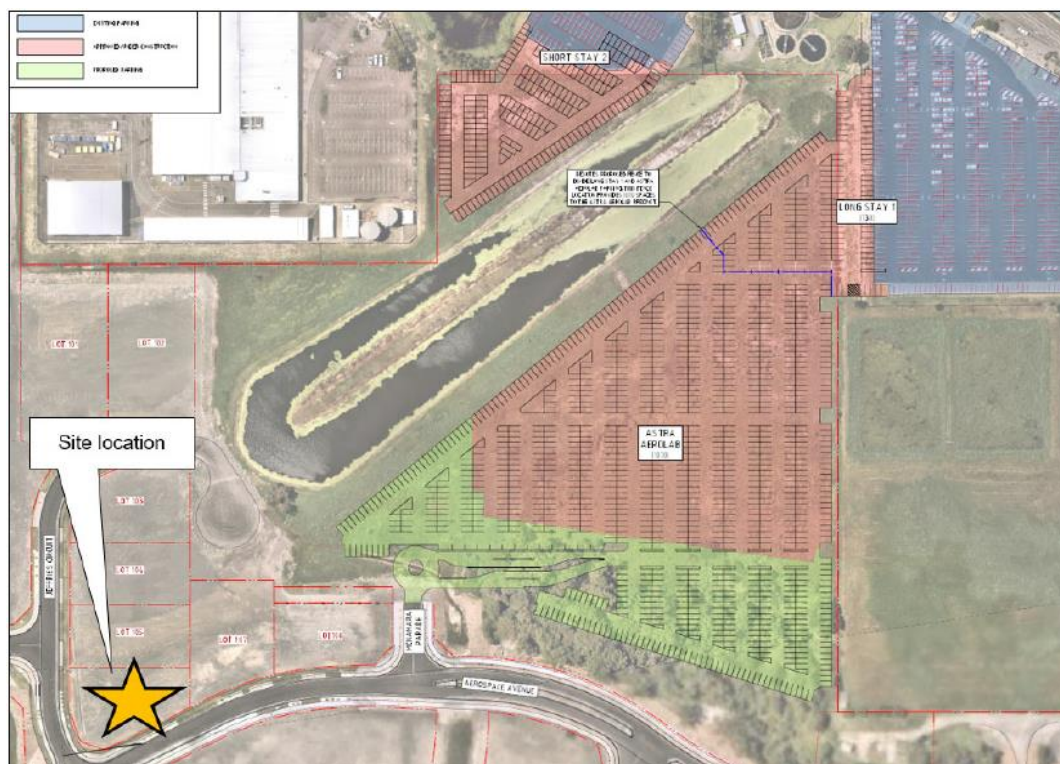
Note: the mechanical plant level (7) is not be classified as contributing to GFA in accordance with the GFA definition detailed in the Port Stephens Local Environmental Plan 2013.

The proposed building features varied setbacks and a sufficient variety of material finishes to articulate the building and reduce its perceived bulk and scale, particularly for the Aerospace Avenue and Jeffries Circuit façades. Materials primarily consists of precast concrete panels, aluminium and Equitone (fibre cement) cladding panels, aluminium framed windows and, double glazed windows. Modulation is provided in the dimensions of fenestration and pre-cast concrete panels.

The proposal addresses the street through the provision of an entry statement at the primary entrance to the building in the form of a large aeroplane wing shaped canopy with landscaping either side. The proposal includes a ground floor café/restaurant to provide street activation to the Jeffries and Aerospace Avenue frontages. Passive surveillance is achieved through the large expanses of windows on the elevations facing the street.

Car Parking

The proposed development includes on-site car parking for 17 vehicles, including 1 accessible space. The car parks are located on Level 1 accessed via a ramp on the eastern side of the building. All parking spaces within the on-site car park comply with the requirements of 'AS/NZS 2890.1:2004 Parking facilities – Off-street car parking'. A further 120 spaces are proposed for use in a common car parking area approved under DA 16-2022-855-1 but not yet constructed. The common car park is within a walkable distance of 177m from the development via existing footpaths constructed with the parent subdivision and footpaths approved as part of the car park extension, as shown in **Figure 8** below.



Landscaping

The application includes a landscape plan showing 23% landscape coverage, equating to 487m². All landscape areas consist of deep soil. Landscape plantings consist of a mix of predominately native species of varying size. Two large trees are proposed within the front setback area to match the proportions of the building. A landscape screen buffer is provided to the rear which delineates the boundary with the neighbouring property.

The existing road verge already contains street tree plantings which are proposed to be retained.

Stormwater Management

The stormwater management plan includes collection through gutters and downpipes directed to a reuse tank located in a plant room on Level 1 prior to discharge to the existing kerb and gutter stormwater network on Aerospace Avenue and Jeffries Circuit via a pit and pipe network. Stormwater is then be diverted into the swale on the western side of Jeffries Circuit and towards detention basins at the south of the Astra Aerolab. External pavements and landscaped areas are proposed to be graded to direct stormwater to a pit and pipe network and the adjacent roads.

Water quantity and quality has already been catered for all developments within Stage 1 of the parent Astra Aerolab subdivision. As a result, no on site detention or water quality improvement devices are proposed.

Waste Management

The application includes a Site Waste Minimisation and Management Plan (SWMMP), Revision B, prepared by Northrop and dated 23 September 2022, which outlines the construction and operational waste management and operational waste generation.

The proposed development includes a waste room adjacent the buildings loading dock with space for 15 1,100L Cleanaway Bins. The SWMMP includes anticipated waste generation rates for each of the proposed land uses, which confirms the proposed waste storage area is large enough to cater for the expected waste generation.

Regarding construction waste, the SWMMP, includes details regarding bin/stockpile configuration and location, bin servicing arrangements, construction waste materials and methods of disposal.

2.2 Background

A pre-lodgement meeting was held prior to the lodgement of the applicant on 13 October 2022 where various issues were discussed. A summary of the key issues identified during the meeting are outlined below:

- Height;
- Urban Design;
- Car parking shortfall;
- Aircraft noise;
- Minimum landscaping requirements;
- Contamination;
- Waste management;
- Commercial and site specific DCP controls;
- External consultation requirements – Hunter Water Corporation and Department of Defence;
- Stormwater management; and
- Plans for surrounding sites.

A pre-lodgement Urban Design Panel meeting was held prior to the lodgement of the application on 13 October 2022. A summary of the key comments made by the panel during the meeting are outlined below:

- The proposal was considered by the Panel to be a carefully addressed, and appropriate design response to the design brief and to the surrounding existing and future desired context. It offers a high standard of accommodation to future occupants, in addition to providing attractive facilities and meeting places for both staff using the building and others from future surrounding businesses;
- Height and density considered appropriate based on visual impact analysis. The Analysis was useful in confirming the opinion that the Panel had independently reached in respect to the height of the proposal – that being that the building sits quite comfortably in the area, without any adverse visual impact or negative urban design outcomes;
- The strategy adopted to limit parking within the building and to collocate general parking with or near general airport parking was supported;
- Provision should be made for at least one more accessible car space on site;
- Provision of shade trees and good canopy cover in new at-grade car parks to reduce the local Heat Island Effects was encouraged;
- The orientation-specific external sun shading on the building facades was supported;
- Inter-floor connection should tenancies take up more than one floor should be explored. Structural design implications should be explored to permit future introduction of open stairs between levels;
- The design of car parking and external areas incorporates appropriate CPTED principles;

- The Panel considered the proposed building to be elegantly detailed, and to establish an attractive and appropriate architectural and landscape character to the precinct; and
- The building should have only its single Identification sign(s) at the upper level, with a discrete area and format for occupant tenancies set at a lower, more pedestrian level, in a location sympathetic to the building and its context.

In conclusion, the UDP supported the proposal subject to the minor amendments and inclusions recommended throughout the meeting. The proposal was considered to offer a very positive direction for the precinct moving forward.

The development application was lodged on **25 October 2022**. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings, deferrals etc.) with the application:

Table 3: Chronology of the DA

Date	Event
25 October 2022	DA lodged
15 November 2022	Exhibition of the application
3 November 2022	DA referred to external agencies
6 January 2023	Request for Information from Council to applicant
6 February 2023	Additional information submitted relating to CIV, parking, accessibility, permissibility and boundary adjustment, acid sulphate soils, Defence and signage.
8 February 2023	Panel briefing
9 March 2023	Additional information submitted responding to HCCRPP matters and information requested by Defence, including birds strike, wind shear, impacts to radar, aircraft noise and extraneous lighting.
18 May 2023	Request for information from Council to applicant regarding, Ausgrid referral comments, acid sulfate soils, public art and contamination.
8 June 2023	Additional information submitted for all outstanding items.
24 July 2023	Amended Public Art plan submitted.

2.3 Site History

The site is located within the Astra Aerolab subdivision first approved by Council in January 2011 (DA No. 16-2009-324-1) for the subdivision of the land into 103 lots for

defence and airport related purposes. A modification application was lodged in February 2019 (DA No. 16-2009-324-2) and was later withdrawn. Another modification application was determined by Council (16-2009-324-3) in March 2022 which amended the approved lot layout including the reduction in lots from 103 to 101, as well as amendments to the approved road network, staging, stormwater design and conditions. Lot 106 and 107 form part of Stage 1 of this consent and is shown on the approved subdivision plans at **Figure 9** below. A subdivision certificate (SC) is currently being assessed by Council for the approved subdivision.

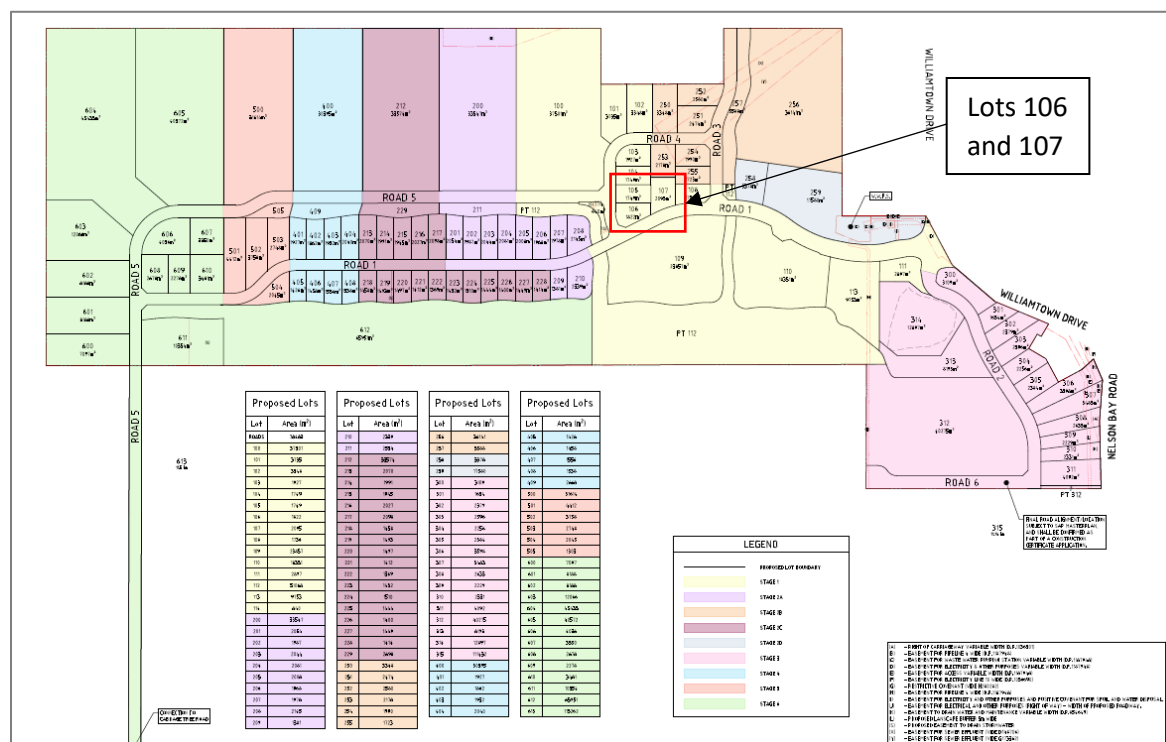


Figure 9: Approved Astra Aerolab Lot Layout

There have been a number of other applications lodged over the site which are summarised in **Table 4** below.

Table 4: Development Application's lodged over the site

Application No.	Proposal Description	Determination
16-2021-1153-1	Extension of existing car park	Approved 29/4/22
16-2022-366-1	Fencing and Signage	Approved 8/7/22
16-2022-367-1	Fencing and Signage	Approved 8/7/22
16-2022-379-1	Fencing and Signage	Approved 8/7/22
16-2022-690-1	Office Premise	Returned by Council due to insufficient information
16-2022-663-1	Industrial development – warehouse (building 1), site works and establishment of building footprints	Approved by the HCCRPP July 2023

16-2022-855-1	Construction of 314 new car parking spaces and repurpose of 756 existing airport spaces for use by the Astra Aerolab	Approved 23/5/2023.
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3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)
- Crown DA (s4.33)

3.1 Other Statutory considerations - Section 4.14 – Consultation and development consent (certain bushfire prone land)

Section 4.14(1) provides that development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—

*(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (**the relevant specifications and requirements**), or*

(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

The proposed development is mapped as bushfire prone land, category 3 and as such requires assessment under the NSW RFS Planning for Bushfire Protection (PBP) 2019. A Bushfire Threat Assessment (BTA) was prepared by Anderson Environment and Planning which assessed the proposal against PBP 2019.

The proposed development is for an office premises, neighbourhood shop and food and drink premises which are a type of 'other non-residential development' to which section 8.3 of PBP 2019 applies. The proposal is a class 5, 6, 7a and 7b building. The NCC does not provide any bush fire specific performance requirements for these particular classes of buildings. As such AS 3959 and the NASH Standard are not considered as a set of Deemed to Satisfy provisions. Notwithstanding, PBP 2019 provides that compliance with AS 3959 and the NASH Standard must be considered when meeting the aims and objectives of PBP 2019.

In addition, PBP 2019 prescribes that the following objectives be applied in relation to access, evacuation, water supply and services for 'other non-residential development'. An assessment against each objective is provided below.

- *to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupant egress for evacuation;*

An 8m wide perimeter road is located between the development and the bushfire threat to the south and west, which provides a defensible space and carriageway to carry vehicles away from the bushfire threat. Access to the building is proposed via a 10m wide shared driveway. The proposed access arrangements are consistent with the access provisions of Chapter 8 of PBP 2019.

- *to provide suitable emergency and evacuation (and relocation) arrangements for occupants of the development;*

As noted above, appropriate access is available to the site. Subject to a condition requiring an Emergency Evacuation Plan be prepared, suitable evacuation arrangements would be available to occupants of the development.

- *to provide adequate services of water for the protection of buildings during and after the passage of bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building; and*

A condition is recommended, requiring the development be connected to a reliable water supply network and suitable fire hydrants be clearly marked and provided for the purposes of bushfire protection. The fire hydrant spacing, fixing and pressure shall comply with AS2419.1 – 2005 and PBP 2019 (Table 7.4a).

- *provide for the storage of hazardous materials away from the hazard wherever possible.*

The proposal does not include the storage of any hazardous materials.

Subject to conditions relating to access, water supply, services and emergency and evacuation planning the provisions of Chapter 8 of PBP2019 are satisfied.

With regard to the broader aims and objectives under Section 1.1 of PBP 2019, compliance with AS 3959 and the NASH Standard has been considered. In accordance with AS 3959 and Appendix 1 of PBP 2019, the site is subject to a maximum Bushfire Attack Level (BAL) 12.5, based on a vegetation type of forest upslope/flat at a distance of 90m. The remainder of transects are managed land that have previously been cleared of vegetation. Due to the development being subject to BAL 12.5, direct flame contact to the building will be prevented. On this basis, the proposal affords the building and its occupant's adequate protection from exposure to a bush fire. A condition of consent is recommended requiring the area previously cleared in accordance with Stage 1 of DA 16-2009-324 be managed as an Asset Protection Zone to ensure bushfire threat does not emerge as a result of unmanaged regrowth vegetation.

