

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	11 August 2023
DATE OF PANEL DECISION	11 August 2023
PANEL MEMBERS	Alison McCabe (Chair), Roberta Ryan and Stephen Leathley
APOLOGIES	Tony McNamara
DECLARATIONS OF INTEREST	<p>Giacomo Arnott, Leah Anderson and Steve Tucker declared conflicts of interest as they are Councillors of Port Stephens Council which is a part owner of Newcastle Airport.</p> <p>Ryan Palmer declared a conflict of interest as he is a Director of Greater Newcastle Aerotropolis Pty Ltd.</p> <p>John Maretich declared a conflict of interest as he was involved in peripheral engineering and asset owner issues.</p> <p>Brock Lamont declared a pecuniary conflict of interest as he is an employee of Port Stephens Council, which has a pecuniary interest.</p>

Papers circulated electronically on 1 August 2023.

MATTER DETERMINED

PPSHCC-153 – Port Stephens Council – DA16-2022-834-1-38 Cabbage Tree Rd, Williamtown - Commercial development comprising 8-storey office premises with ground floor retail and food and drink premises (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

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

The Panel has had the benefit of a number of briefings from the Council and the applicant. The proposal is the second application that the Panel has considered in this area. The site is located within the Williamtown Special Activation Precinct. A draft masterplan has been exhibited for the area but is yet to be finalised. The site is located within the Astra Aerolab Business Park, being developed under Development Application (DA16-2009-324-3) and is located within stage 1 of this subdivision.

The proposal is reliant on a separate approval for a communal carpark under (DA-16-2002-855-1) which has been approved. The carparking required for this development is split between seventeen (17) spaces on the site and a further 116 spaces in an off site communal carpark approved but yet to be built.

Conditions have been drafted to ensure access to 116 designated spaces, with easements registered on the title of the lot of the communal carpark and the carpark being available before the issue of any occupation certification for this development. The Panel has also included conditions requiring four (4) EV charging points in the communal carpark as well as two (2) EV charging points on the site.

The Panel is satisfied that the parking needs of the development can be met.

There are no FSR or height controls applying to land under the PLEP 2013. The proposed development is consistent with the broad based controls under Chapter B, C2 and site specific controls under Chapter D15 of the Port Stephens Development Control Plan 2014.

Built form controls are included in the Draft Williamstown SAP Masterplan and anticipate buildings of 5-6 storeys. The proposal has been reviewed by the Urban Design Panel. The Panel having regard to the site's context and the visual analysis provided is satisfied that the built form is appropriate for the site, notwithstanding that it is of a greater scale than that currently being planned for.

The Panel has also satisfied that the provisions of section 4.14 (1) (a) of *EPA Act 1979* have been adequately considered and addressed.

The proposed development is consistent with the form of development anticipated in the broader Astra Aerolab Business Park. The Panel is satisfied that the site is suitable for the development and will not result in unreasonable impacts on surrounding development, and is consistent with the existing and evolving policy framework.

The Panel is aware that the SAP process is under review and would encourage Council to finalise a suite of built form controls that would guide further development of this important precinct.

While the DA for the communal carpark was not a Panel matter, the Panel also encourages the applicant to review the opportunity for weather protection (heat and hail) and potential for sustainability measures such as solar panels, noting the limitations on the capacity to accommodate of vegetation because of the site's proximity to the airport and concerns for bird strikes.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to conditions attached to the Council report and amended as follows:

- (i) Condition (2) 17 amended to refer to 116 spaces.
- (ii) Addition of condition 2 (20) as follows:
"Two (2) of the parking spaces on site are to be provided with a level 2 electric chargers. The electric circuitry requirements must meet public spaces level 2 fast three phase 11-22kw power. The location of the electric vehicle chargers and circuitry must be shown on the construction certificate plan".
- (iii) Condition 5 (12) amended by addition of the following sentence:
"A further 116 spaces being available at all times on the communal carpark approved under DA16-20022-855-1".
- (iv) Addition of condition 5 (26) to read as follows:
"Four (4) of the 116 carparking spaces in the communal carpark required by condition 2 (17) and two (2) carparking spaces on site are to be provided with a level 2 electric charger. The electric circuitry requirements must meet public spaces level 2 fast three phase 11-22kw power".

The Panel recommends that Council finalise a suite of built form controls that guide the development of the precinct.

The Panel also recommends that the applicant and landowner of the communal carpark explore opportunities for weather protection and sustainability measures.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

- (i) The proposed development is consistent with the statutory and evolving strategic framework applying to the site and surrounds.

- (ii) The site is suitable for the development and the proposed use will provide employment opportunities and economic benefits to the broader community.
- (iii) The Panel is satisfied that the provisions of section 4.14 (1) (a) of the *EPA Act 1979* have been met.




CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments:

- (i) Condition (2) 17 amended to refer to 116 spaces.
- (ii) Addition of condition 2 (20) as follows:
"Two (2) of the parking spaces on site are to be provided with a level 2 electric charger. The electric circuitry requirements must meet public spaces level 2 fast three phase 11-22kw power. The location of the electric vehicle chargers and circuitry must be shown on the construction certificate plan".
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"Four (4) of the 116 carparking spaces in the communal carpark required by condition 2 (17) and two (2) carparking spaces on site are to be provided with a level 2 electric charger. The electric circuitry requirements must meet public spaces level 2 fast three phase 11-22kw power".

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Stephen Leathley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-153 – Port Stephens - DA 16-2022-834-1
2	PROPOSED DEVELOPMENT	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
3	STREET ADDRESS	38 Cabbage Tree Road, Williamstown 2318 Proposed Lots 106 and 107 of DA 16-2009-324 within LOT: 11 DP: 1036501
4	APPLICANT OWNER	Barr Property & Planning Pty Ltd Commonwealth Government – Department of Defence leased by Greater Newcastle Aerotropolis Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Precincts - Regional) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 Port Stephens Local Environmental Plan 2013 Draft environmental planning instruments: Development control plans: <ul style="list-style-type: none"> Port Stephens Development Control Plan Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations. The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 8 November 2022 Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 8 February 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair) and Tony McNamara <u>Applicant representatives</u>: Shane Murray, Mark Snowden, Stephen Barr, Samuel Liu, John Ferendinos and Zamzam Sammir <u>Council assessment staff</u>: Dylan Mitchell and Ryan Falkenmire <u>Department staff</u>: Leanne Harrris and Lisa Foley Briefing: 11 July 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan and Tony McNamara <u>Council assessment staff</u>: Dylan Mitchell and Ryan Falkenmire <u>Department staff</u>: Leanne Harrris and Lisa Foley

		<ul style="list-style-type: none"> • Site Inspection: <ul style="list-style-type: none"> ○ <u>Alison McCabe (Chair)</u>: 31 July 2023 ○ <u>Roberta Ryan</u>: 15 July 2023 • Final briefing to discuss Council's recommendation: 8 August 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan and Stephen Lealthley ○ <u>Council assessment staff</u>: Dylan Mitchell and Ryan Falkenmire ○ <u>Department staff</u>: Leanne Harrris, Holly McCann and Lisa Foley • Applicant Briefing: 8 August 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan and Stephen Lealthley ○ <u>Council assessment staff</u>: Dylan Mitchell and Ryan Falkenmire ○ <u>Department staff</u>: Leanne Harrris, Holly McCann and Lisa Foley ○ <u>Applicant representatives</u>: Shane Murray, Mark Snowden, Annie McMullan, Stephen Barr and Chloe Howarth <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report