

Monteath
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STATEMENT OF ENVIRONMENTAL EFFECTS

Commercial Premises (Neighbourhood
Shopping Centre) including Signage,
Sewer Extension and Demolition

42 Fullerton Cove Road, Fullerton Cove

Lot 14 DP 258848

Prepared for Canaan PD 2 Pty Ltd

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Date	30 November 2023
Project	Commercial Premises (Neighbourhood Shopping Centre) including Signage, Sewer Extension and Demolition
Client	Canaan PD 2 Pty Ltd
Author	Itto Vukeni Senior Planner B. U & E P, MPIA
Certification	<i>I hereby certify that this Statement of Environmental Effects has been prepared in accordance with the requirement of the Environmental Planning & Assessment Act 1979 and its associated Regulations. I certify that to the best of my knowledge the information contained within this report is neither false nor misleading.</i>
Signature	
Reviewer	Meeka Prince Senior Planner M. U & R P
Signature	

This report was prepared by Monteath & Powys Pty Ltd.

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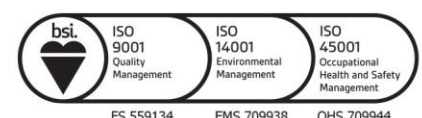


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1. INTRODUCTION

Monteath & Powys Pty Ltd act on behalf of the Applicant, Canaan PD 2 Pty Ltd, in preparing this Statement of Environmental Effects (SoEE). The SoEE is to accompany a Development Application (DA) to Port Stephens Council for Development Consent for Commercial Premises (Neighbourhood Shopping Centre) including Signage, Sewer Extension and Demolition at land formally described as Lot 14 in DP258848, addressed as 42 Fullerton Cove Road, Fullerton Cove NSW 2318.

The site subject to this Development Application is associated with an approved Planning Proposal for rezoning from RU2 Rural Landscape to B1 Neighbourhood Centre, E1 Local Centre subsequent to the recent amendments. Pursuant to the Port Stephens Local Environmental Plan 2013 (LEP), a proposal for Commercial Premises including Signage, Sewer Extension and Demolition over the site is categorised as Development Permitted with Consent. The proposed development is to be assessed against the relevant provisions of the LEP and Council's Development Control Plan (DCP), as applicable to the development and site. Additionally, the proposal is to be reviewed against the matters referred to in Section 4.15(1) and Section 6 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and other matters required to be considered by the consent authority.

The purpose of this SOEE is to:

- Describe the existing environment to which the DA relates and the surrounding area's character.
- Describe the proposed development.
- Outline the statutory planning framework within which the DA is assessed and determined.
- Assess the proposed development in considering the relevant heads of consideration (Section 4.15(1) of the EP&A Act).

1.1 OWNER AND SITE DETAILS

The Applicant:

Canaan PD 2 Pty Ltd
C/- Monteath & Powys
PO Box 2270
DANGAR NSW 2309

Contact:

Itto Vukeni
Phone: 02 4926 1388
Mobile: 0477 889 494

The Owner(s):

The site is legally identified as Lot 14 DP258848, owned by Canaan PD 2 Pty Ltd.

1.2 SITE DETAILS

Lot 14 DP258848 is the site in this matter, located at 42 Fullerton Cove Road, Fullerton Cove NSW 2318. The land constitutes an area of 6.86 hectares with primary road frontage to Fullerton Cove Road and secondary road frontage to Nelson Bay Road. Access to the site is currently provided via the principal frontage and towards the northwestern property corner. **Figure 1** provides an aerial photograph depicting the site.