Subject to the conditions recommended above relating to access, asset protection ones, water supply, services, and emergency and evacuation planning the proposed development is consistent with the aims and objectives under Section 1.1 of PBP 2019.

On this basis, the proposal conforms to the specifications and requirements of PBP 2019.

3.2 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Precincts—Regional) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Port Stephens Local Environmental Plan 2013*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 5** and considered in more detail below.

Table 5: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
State Environmental Planning Policy (Biodiversity & Conservation) 2021	<u>Chapter 4: Koala Habitat Protection 2021</u> Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. The relevant plan of management in Port Stephens is the Comprehensive Koala Plan of Management.	Y

	<p>The proposal does not involve the removal of any trees. The site is mapped as a 50m buffer over cleared and link over cleared under Council's Koala Habitat Planning Map (2000). Impacts to koala were considered as part of the parent approval, which did not identify the need for a koala corridor through the site. A koala corridor exists to the west of the site on rural and HWC owned land and would be secured as conservation land as part of the Williamstown SAP, in the event the SAP proceeds.</p> <p>On this basis, the proposal is consistent with the Port Stephens Comprehensive Koala Plan of Management (CKPoM), which constitutes compliance with Chapter 4 of this SEPP.</p>	
State Environmental Planning Policy (Industry and Employment) 2021	<p><u>Chapter 3: Advertising and Signage</u> No signage is proposed and would be subject to a future development application, should the future tenants of the building require.</p>	N/A
State Environmental Planning Policy (Planning Systems) 2021	<p><u>Chapter 2: State and Regional Development</u> Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 3(d), Schedule 6 of <i>SEPP (Planning Systems) 2021</i>: Council related development over \$5 million.</p>	Y
SEPP (Resilience & Hazards)	<p><u>Chapter 4: Remediation of Land</u> Section 4.6 requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.</p> <p>The application includes a validation report which confirms the site has been remediated in accordance with the Remediation Action Plan (RAP) prepared in support of the parent Astra Aerolab subdivision. As a result, the site is not contaminated.</p>	Y
State Environmental Planning Policy (Transport and Infrastructure) 2021	<p><u>Chapter 2: Infrastructure</u> Section 2.48(2) - (Determination of development applications—other development) – electricity transmission requires consultation with the local electrical authority – Ausgrid. The application was referred to Ausgrid, requesting comments about potential safety risks for electrical assets. In response, Ausgrid raised concern regarding the proximity of the proposed electrical substation kiosk to the building. In response, the applicant amended the kiosk design to be placed in a new location. Following the plan amendments, Ausgrid supported the application subject to conditions, thereby satisfying the requirements of this section.</p> <p>Section 2.119 of SEPP (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure) provides that the consent authority must not grant consent to development</p>	Y

	<p>on land that has a frontage to a classified road unless it is satisfied that the matters listed under Section 2.119(2) have been satisfactorily addressed. The proposed development is consistent with the access and compatibility criteria under Section 2.119(2).</p> <p>Section 2.122 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure) provides that the consent authority must refer traffic generating developments to TfNSW for comment. The proposed development does not meet the threshold for traffic generating development.</p>	
<p>Proposed Instruments:</p> <p>State Environmental Planning Policy (Precincts—Regional) 2021</p>	<p><u>Williamtown Special Activation Precinct (State Environmental Planning Policy (Precincts—Regional) 2021</u></p> <p>The site is located within the draft Williamtown Special Activation Precinct (SAP) which is to be implemented under State Environmental Planning Policy (Precincts-Regional) 2021 (Precincts Regional SEPP). The SAP seeks to capitalise on the emerging aerospace industry and become a leading defence and aerospace precinct.</p> <p>The department has exhibited a draft Williamtown SAP Master Plan on two occasions, the latest being in January-February 2023. At this time, the Master Plan was expected to be finalised in 2023. The Astra Aerolab, including the site is located within the Northern Catchment of the SAP which has been identified as the commercial core of the precinct.</p> <p>There are no current or draft provisions to consider under this SEPP. Despite this, the proposed development is consistent with the draft Master Plan as outlined in the assessment against Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments of the EP&A Act, elsewhere in this report.</p>	N/A
LEP	<p>The following LEP clauses are relevant to the proposal:</p> <ul style="list-style-type: none"> • Height of buildings (CI 4.3(2)) • Heritage (CI 5.10) • Flood Planning (CI 5.21) • Arrangements for designated State public infrastructure (CI 6.1) • Public utility infrastructure (CI 6.2) • Development control plan (CI 6.3) • Infrastructure—Pacific Highway access (CI 6.5) • Acid sulphate soils (CI 7.1) • Earthworks (CI 7.2) • Airspace Operations (CI. 7.4) • Development in areas subject to aircraft noise (CI 7.5) • Essential Services (CI. 7.6) • Drinking Water Catchments (CI. 7.8) 	Y

	The proposal is generally consistent with the LEP.	
DCP	<p>The following DCP provisions are relevant to the proposal:</p> <ul style="list-style-type: none"> • B2 – Natural Resources • B3 – Environmental Management • B4 – Drainage and Water Quality • B5 – Flooding • B6 – Williamstown RAAF Base – Aircraft Noise and Safety • B7 – Heritage • B8 – Road Network and Parking <p>The proposal is generally consistent with the DCP.</p>	N

Consideration of the relevant SEPPs is outlined below

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 4: Koala Habitat Protection 2021

This policy aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline. The SEPP replaces the previous State Environmental Planning Policy No 44 - Koala Habitat Protection.

Chapter 4 applies to all zones other than RU1 (Primary Production), RU2 (Rural Landscape) and RU3 (Forestry) in the Port Stephens Local Government Area.

Section 4.8 requires that the application must be consistent with the approved koala plan of management that applies to the site. In Port Stephens, the relevant plan is the Comprehensive Koala Plan of Management (CKPoM).

The proposal does not involve the removal of any trees. The site is mapped as a 50m buffer over cleared and link over cleared under Council's Koala Habitat Planning Map (2000), as illustrated in **Figure 10** below. Impacts to koala were considered as part of the parent approval, which did not identify the need for a koala corridor through the site. A north west – south east koala corridor exists immediately to the west of the site through HWC and Rural zoned land, which would be retained as a conservation area in the event the Williamstown SAP progresses.

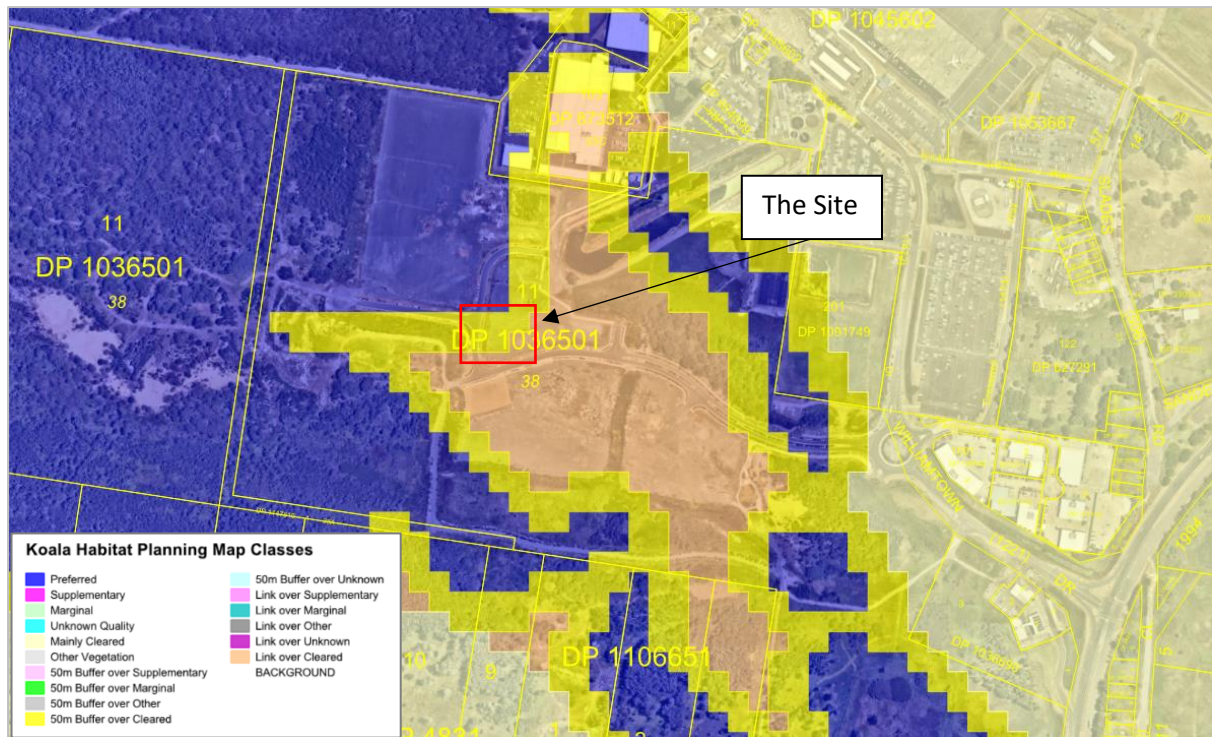


Figure 10: Koala Habitat Planning Map (2000)

On this basis, the proposal is consistent with the Port Stephens Comprehensive Koala Plan of Management (CKPoM), which constitutes compliance with Chapter 4 of this SEPP.

State Environmental Planning Policy (Planning Systems) 2021 ('Planning Systems SEPP')

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 3(d) of Schedule 6 of the Planning Systems SEPP as the proposal is a development for which Council is a party to an agreement or arrangement relating to the development, which has a capital investment value (CIV) of over \$5m. The nature of the agreement or arrangement is that Port Stephens Council is part owner of the Newcastle Airport Pty Ltd.

Accordingly, the Hunter and Central Coast Regional Planning Panel (the Panel) is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

Section 4.6 of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ('the Resilience and Hazards SEPP')* requires the consent authority to consider whether land is contaminated, is in a suitable state despite contamination, or requires remediation to be made suitable for the proposed development.

The application includes a Validation Report prepared by Qualtest Laboratory. The validation report is associated with the parent subdivision for the Astra Aerolab and confirms that works on the site were carried out in general accordance with the approved Remediation Action Plan (RAP). The Validation Report concluded that the site was considered suitable with respect to contamination for the proposed use.

The Validation Report did note that groundwater on the site is impacted by PFAS from the RAAF Base Williamstown and that PFAS contamination in the region is managed under the RAAF Base Williamstown, PFAS Management Area Plan (PMAP). The report noted that the management procedures in the PMAP would be relevant to users on site.

The application was also referred to EPA for comment regarding PFAS contamination as the EPA is the lead authority regarding management of PFAS in NSW. In response, the EPA highlighted that the management of PFAS through the implementation of various management plans to be implemented throughout construction was appropriate and supported the application with conditions relating to the management plans. The conditions relate to PFAS sampling (in accordance with the PFAS National Environmental Management Plan), identification of potential interaction with groundwater or soils containing PFAS, sediment and erosion and methods of preventing contact and exposure of PFAS during construction.

Subject to the EPA conditions and the recommendations made within the Contamination Assessment, the proposal is considered suitable for the proposed use and satisfies the provisions of Section 4.6 of the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Section 2.48(2) requires consultation with the local power authority – Ausgrid, where a development involves works in proximity to electrical utility infrastructure. The application was referred to Ausgrid, requesting comments about potential safety risks. In response, Ausgrid raised concern regarding the proximity of the proposed electrical substation kiosk to the building. In response, the applicant amended the kiosk design to a new location. Following the plan amendments, Ausgrid supported the application subject to conditions, thereby satisfying the requirements of this section.

Section 2.119 of SEPP (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure) provides that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the matters listed under Section 2.119(2) have been satisfactorily addressed as follows:

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The site, which has not yet been subdivided under the Astra Aerolab consent holds a 400m frontage to Nelson Bay Road in the south east corner of the site. Access to the site is currently via a 4 way round about Williamstown Drive, which connects the site to Nelson Bay Road a further 330m to the east. Once the site is subdivided, in accordance with the Astra

Aerolab consent (DA 16-2009-324-3), access to the development would be via Aero Space Avenue. Aerospace Avenue has been constructed but has not been formally gazetted as a public road.

A Transport Assessment (TA), prepared by JMT Consulting, dated 6 October 2022 was submitted with application, which confirms the proposed development would not generate traffic above that assessed as part of the parent subdivision approval. The TA concludes that the proposal would not require any road infrastructure upgrades, with thresholds for infrastructure upgrades not triggered under this proposal. Upgrades to the surrounding road network will be progressively delivered as the Astro Aerolab precinct further develops, in accordance with conditions of consent imposed on DA 16-2009-324.

The road and intersection upgrades and associated timing include the following:

- A second right turn lane on the western leg of the intersection of Williamtown Drive and Nelson Bay Road prior to Stage 2A. This requirement has also been imposed as part of a consent issued for an upgrade to the airport terminal (DA 16-2008-940-6).
- Duplication of Williamtown Drive between Nelson Bay Road and the development prior to Stage 4.
- Single connection with Cabbage Tree Road prior to Stage 5.

On this basis, the proposal, including vehicular access to Nelson Bay Road via Williamtown Drive would not adversely impact the safety, efficiency and ongoing operation of Nelson Bay Road. The proposed commercial land use is not a development type that is sensitive to road noise or vehicle emissions. In addition, the development would include acoustic attenuating measures to mitigate impacts from aircraft noise which would also double as a measure to mitigate noise impacts from road noise. The proposed building is sufficiently setback from the classified road to avoid any impacts arising from vehicle emissions.

Section 2.122 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP Transport and Infrastructure) provides that the consent authority must refer traffic generating developments to TfNSW for comment. In addition, Section 2.122 (4) requires the consent authority to take into consideration the following:

- Any TfNSW comments;
- The efficiency of movements to and from the site and extent of multi-purpose trips;
- The accessibility of the site; and
- Any potential traffic safety, road congestion or parking implications of the development.

The proposed development is not traffic generating development, as it does not meet the relevant floor area triggers and is located more than 90m from a classified road.

Port Stephens Local Environmental Plan 2013

Preliminary (Part 1)

The relevant local environmental plan applying to the site is the *Port Stephens Local Environmental Plan 2013* (the LEP). The aims of the LEP include the following:

- (a) *to cultivate a sense of place that promotes community well-being and quality of life,*
- (b) *to provide for a diverse and compatible mix of land uses,*
- (c) *to protect and conserve environmental values,*
- (d) *to facilitate economic growth that contributes to long-term employment,*

- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To facilitate the future development of the land as an employment area relating to defence and airport operations to support the continued operation of the RAAF Base Williamtown Airport and the Newcastle Airport.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposal provides a significant contribution to commercial floor space supply in the Williamtown area which will encourage employment opportunities. The proposed development sits at the centre of the Astra Aerolab business park and due to the scale and quality of the built form, represents a landmark development for the precinct which is expected to encourage further future development of a similar quality.
- The proposal includes a ground floor restaurant/café and neighbourhood shop to service the day to day needs of workers in the area.
- The proposal would supply commercial floor space, conveniently located in close proximity to RAAF Base Williamtown and the Newcastle Airport to support the expanding Defence and Aerospace industry in the Williamtown area.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 4** below.

Table 1: Consideration of the LEP Controls

Control	Requirement	Proposal	Comply
Minimum subdivision Lot size (CI 4.1)	No minimum lot size specified.	The application includes a boundary adjustment between Lot 106 and 107. The boundary adjustment involves moving the shared boundary between Lot 106 and 107, 3.5m eastward and results in the loss of 70m ² from Lot 107 to be added to Lot 106. The site area of Lot 106 following the boundary adjustment would be 2,195m ² , which is an increase of 70m ² . Notwithstanding, there is no minimum lot size that applies to the site and therefore this clause does not apply.	N/A
Height of buildings (CI 4.3(2))	No maximum building height specified.	The site does not have a maximum building height specified. Therefore, the proposed height has been	Yes

		<p>assessed taking into consideration visual and amenity impacts, compatibility with the character of the area and potential impacts to the operations of the Newcastle Airport and the Williamstown RAAF base. The Williamstown SAP draft Masterplan also provides guidance regarding envisaged building heights for the broader precinct.</p> <p>The applicant submitted a Visual Impact Assessment (VIA) with the application. The VIA analyses the visual impact of the proposal from 6 key view points, including the nearby airport precinct, Nelson Bay Road, and rural land located to the south of the site. The VIA shows that the building would be visually prominent from the airport precinct and Nelson Bay Road, which is considered appropriate as the building sits against the backdrop of other airport infrastructure visible from these locations, such as the traffic control tower and terminal building. The proposed building is visible from 2 of the 3 rural viewpoints assessed in the VIA. The view points are observed from Cabbage Tree Road and show that the top of the building is visible above the surrounding tree canopy. The presence of an office building is in contrast to the existing rural landscape, however, the visual impact is subdued by the tree canopy which leaves only the top of the building visible. Taking into account the Williamstown SAP seeks to rezone and develop this rural land for commercial and industrial purposes, the visual impacts</p>	
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		<p>from these view points are acceptable.</p> <p>The UDP also found the height of the building to be acceptable, noting the VIA was useful in confirming the opinion that the Panel had independently reached in respect to the height of the proposal – that being that the building sits quite comfortably in the area, without any adverse visual impact or negative urban design outcomes.</p> <p>The application was referred to Defence to review potential impacts that may occur to the operations of the Newcastle Airport and RAAF Base Williamtown. In response, Defence confirmed the proposed height of the building does penetrate the obstacle limitation surface associated with RAAF Base Williamtown and Newcastle Airport, however, the proposed building height is not objected to as it will not adversely impact the operations of RAAF Base Williamtown or Newcastle airport.</p>	
FSR (CI 4.4(2))	No FSR specified.	<p>The site does not have a FSR restriction, therefore, the provisions of this clause do not apply.</p> <p>Notwithstanding, the density of the building is considered appropriate for its location within a business park. The UDP noted the resulting density was considered to be appropriate for the context, and to be consistent with the objectives of the zoning.</p>	N/A
Heritage (CI 5.10)	Clause 5.10 specifies the requirements for consent and associated	The site has been subject to significant prior ground disturbing activities as part of	Yes

	assessment requirements for impacts relating to European and Aboriginal heritage.	<p>the parent subdivision. An Aboriginal Cultural Heritage Assessment was prepared and a subsequent Aboriginal Heritage Impact Permit (AHIP) sought as part of the parent Astra Aerolab subdivision (DA 16-2009-324). The stage 1 Astra Aerolab works have been completed and were required to be carried out in accordance with the HNSW GTAs issued with DA 16-2009-324 and any subsequent AHIP.</p> <p>A local heritage item is located at 150 Cabbage Tree Road, to the south west of the site. The heritage item is known as Devon House (I109). The proposed development will not impact the heritage significance of this item.</p> <p>A condition of consent is recommended regarding the implementation of an unexpected finds procedure.</p> <p>Subject to this condition, the proposal is consistent with the requirements of this clause.</p>	
Flood Planning (CI 5.21)	<p>Clause 5.21(2) provides that development consent must not be granted to development on land the consent authority considers to be within the flood planning area unless the consent authority is satisfied the development complies with the following matters:</p> <p>(a) is compatible with the flood function and behaviour on the land, and</p> <p>(b) will not adversely affect flood behaviour in a way that results in detrimental increases in the potential</p>	<p>The proposed development is located on land mapped within the Flood Planning Area. The parent subdivision was approved with finished lot and road levels above the flood planning level of 3m Australian Height Datum (AHD). Accordingly, the proposal is afforded appropriate flood immunity to protect property and a flood free evacuation route is available to minimise risk to life from flooding.</p> <p>Precinct wide flooding impacts were assessed as</p>	Yes

	<p>flood affectation of other development or properties, and</p> <p>(c) will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, and</p> <p>(d) incorporates appropriate measures to manage risk to life in the event of a flood, and</p> <p>(e) will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses</p> <p>In accordance with clause 5.21(3), in deciding whether to grant development consent on land to which this clause applies, the consent authority must consider the following matters—</p> <p>(a) the impact of the development on projected changes to flood behaviour as a result of climate change,</p> <p>(b) the intended design and scale of buildings resulting from the development,</p> <p>(c) whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood,</p> <p>(d) the potential to modify, relocate or remove buildings resulting from development if the surrounding area is impacted by flooding or coastal erosion.</p>	<p>part of the parent subdivision which confirmed no adverse offsite flooding impacts would occur as part of the subdivision and subsequent individual developments. Based on these findings, the proposal would not cause any adverse impacts to the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or water courses.</p> <p>Based on the finished levels of roads and the building being above the FPL and the lack of adverse offsite flooding impacts, the proposal is compatible with the flood function and behaviour of the land. The proposal is consistent with requirements of this section.</p>	
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Arrangements for designated State public infrastructure (CI 6.1)	Clause 6.1(2) provides that development consent must not be granted for the subdivision of land in an urban release area if the subdivision would create a lot smaller than the minimum lot size permitted on the land immediately before the land became, or became part of, an urban release area, unless the Director-General has certified in writing to the consent authority that satisfactory arrangements have been made to contribute to the provision of designated State public infrastructure in relation to that lot.	A satisfactory arrangements certificate was issued as part of the parent subdivision of the Astra Aerolab (DA 16-2009-324), which satisfies the requirements of this clause. The boundary adjustment remains consistent with the satisfactory arrangements certificate issued for the parent subdivision.	Yes
Public utility infrastructure (CI 6.2)	Clause 6.2(1) provides that development consent must not be granted for development on land in an urban release area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when it is required.	Following the recent completion of the parent subdivision works for Stage 1 Astra Aerolab, the site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Councils requirements. The subject land will have direct access to the local road network, once the parent subdivision is registered. As the parent subdivision has not yet been registered a deferred commencement condition has been included requiring that Stage 1 of DA 16-2009-324-1 is registered prior to the consent becoming operational. Subject to this condition, the proposal satisfies the requirements of this clause.	Yes
Development control plan (CI 6.3)	Clause 6.3(2) provides that development consent must not be granted for development on land in an urban release area unless a	The DCP includes Chapter D15 Williamtown Defence and Airport Related Employment Zone (DAREZ) which provides development	Yes

	development control plan that provides for the matters specified in subclause (3) has been prepared for the land.	controls for future development on the Astra Aerolab site where the proposed development is located. Consideration of the development against this chapter is provided in the DCP section elsewhere in this report.	
Acid sulphate soils (CI 7.1)	<p>The subject land is mapped as containing potential Class 4 acid sulfate soils.</p> <p>Under Clause 7.1, on land mapped class 4 acid sulfate soils, consent is required for works more than 2 metres below the natural ground surface or works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.</p>	<p>The subject land is mapped as containing potential Class 4 acid sulfate soils. The proposal involves excavation for footings that may intercept ASS during construction.</p> <p>The application includes a preliminary Geotechnical Assessment prepared by Douglas Partners, Reference no. 39728.27 and dated September 2022. The report provides commentary regarding ASS but does not conclusively state whether an ASS Management Plan is required. For this reason, a request for further information was issued to the applicant, requesting further consideration of clause 7.1. In response, the applicant submitted an amended Preliminary Site Investigation for Contamination Project no. 39728.27, Rev 0, prepared by Douglas Partners and dated 7 February 2022 which concluded all natural soils should be treated as potential Acid Sulphate Soils (ASS) and that ASS is likely to be encountered during construction of the proposed development.</p> <p>Given the proposed development is anticipated to involve the disturbance of more than 1 tonne of soil, in accordance with sub-clause (3), development consent must not be granted under</p>	Yes

		<p>this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.</p> <p>The applicant provided an Acid Sulfate Soils Management Plan which is consistent with the Acid Sulfate Soils Manual and other relevant guidelines. On this basis, the proposal complies with this clause.</p>	
Earthworks (CI 7.2)	<p>Under Clause 7.2(3) before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment</p>	<p>The application proposes earthworks on the site associated with excavations for foundations and installation of underground utilities to a maximum depth below the existing fill into the underlying natural medium dense or dense sand, as described in the Douglas Partners preliminary Geotechnical Assessment. The Geotechnical Assessment submitted identifies that groundwater may be intercepted at depths of RL 2.4 AHD and 2.1 AHD. No significant dewatering works are required noting the proposal does not include a basement level.</p> <p>The proposed earthworks, subject to the recommended conditions, will include appropriate sediment and erosion controls to prevent adverse impacts to the environment, including drainage patterns, soil stability and the drinking water catchment. Similarly, given earthworks will primarily be below existing ground</p>	Yes

	<p>or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p>	<p>surface, no amenity impacts are expected to surrounding land, subject to conditions relating to sediment and erosion control.</p> <p>Conditions of consent are also recommended restricting the use of imported fill material to virgin excavated natural material or other material subject to an EPA resource recovery exemption. Any disposal of extracted materials must be in accordance with the EPA's Waste Classification Guidelines. Conditions of consent are also recommended to manage the potential encounter of PFAS within soils, in accordance with referral advice provided from the EPA.</p> <p>Prior ground disturbing works at the site and an AHIMS search confirms there is a low likelihood of disturbing relics. No fill is proposed to be imported to the site.</p> <p>The site is not located in proximity to any environmentally sensitive areas. Subject to the recommended conditions relating to sediment and erosion control no impacts are expected to local waterways. The site is located within a drinking water catchment. The application was referred to Hunter Water Corporation (HWC) who made no objection to the DA. HWC recommended conditions relating to the management of dewatering activities to avoid contamination of groundwater.</p>	
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		Subject to the recommended conditions, the proposal satisfies the requirements of this clause.	
Airspace Operations (Cl. 7.4)	<p>Clause 7.4(2) provides that if a development application is received and the consent authority is satisfied that the proposed development will penetrate the Limitation or Operations Surface, the consent authority must not grant development consent unless it has consulted with the relevant Commonwealth body about the application.</p> <p>Clause 7.4(3) provides that the consent authority may grant development consent for the development if the relevant Commonwealth body advises that—</p> <p>(a) the development will penetrate the Limitation or Operations Surface but it has no objection to its construction, or</p> <p>(b) the development will not penetrate the Limitation or Operations Surface.</p>	<p>The subject site is located within the Limitation or Operations Surface map where structures greater than 7.5m require referral to Defence. Accordingly, the application has been referred to Defence for comment. In response, Defence originally requested the building be amended to be reduced from a height of 36.75m AHD to below 28.5m AHD to avoid infringing the ASR operational surface. However, after seeking further technical assessment of the infringements impact to radar capability, Defence retracted their objection to the proposed building height. Defence subsequently supported the proposed building height.</p> <p>The application was also referred to the Civil Aviation Safety Authority (CASA) for comment in relation to civilian flight operations at the Newcastle Airport. In response, CASA concurred with the Defence comments and made no objection to the application. CASA noted that Defence is the appropriate authority for consultation as they are the 'aerodrome operator'.</p> <p>On this basis, despite the proposal penetrating the Limitation and Operations Surface, the proposal satisfies Clause 7.4(3)(a).</p>	Yes
Development in areas subject to aircraft noise	Clause 7.5(3) provides that before determining a development application	The proposal is located within the 30-35 Australian Noise Exposure Forecast (ANEF) contours for RAAF Base	Yes

(CI 7.5)	<p>for development to which this clause applies, the consent authority—</p> <p>(a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and</p> <p>(b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and</p> <p>(c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000.</p>	<p>Williamstown. Accordingly, the site will be subject to high levels of aircraft noise. In accordance with Australian Standard (AS) 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, the proposed development is a commercial building, which is identified as conditionally acceptable within 25-35 ANEF contours.</p> <p>An Acoustic Assessment prepared by enzo Tonin ref: TM612-03F02 and dated 10 March 2023 was submitted with the application which demonstrates that the building can be constructed with acoustic attenuating measures to reduce the maximum noise level experience of the site of 97db(A) to the relevant indoor design levels within AS 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction for office premises and retail/cafés. This requires a maximum reduction of 42db(A) for private offices, where the indoor design sound level must not exceed 55 in accordance with table 3 of AS 2021:2015.</p> <p>Referral correspondence with Defence originally identified that the site is expected to experience between 62 and 101 dB(A) and requested the acoustic report be amended to reflect this. However, following the submission of an amended Acoustic Report, this advice was amended and Defence accepted the proposed noise reduction measures which are based on a maximum noise level exposure of 97db(A). No</p>	
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		further objection to the development was raised by Defence.	
Essential Services (Cl. 7.6)	Cause 7.6 provides that development consent must not be granted to development unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required.	Following the recent completion of the parent subdivision works, the site is serviced by reticulated water, electricity and sewer. In addition, the application has demonstrated that stormwater drainage resulting from roof and hard stand areas can be catered for in accordance with Councils requirements. The subject land will have direct access to the local road network, once the parent subdivision is registered. As the parent subdivision has not yet been registered a deferred commencement condition has been included requiring that Stage 1 of DA 16-2009-324-1 is registered prior to the consent becoming operational. Subject to this recommended condition, the proposal meets the requirements of this clause.	Yes
Drinking Water Catchments (Cl. 7.8)	<p>Clause 7.8(3) provides that Before determining a development application for development on land to which this clause applies, the consent authority must consider the following—</p> <p>(a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following—</p> <p>(i) the distance between the development and any waterway that feeds into the drinking water storage,</p>	<p>The proposed development is located within a drinking water catchment and accordingly the requirements of this clause apply.</p> <p>The proposal has been designed so as not to result in negative impacts on the quality or quantity of water entering the drinking water storage through discharge to the existing stormwater swale that conveys water to the basin approved as part of the parent subdivision which has been designed to cater for the water quality requirements of the whole precinct.</p> <p>Subject to the recommended conditions, the proposed stormwater system would reduce the levels of identified</p>	Yes

	<p>(ii) the on-site use, storage and disposal of any chemicals on the land,</p> <p>(iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,</p> <p>(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>Clause 7.8(4) provides that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	<p>pollutants to acceptable levels, prior to discharge from the site, in accordance with the requirements of the DCP. There are no anticipated adverse impacts on the drinking water catchment as a result of the proposed development.</p> <p>In addition, the application was referred to Hunter Water Corporation (HWC) accordance with Section 51 of the of the Hunter Water Act 1991. In response, HWC made no objection and confirmed that the proposal is in accordance with the stormwater strategy approved for the Stage 1 Astra Aerolab subdivision. HWC recommended conditions relating to the management of dewatering activities.</p>	
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The proposal is considered to be consistent with the LEP.

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and are relevant to the proposal, including the following:

- *Williamstown Special Activation Precinct Draft Masterplan - State Environmental Planning Policy (Precincts—Regional) 2021*
- *Draft Remediation of Land SEPP*

These proposed instruments are considered below:

State Environmental Planning Policy (Precincts—Regional) 2021

Chapter 3 Activation Precincts of the State Environmental Planning Policy (Precincts—Regional) 2021 seeks to promote economic development, industry investment and innovation through the implementation of Activation Precincts.

The site is located within the draft Williamstown Special Activation Precinct (SAP) which is to be implemented under *State Environmental Planning Policy (Precincts-Regional) 2021* (Precincts Regional SEPP). The SAP seeks to capitalise on the emerging aerospace industry and become a leading defence and aerospace precinct.