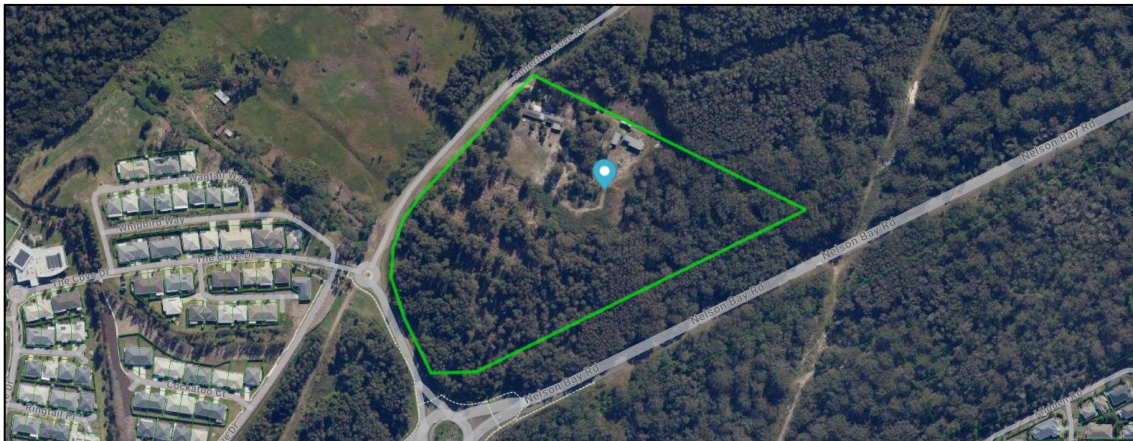


Figure 1: Subject Site (Source: Mecone Mosaic, 2021)

Following the aerial depiction, a Dwelling House and ancillary outbuildings currently improves the site. Including extensive areas of vegetation clustered along the north, south, east and west property boundaries. Immediate surrounding land uses include Dwelling Houses (south and west) with ancillary structures and Rural Landscapes (east).

1.3 APPROVAL PATHWAY

The proposed Commercial Premises development including Signage, Sewerage System extension and demolition is categorised as development Permitted with Consent within the E1 - Local Centre zone pursuant to the *Port Stephens Local Environmental Plan 2013*.

The LEP defines a commercial premises as a business, office or retail premises including business identification signage, as detailed below.

commercial premises: means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

business premises means a building or place at or on which—

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
- (b) a service is provided directly to members of the public on a regular basis, and includes funeral homes, goods repair and reuse premises and, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, betting agencies and the like, but does not include an entertainment facility, home business, home occupation, home occupation (sex services), medical centre, restricted premises, sex services premises or veterinary hospital.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises, but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

business identification sign means a sign—

- (a) that indicates—
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business, but that does not contain any advertising relating to a person who does not carry on business at the premises or place.

Note—

Business identification signs are a type of signage—see the definition of that term in this Dictionary.

Further, it is noted that Clause 7.24 of the LEP contains a restriction on the maximum combined gross floor area for commercial premises on the site as follows:

7.24 Maximum gross floor area for commercial premises and neighbourhood supermarkets at Fullerton Cove

- (1) *The objective of this clause is to ensure that the size and range of uses on land to which this clause applies are consistent with the hierarchy of centres within Port Stephens.*
- (2) *This clause applies to Lot 14, DP 258848, 42 Fullerton Cove Road, Fullerton Cove.*
- (3) *Development consent must not be granted for development for the purposes of commercial premises or neighbourhood supermarkets on land to which this clause applies unless the consent authority is satisfied the combined gross floor area of all commercial premises and neighbourhood supermarkets on the land will not exceed 5,500m².*

2. PROPOSED DEVELOPMENT

The proposed development will include the following:

- Demolition of the existing dwelling house and ancillary outbuildings and structures.
- Earthworks and civil works to achieve minimum flood immunity and establish a building footprint.
- Rising sewer main extension from the proposed development area to the nearest sewer pump station located southwest of the premises and parallel to Nelson's Bay Road.
- Construction of a building with 4,998m² of lettable / Net Floor Area (NFA) for the commercial premises use of the total 6,304m² of Gross Floor Area (GFA).
- Provision of 303 outdoor carparking spaces (including 12 accessible and 5 direct to boot) and 16 motorbike spaces along the north, south, east and west building elevations. Covered car spaces are proposed along the south building elevation whilst the remaining carparking spaces are uncovered.
- Landscaping internally within the site, along the lot boundaries and within the carparking areas.
- Business identification signage fronting the Fullerton Cove Road and Nelson Bay Road intersection.

Plans detailing the proposal are attached as **Appendix A** and **C. Figures 2 to 5** provides an extract to illustrate the proposed development over the site.

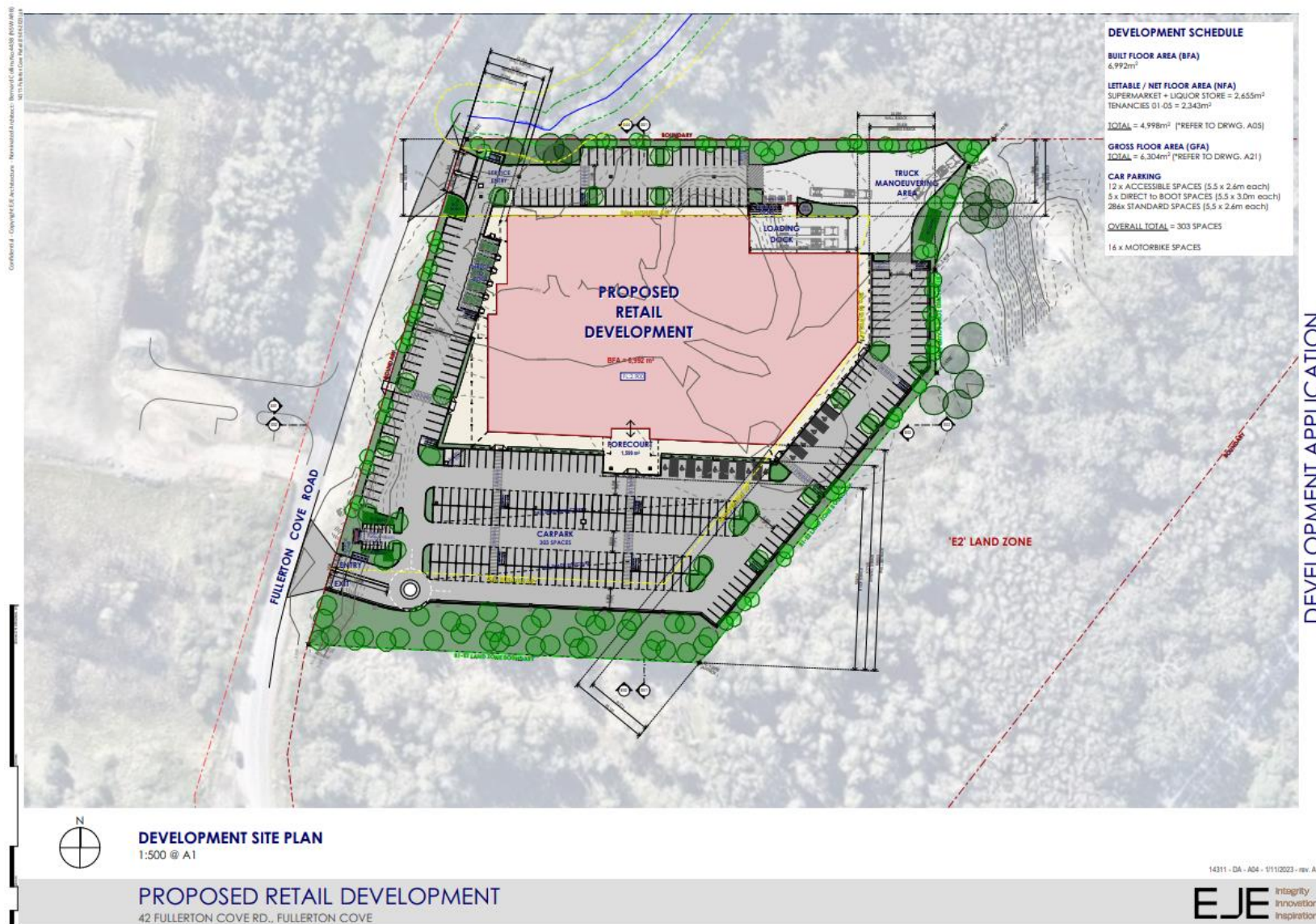


Figure 2: Development Site Plan (Source: EJE, 2023)