The Department has exhibited a draft Williamstown SAP Master Plan on two occasions, the latest being in January-February 2023. At this time the Master Plan was expected to be finalised in 2023. The Astra Aerolab, including the site is located within the Northern Catchment of the SAP which has been identified as the commercial core of the precinct.

There are no current or draft provisions to consider under this SEPP. However, clause 3.8 of the Precincts Regional SEPP provides that a consent authority must have regard to any draft master plan or draft delivery plan when determining an application on land within an Activation Precinct.

The proposed development is consistent with the draft Master Plan as it aligns with the intended land uses identified for the northern catchment. Specifically the proposal is consistent with the future built form and landscape aims and performance criteria within Section 5.1 and bulk and scale aims within Section 5.2 of the draft Master Plan. An assessment against the aims are outlined in the following section.

Section 5.1 Built form and landscaping

“Provide a campus-style employment precinct where buildings respond to open space and a well-connected, pedestrian-friendly environment with integrated public and active transport”

The proposed development sits within a campus style precinct, which features strong pedestrian connections, shared infrastructure, including a common car park, landscaped parks and outdoor BBQ and gym equipment. The proposed building provides logical connections to existing pedestrian paths and includes landscaping which is complimentary to that already installed throughout the campus precinct.

“Ensure a mix of contemporary, high-quality building types and sizes to support employment opportunities that evolve in line with changing economic drivers”

The proposed building is a high- quality and contemporary design, which is reflected in the comments from Council’s UDP. The proposed building includes commercial floor space to cater for the emerging Defence and Aerospace industries that support the operation of RAAF Base Williamstown and Newcastle Airport.

“Built form to be of high quality, with facades that address the street and that have articulation, modulation, passive surveillance and street activation”

The proposal addresses the street through the provision of an entry statement at the primary entrance to the building in the form of a large aeroplane wing shaped canopy with landscaping either side. The proposed building features varied setbacks and a sufficient

variety of material finishes, fenestration and sun shading devices to articulate the building and reduce its perceived bulk and scale, particularly for the Aerospace Avenue and Jeffries Circuit Façades. Modulation is provided in the dimensions of fenestration and pre-cast concrete panels. The proposal includes a ground floor café/restaurant to provide street activation. Passive surveillance is achieved through the large expanses of windows on the elevations facing the street.

“Retain and continue the landscape treatment established in the Stage 1 of Astra Aerolab, which utilises native vegetation to assist with watersensitive urban design”

The proposed development is located within Stage 1 of the Astra Aerolab. The proposed development incorporates landscaping comprising a mix of native vegetation that mirrors the subdivision wide landscape treatments in stage 1 of the Astra Aerolab.

“Provide connections to the environmental protection area including the integration of the health loop showcasing the Williamstown’s existing landscape and protecting native vegetation”

The proposed development provides footpath connections to the proposed ‘health loop’ and environmental protection area to the south and southwest of the site.

“Act as a catalyst for design excellence for employment areas in the Hunter region”

The proposed development exhibits design excellence as indicated by the comments made by Council’s UDP and will be a catalyst for commercial development in the Williamstown area. The proposed building is a landmark development in the context of the Williamstown precinct which establishes a desirable precedent to guide future development in the region.

Section 5.2 Bulk and scale

“Ensure a mix of contemporary, high-quality building types and sizes are provided to support employment opportunities within the Precinct”

The proposed building is a high-quality and contemporary design, as outlined above. Regarding building types and sizes, within Section 5.2 there is a specific performance criteria that nominates taller buildings between 5 to 6 storeys as being appropriate in the commercial centre subject to obstacle limitation surface requirements.

The proposed development is for an 8 storey building which is greater than the height specified in the performance criteria of the SAP Master Plan. The applicant submitted a Visual Impact Assessment (VIA) with the application to support the proposed height. The VIA analyses the visual impact of the proposal from 6 key view points, including the airport Precinct, Nelson Bay Road, and rural land located to the south of the site. The VIA shows that the building would be visually prominent from the airport precinct and Nelson Bay Road, which is considered appropriate as the building sits against the backdrop of other airport infrastructure visible from these locations. The proposed building is visible from 2 of the 3 rural viewpoints assessed in the VIA. The view points are from rural land at Cabbage Tree Road and show that the top of the building is visible above the surrounding tree canopy. The presence of an office building is in contrast to the existing rural landscape, however, the visual impact is subdued by the tree canopy which leaves only the top of the building visible. Taking into account the Williamstown SAP seeks to rezone and develop this rural land for commercial and industrial purposes, the visual impacts from these view points are considered acceptable.

The UDP also found the height of the building to be acceptable, noting the VIA was useful in confirming the opinion that the Panel had independently reached in respect to the height of the proposal – that being that the building sits quite comfortably in the area, without any adverse visual impact or negative urban design outcomes.

Noting the proposed building height is above that envisaged within the draft Master Plan, referral comments were requested from Regional Growth Development Corporation (RGDC) - the authority responsible for delivering the Williamstown SAP. In response, RGDC made no objection to the height of the building, subject to Council undertaking consultation with the Civil Aviation Safety Authority (CASA) with regards to the Obstacle Limitation Surface (OLS) requirements and the Department of Defence regarding the Defence Obstacle Clearance Surfaces (OCS).

The application was referred to Defence to review potential impacts that may occur to the operations of the Newcastle Airport and RAAF Base Williamstown. In response, Defence made no objection relating to the height of the building regarding the OLS or OCS. Defence confirmed the proposed height of the building does not penetrate the obstacle limitation surface associated with RAAF Base Williamstown and Newcastle Airport.

The application was also referred to the Civil Aviation Safety Authority (CASA) for comment in relation to civilian flight operations at the Newcastle Airport. In response, CASA concurred with the Defence comments and made no objection to the application. CASA noted that Defence is the appropriate authority for consultation as they are the 'aerodrome operator'.

“Ensure built form is appropriate for its use and provides high-quality architectural design that responds to the existing topography and local context”

The proposed building design is appropriate for its intended use as office space and is of a high-quality architectural design as outlined elsewhere in this report. The site and surrounds is low lying and relatively flat. The relatively flat nature of the locality causes the building to be visually prominent from large distances from the site, as shown in the VIA submitted with the application. Notwithstanding the visual impacts of the proposal have been found to be acceptable as outlined elsewhere in this report.

On this basis, the proposal is generally consistent with the Williamstown SAP draft master plan.

Draft Remediation of Land SEPP

The draft SEPP, which was exhibited from 25 January to 13 April 2018, and remains under consideration.

The proposed SEPP seeks to provide a state-wide planning framework to guide the remediation of land, including: outlining provisions that require consent authorities to consider the potential for land to be contaminated when determining development applications; clearly lists remediation works that require development consent; and introducing certification and operational requirements for remediation works that may be carried out without development consent.

Consideration has been given to the suitability of the site with respect to potential land contamination under the SEPP (Resilience and Hazards) 2021 discussion elsewhere within this report. The subject site has been identified as suitable for the proposed development, with respect to contamination.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Port Stephens Development Control Plan 2014*

The Port Stephens Development Control Plan 2014 (the DCP) is applicable to the proposed development and has been assessed below.

Chapter B1 – Tree Management

This Chapter does not apply as the development application does not seek consent for the removal of trees. Tree removal over the site was approved under the parent Astra Aerolab subdivision application.

Chapter B2 – Natural Resources

This chapter applies to development located within 500m of environmentally sensitive areas, development that contains koala habitat, noxious weeds or development that is seeking to use biodiversity credits.

The site is located within proximity to items of environmental significance, including koala habitat and is partially mapped on the Biodiversity Values (BV) map. However, the site has previously been cleared of vegetation which was approved under the parent subdivision for the Astra Aerolab business park.

With regard to koalas, the site is mapped as a 50m buffer over cleared and link over cleared in Council's Koala Habitat Planning Map (2000). Impacts to koala were considered as part of the parent approval, which did not identify the need for a koala corridor through the site. A north west – south east koala corridor exists immediately to the west of the site through HWC and Rural zoned land, which would be retained as a conservation area in the event the Williamstown SAP progresses.

On this basis, the proposal is consistent with the Port Stephens CKPoM and the requirements of Chapter B2.

Chapter B3 – Environmental Management

Chapter B3 contains provisions relating to ASS and earthworks and have been assessed below.

Acid Sulfate Soils

The objective of this section is to ensure that developments do not disturb, expose or drain Acid Sulfate Soils (ASS) and cause environmental damage.

As detailed within clause 7.1 discussion above, the proposed development could be undertaken, without impacts to ASS, subject to the implementation of the ASSMP submitted with the application. On this basis, the development is consistent with the objective and requirements of this chapter.

Noise

An Acoustic Assessment prepared by enzo Tonin ref: TM612-03F02 and dated 10 March 2023 was submitted with the application to ensure that the total noise level (existing plus new) will remain within the recommended amenity noise level applicable to the area. The

acoustic assessment concludes that the use of the site as a commercial building is unlikely to have any impact on the nearest residential receivers given the distance from the site and given the proposed commercial use. Similarly, the use of the site as a commercial building is unlikely to impact the amenity of nearby commercial receivers.

The Acoustic Assessment includes specific recommendations regarding noise generated by mechanical plant equipment, the acoustic report recommends an acoustic certification of mechanical services equipment be undertaken during the detailed design phase of the development to ensure that they shall not either singularly or cumulatively emit noise levels which exceed the applicable noise limits. Recommendations relating to the management of construction noise were also provided. Subject to conditions requiring the implementation of the Acoustic Assessment recommendations during construction, design and operation, the noise emissions would not exceed that outlined within the NSW Industrial Noise Policy or the EPA Noise Policy for Industry (NPfI).

The separation distances between the site and any sensitive receivers, along with ambient noise levels from airport operations will limit any significant impacts on adjoining development. The anticipated impacts of the development during construction and operation can be managed through conditions of consent which limit construction work hours and mitigate noise derived from ventilation and air conditioning systems. Subject to conditions, the application is satisfactory in regards to noise impact and management.

Air Quality

Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control be carried out in accordance with the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust). The proposed commercial and food and drink premises land uses would not cause any ongoing air quality impacts during the operational phase of the development.

Earthworks

As discussed at clause 7.2 above, the proposed development involves minor excavations associated with footings. The proposed development does not include cut exceeding 2m in depth or fill of a total area of 100m² or more, therefore B3.3 does not apply. Conditions of consent have been included restricting the type of fill materials used to virgin excavated natural material only or material subject to a waste resource recovery exemption, satisfying B3.4. The proposal is therefore consistent with requirements of this section.

Chapter B4 – Drainage and Water Quality

This section applies to development that:

- Increases impervious surfaces; or
- Drains to the public drainage system; or
- Involves a controlled activity within 40m of waterfront land.

The stormwater management plan includes collection through gutters and downpipes directed to a reuse tank located in a plant room on Level 1 prior to discharge to the existing kerb and gutter stormwater network on Aerospace Avenue and Jeffries Circuit via a pit and pipe network. Stormwater is then be diverted into the swale on the western side of Jeffries Circuit and towards detention basins at the south of the Astra Aerolab subdivision. External pavements and landscaped areas are proposed to be graded to direct stormwater to a pit and pipe network and the adjacent roads.

Water quantity and quality has already been catered for all developments within Stage 1 of the parent Astra Aerolab subdivision. As a result, no on site detention or water quality improvement devices are proposed.

The stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification and the water quality requirements of this section, by both Council's engineers and Hunter Water Corporation, who referred the application due to the site being located in a drinking catchment. A condition of consent has been recommended requiring the provision of detailed engineering plans, prior to the issue of a Construction Certificate. Subject to the recommended conditions, the proposal is consistent with the requirements of this chapter.

Chapter B5 – Flooding

This section applies to all development on flood prone land. The subject land is mapped as being within the Flood Planning Area.

As discussed against Clause 5.21 of the LEP above, the proposed development is located on land mapped within the Flood Planning Area. The proposed development is categorised as 'all other development', within figure B1 of the DCP, meaning that it is a suitable development type where it is not located in a floodway. The site is not identified as a floodway and therefore could be considered suitable, subject to the development controls in this chapter.

The parent subdivision was approved with finished lot and road levels above the flood planning level of 3m Australian Height Datum (AHD). Accordingly, the proposal is afforded appropriate flood immunity to protect property and a flood free evacuation route is available to minimise risk to life from flooding, satisfying section B5.2 and B5.11-B5.12. The flood compatible design measures in B5.3-B5.7, relating to construction methodology, electrical features and potentially hazardous or polluting materials can be satisfied through the recommended conditions of consent.

Precinct wide flooding impacts were assessed as part of the parent subdivision which confirmed no adverse offsite flooding impacts would occur as part of the subdivision and subsequent individual developments. Based on these findings and the proposal involving minimal loss of flood storage a further flood impact assessment is not required, in accordance with B5.8 of the DCP.

Based on the finished levels of roads and the building being above the FPL and the lack of adverse offsite flooding impacts, overall the proposal is compatible with the flood function and behaviour of the land and on this basis satisfies the requirements of this chapter.

Chapter B6 – Williamstown RAAF Base - Aircraft Noise and Safety

This section applies to development that is situated within the 2025 Australian Noise Exposure Forecast (ANEF), bird strike zone, extraneous lighting area or the Royal Australian Air Force (RAAF) Base Williamstown Obstacle Limitation map. The site is located approximately 980m from the centre line of the RAAF Base Williamstown/Newcastle Airport runway and is affected by all of the aforementioned site constraints.

The site is situated within the 2025 Australian Noise Exposure Forecast (ANEF), bird strike zone – Group C, extraneous lighting area and obstacle limitation area associated with RAAF Base Williamstown. Consideration of these site constraints is required in accordance with Clause 7.4 and 7.5 of the LEP and Chapter B6 of the DCP.

The impact of aircraft noise on the proposed development has been assessed in the discussion against Clause 7.5 of the LEP above. The proposal is located within the 30-35 Australian Noise Exposure Forecast (ANEF) contours for RAAF Base Williamtown. Accordingly, the site will be subject to high levels of aircraft noise. In accordance with Australian Standard (AS) 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, the proposed development is a commercial building, which is identified as conditionally acceptable within 25-35 ANEF contours.

An Acoustic Assessment prepared by enzo Tonin ref: TM612-03F02 and dated 10 March 2023 was submitted with the application which demonstrates that the building can be constructed with acoustic attenuating measures to reduce the maximum noise level experience of the site of 97db(A) to the relevant indoor design levels within AS 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction for office premises and retail/cafés. This requires a maximum reduction of 42db(A) for private offices, where the indoor design sound level must not exceed 55 in accordance with table 3 of AS 2021:2015.

Referral correspondence with Defence originally identified that the site is expected to experience between 62 and 101 dB(A) and requested the acoustic report be amended to reflect this. However, following the submission of an amended acoustic report, this advice was amended and Defence accepted the proposed noise reduction measures which are based on a maximum noise level exposure of 97db(A). No further objection to the development was raised by Defence. On this basis, the proposal is consistent with the requirements of B6.1 and B6.2.

The site is located in a bird strike ‘Group C area’ where certain development types are restricted or alternatively require specific management measures relating to the storage of organic waste materials. The proposed commercial land use, including food and drink premises is not a restricted land use in the Group C area and therefore the proposal could comply with the requirements of section B6.6, subject to conditions relating to the storage of organic waste materials.

The site is located within an extraneous lighting control area associated with RAAF Base Williamtown and Newcastle Airport which seeks to control lighting that may distract pilots. The application includes a letter of engineering advice, dated 13 January 2023, prepared by Northrop which assesses the proposal for compliance with the Civil Aviation Safety Authority Manual of Standards Part 139. The advice concludes that the proposed lighting is within the permissible limits of CASSA Part 139 (aerodromes) Manual of Standards 2019. Based on this advice, Defence made no objection to the proposed lighting, subject to conditions requiring compliance with the Civil Aviation Safety Authority Manual of Standards Part 139 and limited use of reflective materials. On this basis, the proposal satisfies the requirements of B6.7.

The subject site is located within the Limitation or Operations Surface map where structures greater than 7.5m require referral to Defence. Accordingly, the application has been referred to Defence for comment. In response, Defence originally requested the building be amended to be reduced from a height of 36.75m AHD to below 28.5m AHD to avoid infringing the ASR operational surface. However, after seeking further technical assessment of the infringements impact to radar capability, Defence retracted their objection to the proposed building height. On this basis, despite the proposal penetrating the Limitation and Operations Surface, the proposal satisfies Clause 7.4(3)(a) and this chapter.

Based on the findings of the acoustic and lighting assessments submitted with the application, Defence referral advice and recommended conditions, the proposed development satisfies the requirements of this chapter.

Chapter B7 – Heritage

This section applies to development that is situated on land that contains a heritage item or within a heritage conservation area.

As discussed against Clause 5.10 of the LEP above, the site has been subject to significant prior ground disturbing activities as part of the parent subdivision. An Aboriginal Cultural Heritage Assessment was prepared and a subsequent Aboriginal Heritage Impact Permit (AHIP) sought as part of the parent Astra Aerolab subdivision (DA 16-2009-324). The Stage 1 Astra Aerolab works have been completed and were required to be carried out in accordance with the HNSW GTAs issued with DA 16-2009-324 and any subsequent AHIP.

A local heritage item is located at 150 Cabbage Tree Road, to the south west of the site. The heritage item is known as Devon House (I109). The proposed development will not impact the heritage significance of this item.

A condition of consent is recommended regarding the implementation of an unexpected finds procedure. Subject to this condition, the proposal is consistent with the requirements of this chapter.

Chapter B8 – Road Network and Parking

This section applies to development with the potential to impact on the existing road network or create demand for on-site parking.

A Traffic Assessment (TA) prepared by JMT Consulting, reference no. 2204 and dated 6 October 2022 was submitted with the DA. The TA assesses vehicle access, traffic impacts and provision of car parking as outlined in the following sections.

Traffic Impacts

The TA found that the surrounding road network can appropriately service the proposed development, based on peak traffic movements that may be generated by the development including:

- 73 vehicle movements in the morning peak hour; and
- 55 vehicle movements in the evening peak hour.

The TA further concludes that the proposal would not require any road infrastructure upgrades, with thresholds for infrastructure upgrades not triggered under this proposal. Upgrades to the surrounding road network will be progressively delivered as the Astra Aerolab precinct further develops, in accordance with conditions of consent imposed on DA 16-2009-324.

The road and intersection upgrades and associated timing include the following:

- A second right turn lane on the western leg of the intersection of Williamtown Drive and Nelson Bay Road prior to Stage 2A. This requirement has also been imposed as part of a consent issued for an upgrade to the airport terminal (DA 16-2008-940-6).
- Duplication of Williamtown Drive between Nelson Bay Road and the development prior to Stage 4.
- Single connection with Cabbage Tree Road prior to Stage 5.

On this basis, the proposal, including vehicular access to Nelson Bay Road via Williamtown Drive would not adversely impact the safety, efficiency and ongoing operation of Nelson Bay Road.

Council's development engineer concurred with the findings of the TA and concluded the development accords with the traffic related controls within this section of the DCP.

On-site Parking Provisions

The proposed development includes on-site car parking for 17 vehicles, including 1 accessible space. The car parks are located on level 1 accessed via a ramp on the eastern side of the building. All parking spaces within the on-site car park comply with the requirements of 'AS/NZS 2890.1:2004 Parking facilities – Off-street car parking'.

The DCP outlines parking requirements for new developments containing office, café and retail uses. The DCP car parking rates and associated parking requirements are summarised in **Table 5** below. The proposed development generates a demand of 133 car spaces based on the DCP requirements.

Table 5: DCP Car Parking Requirements

Proposed Use	GFA	DCP Parking Rate	Required number of spaces
Office Premises	4,893m ²	1 space / 40m ² and; 1 accessible space / 30 parking spaces	122 including 4 accessible spaces
Retail (neighbourhood shop)	75m ²	1 space / 20m ² and; 1 accessible space / 30 parking spaces	4 including 1 accessible space
Restaurant/café	170m ²	1 space / 25m ² (in commercial premises) and; 1 accessible space / 30 parking spaces	7 including 1 accessible space
Total			133

The proposal includes 17 on-site car parking spaces on Level 1, including 1 accessible space. As a result the development would have a shortfall of 116 spaces, including 6 accessible spaces, in accordance with the DCP. The proposal also includes storage racks for 25 bicycles, 13 of which are located in a secure location within the building. This satisfies the DCP requirement for one bicycle space for every 200m² of office floor space. End of trip facilities are proposed and include lockers, showers and change areas which will support cycling as a mode of transport to the site.

To address the shortfall in car parking, the proposal includes the use of 120 spaces in a common car park to be located to the north east of the site within the residual Astra Aerolab lot (Lot: 11 DP: 1036501). However, this common car park has not been constructed. The DA for the car park (DA16-2022-855-1) was approved on 23 May 2023 and approved an extension and partial conversion a recently approved long stay car park to provide an additional 1,070 spaces to service Stage 1 of the Astra Aerolab development. The common car park is within a walkable distance of 177m from the development via existing footpaths constructed with the parent subdivision, and footpaths approved as part of the car park extension, as shown in **Figure 12** below.



Figure 12: Common Car Park Access

The proposed use of the common car park is considered suitable given the reasonably close distance and walkability afforded by the existing pedestrian network. In order to secure legal access rights to the car park, the applicant has submitted a draft deposited plan and 88b instrument which shows the necessary right of access and easements to park across Lot: 11 DP: 1036501, benefitting Lot 106. The draft deposited plan is shown in **Figure 13** below. The car parking benefitting Lot 106 is labelled (A).

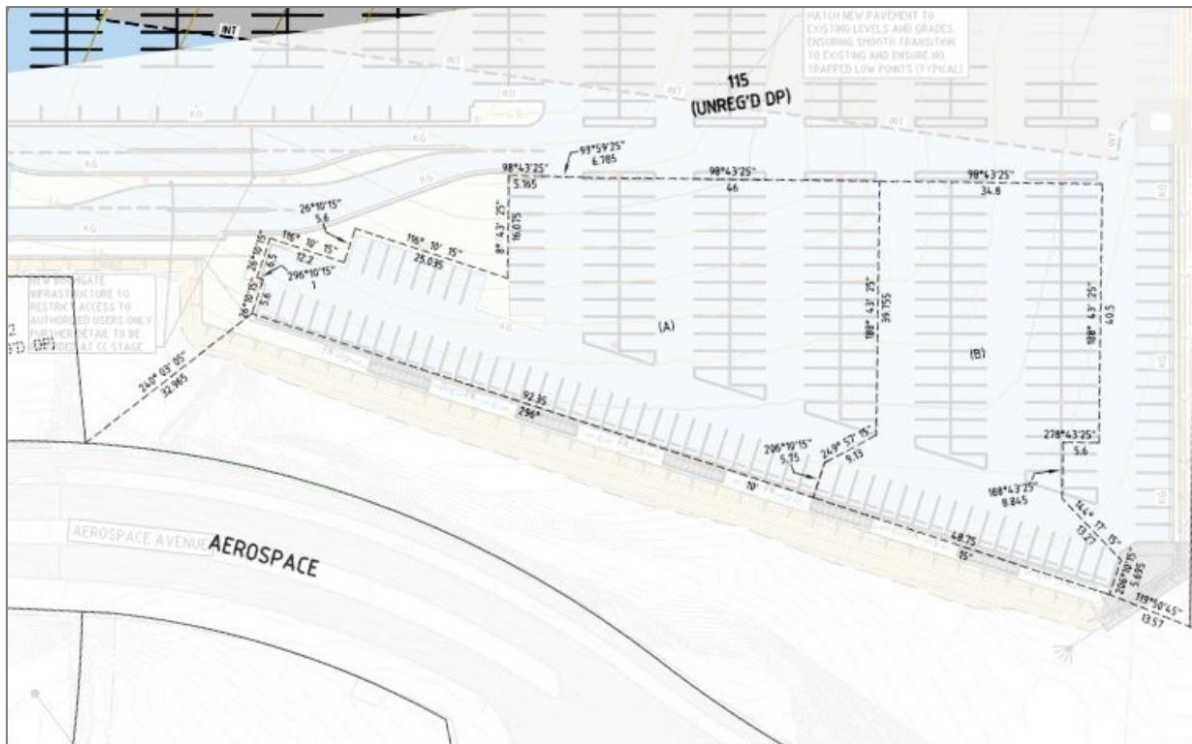


Figure 13: Draft Deposited Plan

To ensure car parking is available for the development at completion, a condition has been recommended stipulating that the occupation certificate for the development not be issued until a final Occupation Certificate has been issued for the common car park under DA16-2022-855-1 and the associated easements and right of access to park over Lot: 11 DP: 1036501, benefitting Lot 106 registered with the NSW Land Registry Services. The condition also requires that a carriageway be provided over the connecting road to the car park over residue Lot 115 of DP 129 5775.

The application includes a disability access report that confirms the provision of 1 accessible on site car parking space satisfies the BCA requirements based on the proposed buildings class. On this basis, the variation to the DCP accessible parking requirement is supported.

On-site Parking Access

Road access to the site is via the regional road network, specifically through the Nelson Bay Road / Williamtown Drive signalised intersection and onwards to Aerospace Avenue. The proposed vehicular access to the site is via a 10m wide driveway from Aerospace Avenue to be constructed over both Lot 106 and 107 on the eastern side of the building. A 9m wide extension of this driveway through lot 107 is proposed for shared vehicular access to future development on Lots 104, 105 and 107.

Passenger vehicles will access an on-site car parking area via a dedicated driveway that ramps up to a single level car parking area. The vehicular access ramp serving the car park has been designed in accordance with the requirements of AS2890.1, including the provision of suitable transition gradients at the top and bottom of the ramp to ensure that the underside of vehicles do not scrape as they travel along the ramp.

Immediately adjacent to the passenger vehicle ramp is a loading dock which can accommodate an 8.8m Medium Rigid Vehicle (MRV) which will be used to service the building. The TA adequately demonstrates that sufficient carriage width has been allocated

for safe vehicle manoeuvring and that sight distances comply with AS2890.2, noting the wide shared pathway and that no parking is permitted on the street. Council's traffic engineer concurred with the findings of this assessment.

On this basis, the proposal complies with the relevant access, traffic and car parking related requirements of Chapter B8.

Chapter C2 – Commercial

The development specific provisions for commercial development within the DCP, where relevant are assessed in Table 6 below.

Table 6: DCP Commercial Chapter Assessment

Reference	Objective	Control	Assessment	Compl ies
Objective C2.A Requirement C2.1-2.5	Height <ul style="list-style-type: none"> To ensure development is of an appropriate height that minimises privacy loss and over-shadowing To ensure that floor to ceiling height allows for flexible uses overtime 	C2.1 Building height is provided in accordance with the Local Environmental Plan clauses 4.3 and 5.6	No building height applies to the site. Refer to discussion against Clause 4.3 of the LEP above which finds the proposed height of the building to be appropriate.	Y
		C2.2 Minimum ground floor to ceiling height for all new development within a commercial zone is 3.5m	The ground floor to Level 1 floor height is 4.6m, leaving more than sufficient space for services to achieve the required 3.5m ceiling height for the ground floor.	Y
		C2.3 Minimum first floor and above floor to ceiling height for commercial premises is 3m	The floor to floor height for the first level and above are 3.8m, allowing more than sufficient space for services to achieve the 3m ceiling height.	Y
		C2.4 Minimum first floor and above floor to ceiling height for residential accommodation is 2.7m	N/A.	N/A
		C2.5 Ground level (finished) must be between 100-500mm above adjacent footpath levels	The finished ground level of the building is 215mm lower than the highest forecourt area outside the building. The finished level of the building is 57mm higher than the lowest point of the forecourt outside the building.	Variati on suppor ted

			The variation is considered acceptable given that the forecourt area adjacent the front of the building is sloped and stormwater will be diverted away from the areas that are lower than the outside forecourt.	
Objective C2.B Requirement C2.6-C2.14	Site Frontage and Setbacks <ul style="list-style-type: none"> To ensure development provides continuity and consistency to the public domain 	C2.6 Minimum 20m site frontage where development is proposed to be more than 10.5m in height	The sites minimum frontage to Jeffries Circuit is 37m and therefore complies with this control.	Y
		C2.7 Development is built to the front property line for the ground and first floor C2.8 Minimum 3m front setback from the front property line for the second floor and above C2.9 Minimum 3.5m front setback from the front property line for mixed use development for second floor and above	The building is not located on an activated high street where 0m front setback is desired. Therefore, C2.7 is not considered applicable and would not lead to a desirable streetscape presentation given the site is located within a business park and contravenes the specific design criteria of campus type developments as outlined the SAP Master Plan. The upper storeys of the building comply with the minimum 3m setback control of C2.8 for the second floor and above. The development is not a mixed use development and therefore C2.9 is not applicable.	N/A
		C2.10 Parts of a building may give variation in setback to provide design articulation	The proposed building features variation in setbacks for both the aerospace Avenue and Jeffries Circuit façades which improves articulation	Y

			and positively contributes to the aesthetic of the building.	
		C2.11 Development should be built to the side boundary to maximise continuous active street frontage, except where side access is provided	N/A - The building is not located on an activated high street where 0m side setbacks are desired. Therefore, this control is not considered appropriate and would not lead to a desirable streetscape presentation given the site is located within an emerging business park.	N/A
		C2.13 Rear setback is built for purpose and informed by a site analysis plan	The rear setback is 3.4m and offers sufficient space for pedestrian access to the rear of the building and for deep soil landscape plantings.	Y
		C2.14 Where there is a level of change in excess of 500mm at the front property boundary the floor plate and rooflines of development steps with the longitudinal grade of street	N/A	N/A
Objective C2.C Requirement C2.15- C2.16	Building Form and Massing <ul style="list-style-type: none"> To ensure development reinforces, compliments and enhances the visual character of the street 	C2.15 Building mass does not result in unreasonable loss of amenity to adjacent properties or the public domain	The proposed building features varied setbacks and a sufficient variety of material finishes to articulate the building and reduce its perceived bulk and scale, particularly for the Aerospace Avenue and Jeffries Circuit Façades. Materials primarily consists of precast concrete panels, aluminium and Equitone (fibre cement) cladding panels, aluminium framed windows and,	Y

			double glazed windows.	
		C2.16 Building proportion is complimentary to the form, proportions and massing of existing building patterns	There is no established building pattern in the locality, as this one of the first developments within Stage 1 of the business park. However, the proposed building sets a suitable precedent for Stage 1 of the business park, where taller buildings with ground level activation are desired so that the precinct can form the commercial core of the business park.	Y
Objective C2.D Requirement C2.17-C2.21	Facades <ul style="list-style-type: none"> To ensure street activation and passive surveillance through active street frontage To facilitate development that is safe and secure for pedestrians and contributes to public domain safety by incorporating principles of CPTED, such as: <ul style="list-style-type: none"> Territorial reinforcement Surveillance 	C2.17 Building facades use materials, colours and architectural elements to reduce bulk and scale that are complimentary to existing built-form and natural setting	The proposed building features a restrained colour palate. However, a sufficient variety of material finishes and fenestration are provided along with sun shading devices to articulate the building and reduce its perceived bulk and scale. The building facades were supported by Councils UDP.	Y
		C2.18 <ul style="list-style-type: none"> Development provides continuity of an active street frontage for localities where business premises or retail premises predominately face the street and have direct pedestrian access from the street, which may be identified in Part D Specific Areas An active street frontage provides the following: <ul style="list-style-type: none"> Maximum unarticulated wall is 2m in length 	N/A - the development is not located within an activated high street where business premises or retail premises predominately face the street.	N/A