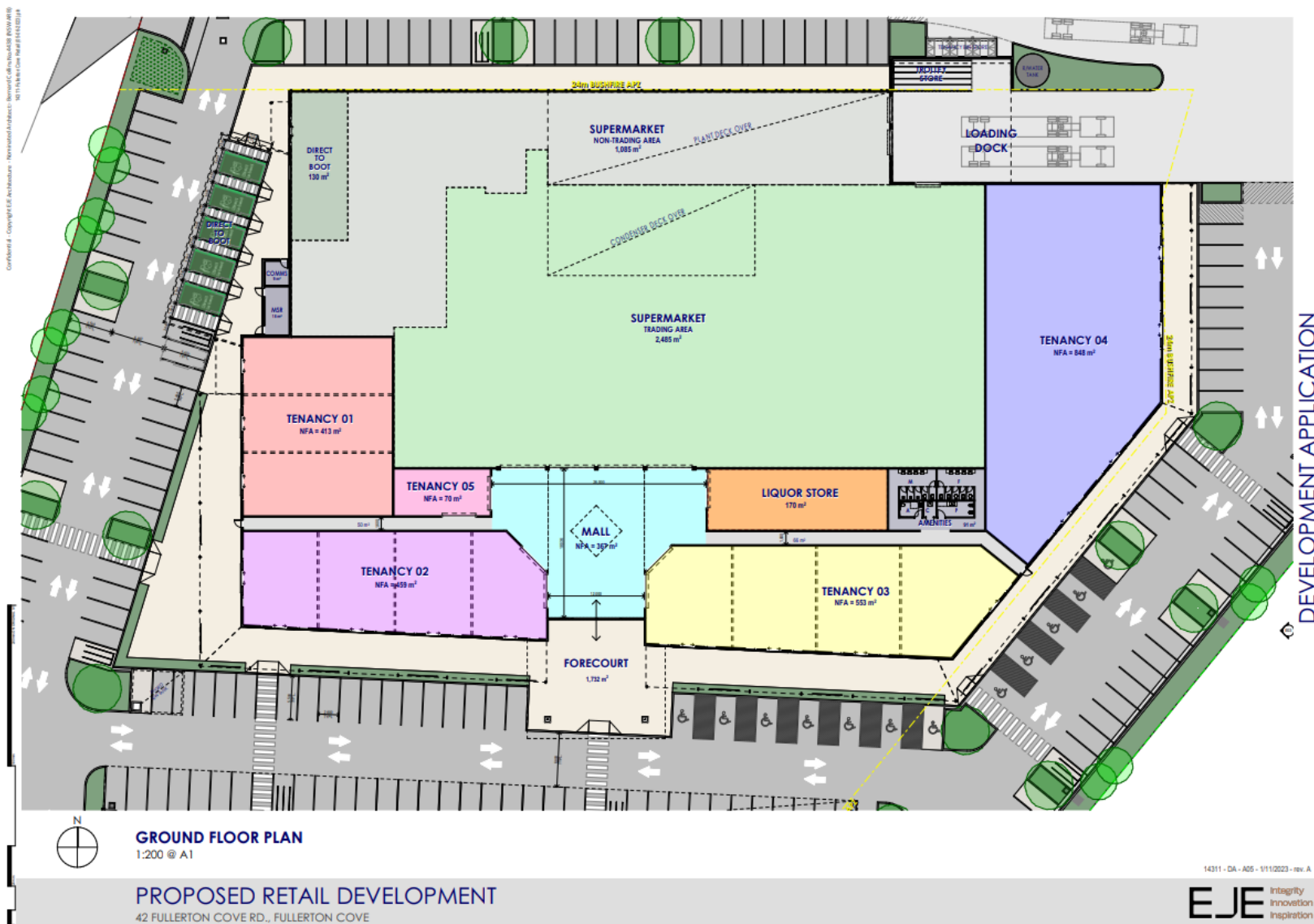


Figure 3: Ground Floor Plan (Source: EJE, 2023)



DEVELOPMENT APPLICATION

SOUTH-WESTERN / AERIAL VIEW 1

PERSPECTIVE VIEW 09

1:1 @ A1

PROPOSED RETAIL DEVELOPMENT

42 FULLERTON COVE RD., FULLERTON COVE

14311 - DA - A18 - 1/11/2023 - rev. A

EJE Integrity
Innovation
Inspiration

Figure 4: Perspective View 09 (Source: EJE, 2023)



DEVELOPMENT APPLICATION

14311 - DA - A07 - 1/11/2023 - rev. 5

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Figure 5: Proposed Pylon Signage Plan (Source: EJE, 2023)

2.1 ACCESS AND TRAFFIC

As per the proposed site plan, vehicle ingress and egress are facilitated through two separate crossovers (north and south) located along Fullerton Cove Road. The southern vehicle crossover is proposed for standard vehicles, whilst service vehicle ingress and egress are proposed to be along the northern vehicle crossover. It should be noted that the proposed northern crossover also includes ingress and egress capability for standard vehicles.