	<ul style="list-style-type: none"> - Access Control - Space/Activity Management • To ensure the bulk of large floor plate development is concealed by a sleeve of smaller buildings fronting the street 	<ul style="list-style-type: none"> - Minimum 50% of ground floor front is windows, which does not include false windows <p>Note: C1.13 requires that the street layout enable each lot to front a street or corner lots to face both streets</p>		
		<p>C2.19 A big box development may achieve an active street frontage by providing a sleeve of smaller buildings that conceal its bulk to the street frontage Note: C2.K provides additional requirements for bulky goods premises</p>	N/A.	N/A
		<p>C2.20 Development incorporates crime prevention through environmental design (CPTED) principles by providing passive surveillance to public spaces through building design and orientation</p>	<p>The development incorporates sufficient CPTED design principles to ensure passive surveillance is provided to forecourt areas to the front and rear of the building as well as the Level 1 car park. Specific CPTED principles adopted include:</p> <ul style="list-style-type: none"> - Delineation between private and public space - Clear sightlines - Restricted access to the car parking area - Night time lighting provided to level 1 and external ground floor areas - Low height vegetation - CCTV <p>Conditions of consent have been recommended to incorporate these measures. The UDP supported the proposal from a CPTED perspective.</p>	Y

		C2.21 Development provides paving to the public footpath for the entire length of the development street frontage	A footpath was recently constructed as part of the stage 1 works for the parent subdivision DA and extends for the entire length of the development street frontage.	Y
Objective C2.E Requirement C2.22	Awnings <ul style="list-style-type: none"> To ensure continuous awnings along pathways to provide shelter where most pedestrian activity occurs To ensure awning design is integrated with the building façade to integrate with adjoining buildings 	C22 Awnings must be provided over pedestrian pathways <ul style="list-style-type: none"> New awnings must maintain the same dimensions, alignment and materials of existing awnings along the street A continuous or stepped solid box awning should be provided for the full extent of the building frontage with awnings 3m in width or setback 750mm from the curb, whichever is less Under awning height will be between 3.2m and 3.6m Awnings on sloping sites should be a cantilevered steel box section that steps with street slope Awnings are varied when there is a need to highlight the location of a major building entrance 	N/A - The proposed building is setback within the site and therefore cannot offer awnings of the footpaths within the road reserve. Despite this, large awnings are provided to all key entry points to the building.	N/A
Objective C2.F Requirement C2.23-C2.24	Building Entries <ul style="list-style-type: none"> To provide clear direction to access points 	C2.23 Provide a recognisable entry from the primary street <ul style="list-style-type: none"> Entries on corner sites address both streets by providing a splayed entry on that corner A separate and secure access point that provides a clear sense of building address is provided for the residential component of mixed-use development 	The primary entry to the building is highlighted by a large aeroplane wing shaped canopy with landscaping either side. A second major entry point is provided on the secondary frontage of the site, rather than a splayed entry on the corner. The variation is supported as it provides an appropriate response to the geometry of the corner to ensure a desirable presentation to the street.	Variation supported

			All other entry points to the building are clearly identifiable.	
		C2.24 Entry structures, such as access ramps, are located within the site behind the property boundary so as not to obstruct pedestrian footpaths in the public domain	No entry structures are located outside the site boundaries that would obstruct pedestrian footpaths.	Y
Objective C2.G Requirement C2.25-C2.26	Building Facilities and Services <ul style="list-style-type: none"> To appropriately locate building facilities and services that do not adversely impact on the public domain 	C2.25 Plant, equipment, storage areas, communication structures and servicing areas are located at the rear of a building and not be visible from streets, parks and other public spaces, except for service lanes	Level 7 contains a dedicated plant room which is integrated into the form of the building. Other ground level infrastructure such as grease arrestors and sewer pump stations are located to the rear of the building.	Y
		C2.26 Commercial development with a capital investment value over \$2 million shall provide toilets that are accessible to the public	Each tenancy is provided access to appropriate toilet amenities.	Y
Objective C2.H Requirement C2.27	Public Art <ul style="list-style-type: none"> To ensure that features of the public domain contribute to identity, character, safety, amenity and accessibility 	C2.27 Commercial development with a capital investment value over \$2 million and that provides frontage to the public domain shall incorporate public art in accordance with Council's Public Art Policy and Guidelines for the approval and installation of public art in Port Stephens Note: Evidence must be provided with a commercial development application value over \$2 million demonstrating that the developer has obtained public art approval from Council.	Given that the public art requirement will apply to multiple future development sites within the precinct, it is proposed that a comprehensive Public Art Strategy for the entire Astra Aerolab Stage 1 precinct be developed to provide suitable public art installations for the entire precinct. The public art approach is outlined in a public art strategy submitted with the application and conditions of consent have been recommended which stipulate the timing of key milestones in the	N/A

			delivery of the public art.	
Objective C2.I Requirement C2.28-C2.30	Shipping Container Stacks <ul style="list-style-type: none"> To ensure development that proposes the use of shipping containers does not impact upon the amenity of the area 	C2.28 The scale and height of shipping container stacks shall have regard to the scale and height of nearby buildings.	N/A	N/A
		C2.29 Shipping container stacks shall be located at the rear of the site where possible, unless the rear of the site abuts a sensitive use.	N/A	N/A
		C2.30 Shipping containers stacked adjacent to landscaped areas or along property boundaries shall be stacked in a tier or pyramid formation to reduce their visual bulk.	N/A	N/A
Objective C2.J Requirement C2.31-C2.35	Landscaping <ul style="list-style-type: none"> To enhance the appearance and amenity of developments through the retention and/or planting of large and medium sized trees To encourage landscaping between buildings for screening To ensure landscaped areas are consolidated and maintainable spaces that contribute to the open space structure of the area 	C2.31 Landscaping is provided as follows: <ul style="list-style-type: none"> 10% of the site area consisting of deep soil planting 30% shading over car park areas Note: The canopy coverage of specimen trees can be used to calculate deep soil landscaping	487m ² (23%) is dedicated to landscaping, all of which is deep soil. Accordingly, the proposal complies with this control.	Y
		C2.32 To be counted as part of the total landscaping coverage the landscaped area must be at least 1.5m wide and 3m long.	All landscaped areas exceed 1.3m wide and 3m long.	Y
		C2.33 Landscaping is in accordance with the following: <ul style="list-style-type: none"> Landscape works incorporate adequate screening from the street and adjacent neighbours; Corner lots provide landscaping to both street frontages; Tree and landscape planting shall be of a scale and extent that reflects the 	The application includes a landscape plan with 23% site coverage, equating to 487m ² . The site is a corner lot and provides landscaping to two frontages. A landscape screen buffer is provided to the rear which	Y

	<ul style="list-style-type: none"> To improve the aesthetics of commercial areas, especially major commercial road corridors, through landscape works and co-ordination of architectural and signage elements To reduce hydrocarbon emission by providing shading of untendered vehicles To reduce energy consumption through microclimate regulation To reduce air borne pollution by reducing the heat island effect To intercept stormwater to reduce stormwater runoff 	<p>scale of the proposed development's buildings and pavement areas</p> <ul style="list-style-type: none"> Structural soil and/or structural cells should be used to reduce competition between specimen trees and infrastructure Street trees are to be within the footpath, verge or in the parking lane and be consistent with the Port Stephens Council tree technical specification 	<p>delineates the boundary with the neighbouring property.</p> <p>Landscape plantings consist of a mix of predominately native species of varying size. Two large trees are proposed within the front setback area to match the proportions of the building.</p> <p>The existing road verge already contains street tree plantings which are to be retained.</p>	
		<p>C2.34 The rear setback area is to be:</p> <ul style="list-style-type: none"> a deep soil landscape planting area where the development adjoins a residential zone or land used for residential purposes; or assessed by a merit-based approach where the development does not adjoin a residential zone or land used for residential purposes 	<p>The proposed development does not adjoin a residential zone or land used for residential purposes. A 3.4m landscape buffer is provided within the rear setback area which consists of</p>	Y
		<p>C2.35 Landscape species are to be selected in accordance with the landscape technical specification</p>	<p>Landscape plantings consist of a mix of predominately native species of varying size, which are consistent with the landscape technical specification.</p>	Y
<p>Objective C2.K</p> <p>Requirement C2.36</p>	<p>Bulky good premises</p> <ul style="list-style-type: none"> Establish requirements for bulky goods premises Ensure the design of bulky goods contributes 	<p>C2.36 Bulky goods premises are to be designed to:</p> <ul style="list-style-type: none"> incorporate detail and architectural interest avoid creating ambiguous external spaces with poor pedestrian amenity and security provide a clearly identifiable and dedicated 	N/A	N/A

	positively to the streetscape and public domain through quality architecture, materials and finishes	pedestrian access to the building and across the site from the primary street frontage • provide pick-up areas next to the entrance to reduce unnecessary movement of heavy objects across the site		
Objective C2.L	<ul style="list-style-type: none"> To ensure signage is complementary to its surroundings 	<p>C2.37 The following types of signage are generally not supported:</p> <ul style="list-style-type: none"> Flashing signs Note: Flashing signs may be permitted in the road reserve if the text is a road safety message Roof signs Vehicular signs where the primary use of the vehicle is for advertising. Above awning signs Anchored balloons or airborne signs Inflatable signs Hoarding signs A-frame signs 	N/A	N/A

As outlined in Table 6, the proposal is generally consistent with the provisions of Chapter C2 of the DCP.

D15 Williamstown Defence and Airport Related Employment Zone (DAREZ)

The site specific provisions for commercial development within the DAREZ DCP precinct, where relevant, are assessed in **Table 7** below.

Table 7: Site Specific Development Provisions

Reference	Objective	Control	Assessment	Complies
Objective D15.A	<ul style="list-style-type: none"> To ensure development is informed by an analysis of its setting To provide for a development that is dominated by native planting that 	D15.1 A development application is accompanied by a landscape plan consistent with the Williamstown Aerospace Park Landscape Master Plan	<p>The application includes a landscape plan with 23% site coverage, equating to 2124m².</p> <p>Landscape plantings consist of a mix of predominately native species of varying size, which are consistent with the landscape technical specification.</p>	Y

	complements the existing vegetation of the area and enhances natural beauty		<p>The Williamstown Aerospace Park Landscape Master Plan does not provide specific guidance to plantings on private land.</p> <p>Notwithstanding, the proposed landscape qualities and species selection is generally consistent with those in the Landscape Master Plan.</p>	
		<p>D15.2 A schedule of colours and finishes is submitted with the SEE to demonstrate that the development contains non-reflective materials Note: C2.17 requires building facades to use materials, colours and architectural elements to reduce bulk and scale</p>	<p>Material colours and finishes are detailed on the proposed architectural plans and primarily consists of precast concrete panels, aluminium framed windows, double glazed windows and Equitone (fibre cement) cladding panels.</p> <p>Limitations regarding the reflectiveness of material finishes have been included as recommended condition of consent. No objection to the proposed development was raised by Defence in this regard, subject to the inclusion of the recommended condition.</p>	Y
Objective D15.B	<ul style="list-style-type: none"> To encourage an active and vibrant streetscape 	<p>D15.3 Aerospace Support and Commercial Precinct:</p> <ul style="list-style-type: none"> • Minimum front setback of 5m • Minimum secondary setback of 2m <p>Note: C1.13 requires the street layout to provide a grid-like structure</p>	<p>The minimum front setback of the building is 5.6m. The secondary road frontage setback of the building is 2.5m.</p>	Y
Objective D15.D	<ul style="list-style-type: none"> To ensure drainage and 	D15.6 Drainage and stormwater systems are in accordance with the	A stormwater management plan was submitted with	Y

	<p>stormwater systems are in accordance with the Williamtown</p> <ul style="list-style-type: none"> Aerospace Park Flood Assessment and Stormwater Strategy 	<p>Williamtown Aerospace Park Flood Assessment and Stormwater Strategy²³</p> <p>Note: B4.2 requires development that increases impervious surfaces to provide a stormwater drainage plan</p>	<p>the application. The stormwater drainage plan has been designed so as not to appropriately manage water quantity and quality outputs from the development, which subject to conditions would be consistent with the requirements of this section. The design includes discharge to the existing stormwater swale that conveys water to the basin approved as part of the parent subdivision which has been designed to cater for the water quality and quantity requirements of the whole precinct.</p> <p>The stormwater drainage plan has been assessed as being consistent with Council's Infrastructure Specification and the water quality requirements of this section, by both Council's engineers and Hunter Water Corporation, who referred the application due to the site being located in a drinking catchment.</p>	
Objective D15.E	<ul style="list-style-type: none"> To ensure post-development runoff is equal to or less than pre-development runoff for the broader DAREZ 	D15.7 All car parking and driveways are to be located at a level greater than 2.5m Australian Height Datum (AHD)	The proposed car parking is located on Level 1 which is above 2.5m AHD.	Y
		D15.8 All development is to have a minimum floor level equal to or greater than the flood planning level	The parent subdivision was approved with finished lot and road levels above the flood planning level of 3m Australian Height	Y

			Datum (AHD). The proposed development has a finished floor level of 3.850m AHD.	
Objective D15.F Parking	<ul style="list-style-type: none"> To ensure that appropriate onsite parking is provided 	D15.9 Onsite parking is to be located at the rear, side or within buildings of the Commercial Precinct, except for Lots 1001 and 1002, DP 1187948	The proposed car parking is located on Level 1, concealed within the building from view from the street.	Y
		D15.10 Onsite parking is located behind a 2m landscaped area for the Aerospace Support and Commercial Precincts Note: B8.11 requires on-site parking to be located behind the building line or setback	The proposed car parking is located on level 1, concealed within the building from view from the street.	Y
Objective D15.G	<ul style="list-style-type: none"> To ensure that the operational needs of the Williamtown RAAF Base are provided consideration in the development of adjoining DAREZ lands 	D15.11 Note: B6 provides general requirements relating to the aircraft noise planning area, bird strike zone and the Williamtown RAAF Base Obstacle Limitation Map	The proposed development is consistent with the requirements of Section B6 as outlined elsewhere in this report.	Y
		D15.12 Electromagnetic radiation or radio emitting devices are not to interfere with airspace operations Note: B6 Williamtown RAAF Base – Aircraft Noise and Safety requires consideration to RAAF operations	The proposed development does not include any significant electromagnetic radiation or radio emitting devices and no objection was raised by Defence in this regard.	Y
		D15.13 Development provides consideration to navigational markers by not interfering with their intended purpose Note: B6 Williamtown RAAF Base – Aircraft Noise and Safety requires consideration to RAAF operations.	The proposed development does not interfere with any navigational markers and no objection was raised by Defence in this regard.	Y
		D15.14 External lighting considers aircraft/control tower Note: B6 – Williamtown RAAF Base – Aircraft Noise and Safety requires consideration to RAAF operations	Defence made no objection to the proposed lighting, subject to conditions requiring compliance with the Civil Aviation Safety Authority Manual of Standards Part 139 and limited	Y

			use of reflective materials.	
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As outlined in Table 7, the proposal is generally consistent with the provisions of Chapter D15 of the DCP.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Port Stephens Local Infrastructure Contributions Plan*

This Contributions Plan has been considered and included the recommended draft consent conditions for fixed 7.12 development contributions.

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal outlined below.

Section 62 (consideration of fire safety) and Section 64 (consent authority may require upgrade of buildings) of the 2021 EP&A Regulation are relevant to the proposal. No specific upgrades are required under this section, noting that the proposal is for a new building. Conditions of consent have been included requiring a Fire Safety Certificate be obtained prior to the issue of an Occupation Certificate.

Section 66A of the 2021 EP&A Regulation is applicable to the proposed development as the application is a Council related development application. This Clause came into effect on 3 April 2023 which was after the lodgement of this application. Notwithstanding, Council's assessment of the DA is consistent with the now adopted a conflict of interest policy which states that where a Council related development application has a cost of works greater than \$5 million it is to be assessed by Council staff and determined by the Hunter Central Coast Regional Planning Panel.

These provisions of the 2021 EP&A Regulation have been considered and are addressed in the recommended draft conditions (where necessary).

3.3 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that it sits at the centre of the Astra Aerolab business park where several tall mixed use buildings of approximately 7-8 storeys in height are envisaged by the land owner to create a town centre with lower scale development located in the surrounding precincts. This direction is reflected in the Draft Williamstown SAP Masterplan, which seek to provide “*a mix of contemporary, high-quality building types and sizes.... to support employment opportunities within the Precinct*”. Lastly, the application includes a visual impact assessment, which demonstrates the proposal would not have any adverse visual impact to the broader rural land surrounding the site.
- Access and traffic – A traffic assessment (TA) prepared by JMT Consulting, reference no. 2204 and dated 6 October 2022 was submitted with the DA. The TA assessed vehicle access, traffic impacts and provision of car parking as outlined in the following sections. The TA found that the surrounding road network can appropriately service the proposed development, based on peak traffic movements that may be generated by the development. The TA further concludes that the proposal would not require any road infrastructure upgrades, with thresholds for infrastructure upgrades not triggered under this proposal. Upgrades to the surrounding road network will be progressively delivered as the Astro Aerolab precinct further develops, in accordance with conditions of consent imposed on DA 16-2009-324.

On this basis, the proposal would not adversely impact the safety, efficiency and ongoing operation of Nelson Bay Road or the surrounding road network. Council's development engineer concurred with the findings of the TA and concluded the proposal accords with the traffic related controls within the DCP.

- Public Domain – The proposed development incorporates landscaped forecourt areas between the building entry and the road reserve. The proposed landscaping is consistent with and compliments the existing landscaping located in the road reserve to enhance the public domain. The forecourt area connects to existing footpaths which link the development to the nearby common car park, which services the development.
- Utilities – The application includes a servicing strategy which demonstrates all essential services are available or can be made available for connection, upon registration of the parent subdivision, which is recommended as a deferred commencement condition.
- Heritage – The site has been subject to significant prior ground disturbing activities as part of the parent subdivision. An Aboriginal Cultural Heritage Assessment was prepared and a subsequent Aboriginal Heritage Impact Permit (AHIP) sought as part of the parent Astra Aerolab subdivision (DA 16-2009-324). The Stage 1 Astra Aerolab works have been completed and were required to be carried out in accordance with the HNSW GTAs issued with DA 16-2009-324 and any subsequent AHIP.

A local heritage item is located at 150 Cabbage Tree Road, to the south west of the site. The heritage item is known as Devon House (I109). The proposed development will not impact the heritage significance of this item.

- Other land resources – The site is located within a drinking water catchment, managed by Hunter Water Corporation (HWC). The application includes water quality controls to appropriately mitigate impacts to the water quality of the drinking water catchment. The application was referred to Hunter Water Corporation (HWC) who made no objection to the DA and recommended conditions relating to the management of dewatering activities to avoid contamination of groundwater.
- Water/air/soils impacts – Site contamination was remediated under the parent subdivision, as confirmed by the Validation Report submitted with the application. The application includes an acid sulfate soil management plan, which includes strategies to minimise disturbance of acid sulfate soils during construction. With regard to water impacts, subject to the recommended conditions relating to sediment and erosion control no impacts are expected to local waterways.
- Flora and fauna impacts - The site is located within proximity to items of environmental significance, including koala habitat and is partially mapped on the Biodiversity Values (BV) map. However, the site has previously been cleared of vegetation which was approved under the parent subdivision for the Astra Aerolab business park.

With regard to koalas, the site is mapped as a 50m buffer over cleared and link over cleared in Council's Koala Habitat Planning Map (2000). Impacts to koala were considered as part of the parent approval, which did not identify the need for a koala corridor through the site. A north west – south east koala corridor exists immediately to the west of the site through HWC and Rural zoned land, which would be retained as a conservation area in the event the Williamstown SAP progresses.

- Natural environment – The site has previously been cleared of vegetation and natural contours significantly modified as part of the parent Astra Aerolab approval. No further vegetation clearing or cut and fill earthworks are proposed under this application.
- Noise and vibration – An acoustic report was submitted with the application which includes recommendations relating to the management of construction noise, subject to conditions relating to these recommendations, the proposal would be consistent with the Interim Construction Noise Guideline document published by the Department of Environment and Climate Change NSW. Further conditions are recommended requiring that construction does not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.

Dust generated during construction is expected to be minimal, subject to conditions of consent requiring erosion and sediment control.

- Natural hazards – Natural hazards including flooding and bushfire have been adequately addressed, as demonstrated in the bushfire assessment, and stormwater and flooding assessment carried out by Council's engineering section.
- Safety, security and crime prevention – The development incorporates CPTED principles by providing passive surveillance to public spaces through building design and orientation.
- Social impact – The proposed commercial development would have a positive social impact. The development will generate employment opportunities, contributing to

positive social outcomes. The proposal is in proximity to the urban areas of Newcastle, Raymond Terrace, Nelson Bay and Medowie, allowing for short commute times and promotes professional workers to the LGA.

The proposed development is located within the draft Williamstown SAP. The building has incorporated design elements to reinforce the unique aerospace aspects of the precinct. This creates a unique sense of place and reinforces the emerging aerospace industry for the region.

The proposal includes the provision of bicycle parking and end of trip facilities. This promotes the use of active transport to access the site, encouraging positive physical and mental health outcomes.

The activated ground floor of the building which includes a café/restaurant and neighbourhood shops will create a meeting place for business and social interactions for users of the Astra Aerolab business park. As outlined above, appropriate CPTED principles have been incorporated in the design to ensure the safety of users.

- Economic impact – The proposed development will have a positive economic impact. In the short term, the development is expected to create up to 100 construction jobs with up to 300 permanent jobs during the operation of the completed building for office premises and ancillary uses.

The development represents the first significant development within the Astra Aerolab business park for the purposes of commercial office premises, which would support the development and delivery of the Williamstown SAP, in the event it proceeds.

- Site design and internal design – The development is located in a business park, at a sufficient distance from the nearest residence, to avoid amenity impacts. The development is situated on a corner block on the northern side of the road. As a result, overshadowing impacts predominately effect the roadway. The proposal is not a type which would cause ongoing noise and air quality impacts.
- Construction – Potential impacts from construction can be adequately mitigated through conditions of consent relating to construction hours and standard construction environmental management procedures to be added to the Preliminary Construction Environmental Management Plan submitted with the application.
- Cumulative impacts – The site is relatively clear of significant site constraints, due to these impacts and site constraints having been assessed and adequately mitigated under the parent subdivision. The parent subdivision includes the necessary essential services and road network to cater for the proposed development, if replicated. The proposed development is unlikely to cause any adverse cumulative impacts.

Accordingly, it is considered that the proposal will not result in any adverse environmental, social or economic impacts, as outlined above.

3.4 Section 4.15(1)(c) - Suitability of the site

The proposed development occupies an area already cleared of vegetation, which minimises the environmental impacts of the proposal. The proposal includes adequate stormwater

quantity and quality controls, in accordance with Council requirements to ensure no adverse impacts to water quality of the drinking water catchment.

Flooding constraints are appropriately mitigated through the existing finished levels of the site and road network, which are above the flood planning level. As a result, risk to life and property from flooding is appropriately mitigated.

Site constraints relating to aircraft operations can be adequately managed through the recommended conditions of consent, as confirmed by the referral comments received from Defence.

The site is suitable to accommodate a building of the height and scale proposed, as demonstrated in the visual impact assessment submitted with the application and taking into account the B7 zoning of the land and future strategic direction identified in the Williamstown SAP Masterplan, which identifies the broader locality as being suitable for use for commercial and industrial land uses.

The development is located in a business park, at a sufficient distance from the nearest residence, to avoid amenity impacts.

On this basis, the site is suitable for the proposed development.

3.5 Section 4.15(1)(d) - Public Submissions

The proposal was exhibited for a period of 14 days from 15 – 29 November 2022 in accordance with the EP&A Act, EP&A Regulations and the Port Stephens Community Participation Plan. No submissions were received during this time.

It is noted that whilst the proposed development is considered to be 'Council-related development', it was lodged before 3 April 2023 and therefore was not required to be notified for a period 28 days as prescribed by clause 9B(1) of Schedule 1 of the EP&A Regulations.

3.6 Section 4.15(1)(e) - Public interest

The proposed development will have a positive economic impact on the region. In the short term, the development is expected to create up to 100 construction jobs with up to 300 permanent jobs during the operation of the completed building. The employment opportunities generated by the development would also provide positive social impacts. The site is well positioned to support a commercial development of this nature, being in proximity to the urban areas of Newcastle, Raymond Terrace, Nelson Bay and Medowie, allowing for short commute times and will attract professional workers to the Port Stephens local government area. The activated ground floor of the building which includes a café/restaurant and neighbourhood shops that will create a meeting place for business and social interactions for users of the Astra Aerolab business park. As outlined above, appropriate CPTED principles have been incorporated in the design to ensure the safety of users.

The development represents the first significant development within the Astra Aerolab business park for the purposes of a commercial office premises, which would accord with the development and delivery of the Williamstown SAP. The proposal also supports the advanced manufacturing and logistics objectives for the Williamstown area identified within the Hunter Regional Plan 2041.

The proposed development occupies an area already largely cleared of vegetation, which minimises environmental impacts. The proposal includes adequate stormwater quantity and

quality controls, in accordance with Council requirements to ensure no adverse impacts to water quality of the drinking water catchment. Natural hazards, including bushfire and flooding have been suitably addressed, as detailed throughout this report.

The site is suitable to accommodate a building of the height and scale proposed, as demonstrated in the visual impact assessment submitted with the application and taking into account the B7 zoning of the land and future strategic direction identified in the Williamstown SAP Masterplan, which identifies the broader locality as being suitable for use for commercial and industrial land uses. Similarly the proposed building height is suitable with regard to Defence and airport related operational constraints, as confirmed in referral correspondence received from Defence. The development is located in a business park, at a sufficient distance from the nearest residence, to avoid amenity impacts.

Overall, the development is consistent with the relevant environmental planning instruments and adopted strategic planning policies as outlined in this report. There are no unacceptable environmental impacts anticipated to occur as a result of the proposal and there are no site constraints that would prohibit the development.

On balance, the proposal is consistent to the public interest.

4. REFERRALS AND SUBMISSIONS

4.2 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 8.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 8: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Environment Agency Head (Environment, Energy & Science Group within DPIE)	S7.12(2) - <i>Biodiversity Conservation Act 2016</i>	N/A	N/A
Rail authority for the rail corridor	Section 2.98(3) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	N/A	N/A
Referral/Consultation Agencies			

Department of Defence	<p>Clause 7.4 – Air Space Operations – Port Stephens Local Environmental Plan 2013 Development that exceeds the obstacle penetration limit.</p> <p>Clause 7.5 – LEP 2013 – Development in areas subject to aircraft noise</p> <p>The referral has also been sent in accordance with Council's memorandum of understanding with Defence, which requires referral for matters relating to aircraft noise, bird strike risk and extraneous lighting control.</p>	<p>Defence raised the following concerns regarding the proposal:</p> <ul style="list-style-type: none"> • Impacts to radar, including amend plans for a reduced building height; • Aircraft noise, including an amended acoustic report; • Windshear, including a Building Generated Windshear and Turbulence assessment report; and • Extraneous lighting, including confirmation that lighting and reflective surfaces will not impact visibility for pilots. <p>In response, the applicant provided an amended acoustic report, lighting advice and windshear assessment. Following review of the amended documents by Defence and further consideration of impacts to radar and extraneous lighting, no objection was raised. Conditions have been recommended requiring the development be carried out in accordance with the acoustic, lighting and windshear reports/advice along with standard conditions for the management of extraneous lighting, glare and birdstrike mitigation.</p>	Y
CASA	<p>Clause 7.4 – Air Space Operations – Port Stephens Local Environmental Plan 2013 Development that exceeds the obstacle penetration limit.</p>	<p>The proposed development exceeds the obstacle penetration limit, as confirmed by the Defence referral.</p> <p>Correspondence from CASA confirmed that Defence is the appropriate authority for consultation as they are the 'aerodrome operator'. Notwithstanding, CASA made</p>	Y

		no objection to the proposal in relation to building height, wind shear, lighting or bird strike.	
Electricity supply authority	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	<p>Ausgrid identified that the proposed building had an awning that extends above the kiosk substation which did not satisfy Ausgrids Network Standard NS141. Following the plan amendments, Ausgrid supported the application subject to conditions, thereby satisfying the requirements of this section.</p> <p>In addition, Ausgrid made a number of recommendations relating to the supply of electricity, the undertaking of works in proximity to Ausgrid infrastructure and works within electricity easements that have been recommended as a condition of consent.</p>	Y
Hunter Water Corporation	Section 51 – <i>Hunter Water Act 1991</i> Development that may adversely impact a Hunter Water drinking catchment.	Hunter Water Corporation (HWC) has reviewed the proposed stormwater management plan for the site and is satisfied that the proposal would not result in any adverse water quality impacts to the drinking water catchment, noting that stormwater will be discharged to the management system approved as part of Stage 1 of the Astra Aerolab subdivision (DA 16-2009-324-3). HWC made a number of recommendations relating to construction works that may intercept groundwater, sediment and erosion controls and contamination. The HWC recommendations have been incorporated in the recommended conditions of consent.	Y
EPA	Non-statutory referral due to the site being located within the PFAS Management Area	The EPA response highlighted that the management of PFAS through the implementation of	Y

	associated with RAAF Base Williamstown.	various management plans to be implemented throughout construction was appropriate and supported the application with conditions relating to the management plans. The conditions relate to PFAS sampling (in accordance with the PFAS National Environmental Management Plan), identification of potential interaction with groundwater or soils containing PFAS, sediment and erosion and methods of preventing contact and exposure of PFAS during construction.	
Regional Growth Development Corporation	Non-statutory requirement - The referral has been sent due to the site being identified within the Williamstown SAP Draft Masterplan. Regional Growth Development Corporation (RGDC) is the authority responsible for delivering the Williamstown SAP.	In response, RGDC made no objection to the development, subject to further consideration of flooding against the LEP and Council undertaking consultation with the Civil Aviation Safety Authority (CASA) and the Department of Defence regarding the proposed height of the building.	Y
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	The proposal does not meet the threshold for traffic generating development, as defined in Schedule 3 of the SEPP. The proposal does not exceed 10,000m ² gross floor area and is not within 90m of a classified road.	N/A
Design Review Panel	CI 28(2)(a) – SEPP 65 Advice of the Design Review Panel.	The advice of a Design Review Panel is not a statutory requirement, as the proposal is not one to which SEPP 65 applies. Notwithstanding, the application was referred to Council's Urban Design Panel (UDP) on 13 October 2022 prior to the DA being lodged. The UDP was generally supportive of the proposal, subject to minor amendments. Comments have been considered in the proposal and is further discussed in the Key Issues section of this report.	Y

Integrated Development (S 4.46 of the EP&A Act)			
N/A	N/A	The proposal does not require approval under any of the Acts listed under S.4.46 and therefore is not integrated development.	N/A

4.3 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 9**.