The proposed access arrangement will assist in mitigating traffic associated with queuing. Moreover, adequate space is provided to facilitate efficient internal vehicle movement. Swept Path Plans have been provided to illustrate vehicle ingress and egress in a forward gear, refer to **Appendix B**.

2.2 GEOTECHNICAL

The soil composition of the site has been observed to vary from loamy sand soils at the higher elevation, to clay soils in the lower areas to the east of the premises comprised of a catchment with dense vegetation.

2.3 SERVICES

Reticulated water infrastructure is within proximity to the subject site and can be located within to the Fullerton Cove Road reserve. As part of the development, a private rising sewer main extension is proposed along the Nelson Bay Road reserve to facilitate sewer connection for the proposed development. The proposed private sewer rising main alignment concept plan is provided in **Appendix C**. Further, there is adequate provisions to facilitate electricity, gas, and telecommunication connections. Subsequently, the proposed development will be connected to reticulated infrastructure including electricity and telecommunication.

2.4 STORMWATER

The site currently has a lawful point of discharge to the southwest portions of Fullerton Cove Road. Considering the topography of the site, the proposal is not anticipated to alter the existing lawful point of discharge of the adjoining area.

In support of the proposed development, a Stormwater Management Plan has been prepared by Northrop to investigate flood and stormwater impacts and contained in **Appendix B**. Extensive flood modelling were undertaken as part of the investigation to assess the existing and post development site conditions with regards to stormwater quality and quantity. The findings of the report demonstrated that the proposed development maintains the current intent of stormwater discharge from the site and can convey the majority of the site's internal stormwater network to the existing discharge point south-west of the premises via overland flow. Further, a portion of the proposed developments hardstand and landscaped area is proposed to discharge to the northern watercourse via a headwall located within the site boundary. The proposed discharge to the northern watercourse is deemed to be comparable to the existing scenario based on survey levels. As such, the proposed development is not considered to create a worsening outcome for stormwater quality and quantity.

2.5 VEGETATION AND ECOLOGY

Flora, fauna and threatened species assessment was undertaken by Kleinfelder / Ecobiological (reference: 179-1192) as part of the rezoning application lodged and approved over the site. The findings of the report indicated several threatened species within the vicinity. These include three native vegetation communities within the subject site comprising Swamp Oak Forest (3.1 ha), Swamp Mahogany (0.6 ha) and Coastal Sand Apple (1 ha). Whilst the area north of the site was deemed disturbed land (2.1 ha). Thirteen (13) species were noted to be present on the subject site and nine were considered to have suitable habitat onsite.

In contrast, eight (8) fauna species were identified within the site and the site was considered to contain suitable habitats for these species.

In support of the proposal, a Biodiversity Development Assessment Report (BDAR) has been prepared by Anderson Environment and Planning (AEP) (**Appendix E**), with reference to the previous investigation undertaken by Kleinfelder. Three (3) plant community types (PCTs), with varying conditions, have been identified within the E1 - Local Centre portion of the site. Five (5) vegetation zones have been assessed as present within the three identified PCTs.

An investigation was also conducted within the C2 – Environmental Conservation portion of the site where the Business Identification Signage is proposed, to determine any likely impacts. Two (2) fauna species (Southern Myotis and Common Planigale) were identified and assumed present, generating a Biodiversity Offset Scheme Credit. In contrast, four (4) threatened species were identified within the subject area, that are to be incorporated into the Credits. The site was not found to contain core koala habitats. It is not mapped as Important Areas nor were Grey-headed Flying-fox roost camps present within the site, as per the findings of the report.

As per the BDAR findings, the proposal will result in an impact to 2.26 hectares of native vegetation triggering a requirement of a total of 19 Biodiversity Offsets Credits to be retired to offset the residual impacts to native vegetation and achieve a no net loss standard. Notwithstanding the above, the report findings demonstrate that avoid and minimise principles have been considered through the Planning Stage of the proposed signage as well as the location within the wider lot and as such the proposal is suitable for the subject site.

2.6 WASTE

The construction and operation of the proposed use will produce general and recyclable waste which requires management to minimise impacts on amenity and environmental health. In this regard, the proposed development is to be reviewed against the waste streams as part of the construction and operations of the development and the measures implemented to ensure that the proposed development has adequate provisions for onsite waste management.

Demolition and Construction Waste

Demolition works are proposed for the existing structures on the premises, none of which constitute heritage items, to facilitate the proposed development. The demolition works will comply with *AS2601 – The Demolition of Structures*. Building material waste is anticipated based on the nature of the demolition proposed.

All services will be sealed off, asbestos disposal will be to 'Workcover' requirements, and the proposed Sediment and Erosion control measures will be installed prior to the commencement of any work.

Effluent from the amenities for which the contractor is responsible shall be discharged into the local sewer system, where available. Otherwise, a portable self-contained toilet of suitable capacity will be used subject to acceptable arrangement for disposal of the effluent.

Waste management measures have been prepared to understand the details regarding site waste generated during the demolition phase of the development as shown in **Table 1**. Waste storage will be provided to meet the predicted requirements of the development calculated in accordance with Council policy.

Table 1: Waste management measures

Demolition/Construction Stage		
Type of material	On-site	Off-site
Building Fittings	Removed, sorted and stored.	To salvage yard.
Green Waste	Mulched and re-used where possible.	To landscape suppliers.
Excavation Material (soils)	Sorted and stored on site, re-used where possible.	To approved recycling refuse facility. If unable to be recycled, to an approved landfill.
Glass	Sorted and stored on site.	To approved recycling refuse facility for re-use or crushing.
Bricks	Sorted and stored on site, re-used where possible.	To approved recycling refuse facility for re-use or crushing.
Concrete/Cement Fibre Board	Sorted and stored on site, re-used where possible.	To approved recycling refuse facility for crushing and/or re-use.
Timber	Separated and sorted. Mulched/crushed/cut and re-used where possible.	Where appropriate to an approved salvage yard for weatherboards flooring etc. To approved recycling refuse facility.
Plasterboard	Sorted and stored, broken-down and re-used where possible in accordance with the NSW Resource Recovery Exemption (RRE) for Plasterboard.	To approved recycling facility for crushing or re-use.
Metals	Sorted and stored.	To approved recycling refuse facility.
Asbestos (if any)	Treated and wrapped (if any)	To an approved refuse facility.
Plastics/packaging	Sorted and stored.	To approved recycling refuse facility or where unable to be recycled to an approved landfill.

Prior to construction, a Construction Environmental Management Plan (CEMP) will be prepared. The CEMP is to provide transparency and demonstrate a commitment to environmental conservation during the demolition and construction phases and provide a management framework to address potential waste streams associated with the demolition and construction of the project.

The CEMP will include a range of environmental control measures and procedures to address the requirements in relevant Management Plans. The CEMP will include the following Management Plans:

- Erosion & Sediment Control Plan;
- Incident / Emergency Management Plan; and
- Demolition and Construction Waste Management Plan.

The waste management plan shall include the following criteria as shown in **Table 2**.

Table 2: Waste management criteria

WASTE MANAGEMENT PLAN		
Ensure waste is disposed of in compliance with the requirements of <i>Waste Avoidance and Resource Recovery Act, 2001</i> at a waste facility licensed to accept the type of waste presented.	Site Manager	Ongoing during operations
All wastes will be properly classified and appropriately stored in accordance with guidelines and regulations. Incompatible materials will be stored separately from one another.	Site Manager	Ongoing during operations
Ensure that wastes are contained and isolated from ground and surface water surrounds and treatment or collection does not result in long term impacts on the natural environment.	Site Manager	Ongoing during operations
<p>Ensure that the person transporting the waste is licensed if the waste is of such an amount as to require the person transporting the waste to be licensed.</p> <p>The project will ensure that:</p> <ul style="list-style-type: none"> • Vehicles carrying waste will be kept clean and be constructed and maintained as to prevent spillage of waste. • Loads which may spill or emit odours are covered so that spillage and/or emission is prevented. • Any contained waste is safely secured. • Incompatible waste will not be mixed or transported together. • Any hazardous waste is not mixed with any other type of waste. • Any waste containing asbestos is to be handled and stored in accordance with approved methods and disposed of at a licenced facility. • Material segregated for recycling is not mixed with other wastes. • Any waste is transported only to controlled facilities or other facilities that can lawfully receive the waste. • The occupier of the waste facility is advised of the type of waste involved before the waste is unloaded. 	Site Manager	Ongoing during operations

Commercial Premises Use

The *EPA Better Practice Guide for Waste Management & Recycling in Commercial and Industrial Facilities – December 2012* has been referenced to calculate the total number of bins required for the proposed development. In accordance with the guideline, development waste generations are provided in accordance with the Net Floor Area (NFA). **Table 3** provides a summary of the calculations.