Table 9: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Section assessed the submitted stormwater concept plan and traffic related impacts and considered that there were no objections subject to conditions.	Y
Building Certification	Council's Building Certification Officer reviewed the proposed plans and confirmed the proposal is capable of compliance with the BCA.	Y
Environmental Health	Council's Environmental Health Officer reviewed the acoustic impacts of the development and wastewater connection requirements to which no objections were made, subject to conditions.	Y
Local Infrastructure Contributions	Council's Local Infrastructure Contributions Officer confirmed S. 7.12 contributions apply to the proposal and recommended a condition of consent requiring the payment of contributions in accordance with the Port Stephens Local Infrastructure Contributions Plan.	Y

The outstanding issues raised by Council officers are considered in the Key Issues section of this report.

4.4 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 15 November 2022 to 29 November 2022. The notification included the following:

- An advertisement in the local newspaper – The Port Stephens Examiner;
- Notification on Council's website; and
- Notification letters sent to adjoining and adjacent properties (27 letters sent).

Council received no submissions in relation to the proposal.

It is noted that whilst the proposed development is considered to be 'Council-related development' it was lodged before 3 April 2023 and therefore was not required to be notified for a period 28 days as prescribed by clause 9B(1) of Schedule 1 of the EP&A Regulations.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.2 Building Height and Visual Impact Assessment

The site does not have a maximum building height specified. Therefore, the proposed height has been assessed taking into consideration visual and amenity impacts, compatibility with the character of the area and potential impacts to the operations of the Newcastle Airport and the Williamstown RAAF base. The draft Williamstown SAP draft Masterplan also provides guidance regarding envisaged building heights for the broader precinct, within section 5.1 – Built Form and Landscape and 5.2 – Bulk and Scale.

Section 5.1 provides examples of various existing developments to inform the future desired character of the precinct, including the following image of the Len Waters Building at RAAF Base Williamstown (**Figure 14**) which is located a short distance from the site. Figure 14 shows that the Len Waters building is of a comparable bulk and scale to the proposed development.



Figure 14: Len Waters Building at RAAF Base Williamstown

Further built form controls are provided at Section 5.2 – bulk and scale, which specifies the following aims:

“Section 5.2 Bulk and scale

- *Ensure a mix of contemporary, high-quality building types and sizes are provided to support employment opportunities within the Precinct*
- *Ensure built form is appropriate for its use and provides high-quality architectural design that responds to the existing topography and local context”*

Within section 5.2 there is a specific performance criteria that nominates “taller buildings between 5 to 6 storeys” would be appropriate in the commercial centre subject to obstacle limitation surface requirements.

The proposed development is for an 8 storey building which is greater than the height specified in the performance criteria. To inform the appropriateness of the proposed building height, the applicant submitted a Visual Impact Assessment (VIA) with the application. The VIA analyses the visual impact of the proposal from 6 key view points, including the airport Precinct, Nelson Bay Road, and rural land located to the south of the site. The VIA shows that the building would be visually prominent from the airport precinct and Nelson Bay Road, which is considered appropriate as the building sits against the backdrop of other airport and

defence related infrastructure visible from these locations, as shown in **Figures 15** and **16** below.



Figure 15: Visual Impact from Williamtown Drive (VIA View Point 1)



Figure 16: Visual Impact from Nelson Bay Road (VIA View Point 4)

The proposed building is visible from 2 of the 3 rural viewpoints assessed in the VIA, as shown in **Figures 17** and **18** below. The view points are from rural land at Cabbage Tree Road and show that the top of the building is just visible above the surrounding tree canopy. The presence of an office building is in contrast to the existing rural landscape, however, the visual impact is subdued by the tree canopy which leaves only the top of the building visible. In addition, taking into account the Williamtown SAP seeks to rezone and develop this rural land for commercial and industrial purposes, the visual impacts from these view points are acceptable.



Figure 17: Visual Impact from Cabbage Tree Road (VIA View Point 2)



Figure 18: Visual Impact from Cabbage Tree Road (VIA View Point 5)

The UDP also found the height of the building to be acceptable, noting the VIA was useful in confirming the opinion that the Panel had independently reached in respect to the height of the proposal – that being that the building sits quite comfortably in the area, without any adverse visual impact or negative urban design outcomes.

Noting the proposed building height is above that envisaged within the draft master plan, referral comments were requested from the RGDC as the authority responsible for delivering the Williamstown SAP. In response, RGDC made no objection to the height of the building, subject to Council undertaking consultation with the Civil Aviation Safety Authority (CASA) with regards to the Obstacle Limitation Surface (OLS) requirements and the Department of Defence regarding the Defence Obstacle Clearance Surfaces (OCS).

The application was referred to Defence to review potential impacts that may occur to the operations of the Newcastle Airport and RAAF Base Williamstown. In response, Defence

confirmed that despite the proposal penetrating the obstacle limitation surface associated with RAAF Base Williamstown and Newcastle Airport, no adverse impacts to Defence or airport operations would occur. Similarly, referral correspondence with CASA raised no objection regarding the height of the building from an aircraft safety perspective. Further details regarding the Defence referral correspondence is provided at section 5.4 below.

Resolution

The findings of the VIA and support provided by Council's UDP confirms the proposal would not result in any unacceptable visual impacts including views from rural land. Moreover, in the absence of any Defence/aircraft related impacts, the proposed building height is considered to be appropriate.

Based on the broader aims of the draft SAP Masterplan which seek to provide "*a mix of contemporary, high-quality building types and sizes.... to support employment opportunities within the Precinct*" and feedback received from Defence and RGDC, the proposed building height is acceptable, despite being taller than the 6 storeys nominated in the draft SAP Master Plan.

5.3 Urban Design

A pre-lodgement Urban Design Panel meeting was held prior to the lodgement of the application on 13 October 2022. A summary of the key comments made by the panel during the meeting are outlined below:

- The proposal was considered by the Panel to be a carefully addressed, and appropriate design response to the design brief and to the surrounding existing and future desired context. It offers a high standard of accommodation to future occupants, in addition to providing attractive facilities and meeting places for both staff using the building and others from future surrounding businesses;
- Height and density were considered appropriate based on visual impact analysis. The Analysis was useful in confirming the opinion that the Panel had independently reached in respect to the height of the proposal – that being that the building sits quite comfortably in the area, without any adverse visual impact or negative urban design outcomes;
- The strategy adopted to limit parking within the building and to collocate general parking with or near general airport parking was supported;
- Provision should be made for at least one more accessible car space on site;
- Provision of shade trees and good canopy cover in new at-grade car parks to reduce the local Heat Island Effects was encouraged;
- The orientation-specific external sun shading on the building facades was supported;
- Inter-floor connection should tenancies take up more than one floor should be explored. Structural design implications should be explored to permit future introduction of open stairs between levels;
- The design of car parking and external areas incorporates appropriate CPTED principles;
- The Panel considered the proposed building to be elegantly detailed, and to establish an attractive and appropriate architectural and landscape character to the precinct; and
- The building should have only its single Identification sign(s) at the upper level, with a discrete area and format for occupant tenancies set at a lower, more pedestrian level, in a location sympathetic to the building and its context.

In conclusion, the UDP supported the proposal subject to the minor amendments recommended throughout the meeting. The proposal was considered by the UDP to offer a

very positive direction for the precinct moving forward. Given the minor nature of the panel's comments, no substantial design amendments have been made by the applicant.

The applicant has not provided additional accessible spaces within the building, as requested by the UDP. However, this is acceptable as the current provision of one accessible car space would satisfy the relevant BCA requirements, as confirmed by the Access Report submitted with the application. Regarding the signage recommendations made by the UDP, the applicant has confirmed that no signage is proposed and could be subject to a future development application, should the future tenants of the building require.

The proposal is consistent with the future built form and landscape aims and performance criteria within Section 5.1 and bulk and scale aims within Section 5.2 of the Williamstown SAP Draft Master Plan, as outlined elsewhere in this report. In addition, referral comments from RGDC made no objection to the height and scale of the proposed building from an urban design perspective.

Resolution: The proposal has been supported by the UDP and found to be consistent with the future desired character of the area, as established by the Draft Williamstown SAP Masterplan and B7 - Business Park zoning of the land.

5.3 Car Parking

The proposed development includes on-site car parking for 17 vehicles, including 1 accessible space. The car parks are located on level 1 accessed via a ramp on the eastern side of the building. All parking spaces within the on-site car park comply with the requirements of 'AS/NZS 2890.1:2004 Parking facilities – Off-street car parking'.

The proposed development generates a demand of 133 car spaces based on the DCP requirements. As a result the development would have a shortfall of 116 spaces including 6 accessible spaces, in accordance with the DCP.

To address the shortfall in car parking, the proposal includes use of 120 spaces in a common car parking area to be located to the north east of the site within the residual Astra Aerolab lot (Lot: 11 DP: 1036501). However, this common car park has not been constructed. The DA for the car park (DA16-2022-855-1) was approved on 23 May 2023 and seeks approved and extension and partial conversion a recently approved long stay car park to provide an additional 1,070 spaces to service the Astra Aerolab. The common car park is within a walkable distance of 177m from the development via existing footpaths constructed with the parent subdivision, and footpaths approved as part of the car park extension, as shown in **Figure 11**.

The proposed use of the common car park is considered suitable given the reasonably close distance and walkability afforded by the existing pedestrian network. In order to secure legal access rights to the car park the applicant has submitted a draft deposited plan and 88b instrument which shows the necessary right of access and easements to park across Lot: 11 DP: 1036501, benefitting Lot 106. The draft deposited plan is shown in **Figure 12**. The car parking benefitting Lot 106 is labelled (A).

To ensure car parking is available for the development, a condition has been recommended stipulating that an occupation certificate not be issued until the common car park under DA 16-2022-855-1 is constructed and operational and the associated easements and right of access to park over Lot: 11 DP: 1036501, benefitting Lot 106 registered with the NSW Land Registry Services.

Resolution: Sufficient car parking supply, in accordance with the minimum requirement of the DCP is provided in a nearby common car park. The car park will include appropriate easements and right of access to ensure in perpetuity use of the car park.

5.4 Impacts to Defence Operations and Newcastle Airport

The site is located approximately 980m from the centre line of the RAAF Base Williamtown/Newcastle Airport runway.

The site is situated within the 2025 Australian Noise Exposure Forecast (ANEF), bird strike zone – Group C, extraneous lighting area and obstacle limitation area associated with RAAF Base Williamtown and Newcastle Airport. Consideration of these site constraints is required in accordance with Clause 7.4 and 7.5 of the LEP and Chapter B6 of the DCP.

The impact of aircraft noise on the proposed development has been assessed in the discussion against clause 7.5 of the LEP above. The proposal is located within the 30-35 Australian Noise Exposure Forecast (ANEF) contours for RAAF Base Williamtown. Accordingly, the site will be subject to high levels of aircraft noise. In accordance with Australian Standard (AS) 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction, the proposed development is a commercial building, which is identified as conditionally acceptable within 25-35 ANEF contours.

An Acoustic Assessment prepared by enzo Tonin ref: TM612-03F02 and dated 10 March 2023 was submitted with the application which demonstrates that the building can be constructed with acoustic attenuating measures to reduce the maximum noise level experienced at the site of 97db(A) to the relevant indoor design levels within AS 2021:2015 Acoustics – Aircraft Noise Intrusion – Building Siting and Construction for office premises and retail/cafés. This requires a maximum reduction of 42db(A) for private offices, where the indoor design sound level must not exceed 55 in accordance with Table 3 of AS 2021:2015.

Referral correspondence with Defence originally identified that the site is expected to experience between 62 and 101 dB(A) and requested the acoustic report be amended to reflect this. However, following the submission of an amended acoustic report, this advice was retracted and Defence accepted the proposed noise reduction measures which are based on a maximum noise level exposure of 97db(A). No further objection to the DA was raised by Defence. On this basis, the proposal is consistent with the requirements of B6.1 and B6.2.

The site is located in a bird strike Group C area where certain development types are restricted or alternatively require specific management measures relating to the storage of organic waste materials. The proposed commercial land use, including food and drink premises is not a restricted land use in the Group C area and therefore the proposal could comply with the requirements of section B6.6, subject to conditions relating to the storage of organic waste materials.

The site is located within an extraneous lighting control area associated with RAAF Base Williamtown and Newcastle Airport which seeks to control lighting that may distract pilots. The application includes a letter of engineering advice, dated 13 January 2023, prepared by Northrop which assesses the proposal for compliance with the Civil Aviation Safety Authority Manual of Standards Part 139. The advice concludes that the proposed lighting is within the permissible limits of CASSA Part 139 (aerodromes) Manual of Standards 2019. Based on this advice, Defence made no objection to the proposed lighting, subject to conditions requiring compliance with the Civil Aviation Safety Authority Manual of Standards Part 139 and limited use of reflective materials. On this basis, the proposal satisfies the requirements of B6.7.

The subject site is located within the Limitation or Operations Surface of RAAF Base Williamtown where structures greater than 7.5m require referral to Defence. Accordingly, the application has been referred to Defence for comment. In response, Defence originally requested the building be amended to reduce the height from 36.75m AHD to below 28.5m AHD to avoid infringing the operational surface. However, after seeking further technical assessment of the infringements impact to radar capability, Defence retracted their objection to the proposed building height. On this basis, despite the proposal penetrating the Limitation/Operations Surface, the proposal satisfies Clause 7.4(3)(a).

In addition to the statutory matters listed under the LEP and DCP, referral correspondence from Defence raised concern regarding building generated wind shear and turbulence that may affect aircraft. To address this, Defence requested that the proponent provide an appropriate Building Generated Windshear and Turbulence assessment report to determine the impact to arriving and departing aircraft using the runway during crosswind. The applicant submitted a Wind Shear and Turbulence Report prepared by Arup Australia, Revision 2, dated 7 March 2023, in response to the Defence comments in March 2023. Following Defence's review of the report, no further objection was raised by Defence in relation to wind shear and turbulence.

Resolution: Based on the findings of the acoustic, wind shear and lighting assessments submitted with the application, Defence referral advice and recommended conditions, the proposed development would not cause any adverse impact to the operations of RAAF Base Williamtown or the Newcastle Airport.

6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

The proposed development has been found to be of an appropriate height and scale for the location which would not cause any adverse visual impacts to the rural land surrounding the site. The proposal, despite not providing all car parking on site, includes an appropriate arrangement for use of a nearby common car park which will also service other developments in the Astra Aerolab. The proposal has been appropriately designed to respond to the key features of the site, including natural hazards such as flooding and bushfire and will not cause any adverse impacts to the operations of RAAF Base Williamtown and Newcastle Airport.

It is considered that the key issues as outlined in Section 6 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment A**.

7. RECOMMENDATION

That the Development Application DA No. 16-2022-834-1 for a mixed use development comprising 8 storey office premises with 3 ground floor neighbourhood shops, 1 Café and Restaurant premises and boundary adjustment between proposed Lot 106 and 107 of DA 16-2009-324 at 38 Cabbage Tree Road Williamtown be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at **Attachment A**.

The following attachments are provided:

- Attachment 1: Recommended Conditions of Consent
- Attachment 2: Architectural Plans
- Attachment 3: Civil Engineering Plan
- Attachment 4: Landscape plan
- Attachment 5: Preliminary Site Investigation
- Attachment 6: Validation Report
- Attachment 7: Visual Impact Assessment
- Attachment 8: Wind Shear Assessment
- Attachment 9: Lighting Advice
- Attachment 10: Northrop Bird Strike Response
- Attachment 11: Acoustic report
- Attachment 12: Access report
- Attachment 13: Cost estimate report
- Attachment 14: Draft 88b Instrument
- Attachment 15: Draft Deposited Plan
- Attachment 16: ASSMP
- Attachment 17: Bushfire report
- Attachment 18: Geotechnical report
- Attachment 19: Statement of environmental effects
- Attachment 20: Traffic report
- Attachment 21: Waste Management Plan
- Attachment 22: Letter Response to RPP Briefing
- Attachment 23: Public Art Strategy