Table 3: Calculated Development Waste Generation

DEVELOPMENT WASTE GENERATION							
Proposed Uses	Average L per 100m2 per day		Maximum L per 100m2 per day		NFA M²	Total Waste Generation L per day	
	Waste	Recycling	Waste	Recycling		Waste	Recycling
Supermarket							
Supermarket with fresh food	30L	0	30L	0	2,485m²	745.50L	Nil
Supermarket without fresh food	140L	75L	140L	72L	2,485m²	Nil	1,863.75L
Tenancy 01							
Offices	8L	6L	16L	12L	413m²	33.04L	24.78L
Tenancy 02							
Cafe	215L	130L	500L	220L	120m²	258L	156L
Takeaway	175L	685L	175L	690L	339m²	593.25L	2,322.15L
Tenancy 03							
Newsagents and stationary shops	15L	215L	15L	715L	100m²	15L	215L
Non-food retail	40L	50L	300L	715L	100m²	40L	50L
Hairdresser	40L	40L	62L	55L	100m²	40L	40L
Services	55L	10L	160L	30L	253m²	139.15L	25.30L
Tenancy 04							
Chemists	185L	60L	500L	115L	250m²	462.5L	150L
Medical and optical	35L	10L	80L	17L	598m²	209.3L	59.80L
Tenancy 05							
Butcher	185L	100L	200L	145L	35m²	64.75L	35L
Baker	295L	165L	500L	245L	35m²	103.25L	57.75L
Liquor Store							
Shops more than 100 m2 floor space	80L	65L	300L	490L	170m²	289L	110.5L
Total Daily Waste Generation						2,993L	5,110L
Total Weekly Waste Generation						20,949L	35,770L

Following the calculations in **Table 3**, the development is anticipated to generate approximately 2,992.74L of general waste and 5,110.03L of recyclable waste daily. In total, this equates to 20,949.18L of general waste and 35,770.21L of recyclable waste weekly.

Based on the anticipated waste generation for the proposed uses, the following total bin provisions are required to service the development daily depending on the type of bins selected. Note, that bins with 240L capacity have not been considered for the development given the commercial use proposed and the size of the storage areas proposed.

Table 4: Daily Bin Requirements Per Waste Generation

DAILY BIN REQUIREMENT PER WASTE GENERATION				
Rate of Collection Per Week	1,100L Bin Option		1,500L Bin Option	
	Waste	Recycling	Waste	Recycling
1 Pickup Per Day	3	5	2	4

As per the daily bin calculations above, the total bins required to service the development varies slightly depending on the size of the bins selected. **Table 5** provides the bins required to service the development based on the weekly waste generation rate.

Table 5: Weekly Bin Requirements Per Waste Generation

WEEKLY BIN REQUIREMENT PER WASTE GENERATION				
Rate of Collection Per Week	1,100L Bin Option		1,500L Bin Option	
	Waste	Recycling	Waste	Recycling
1 Pickup Per Week	19	33	17	24
2 Pickup Per Week	10	17	7	12
3 Pickup Per Week	6	11	5	8
4 Pickup Per Week	5	8	4	6

Based on the anticipated weekly waste generation rates, **Table 6** provides the proposed bin rate, allocation and pickup rates each of the tenancies.

Table 6: Proposed Bin Rate and Allocation Per Waste Generation

PROPOSED BIN RATE AND ALLOCATION (4 COLLECTIONS P/W)						
Tenancies	1,100L Bin Option		1,500L Bin Option		Bin Storage Location	Waste Collection
	Waste	Recycling	Waste	Recycling		
Supermarket	1	2	1	2	Internal (non-trading area)	4 times p/w
Tenancy 01 – 05 Liquor Store	2	4	2.6	4	External (north of elevation)	4 times p/w

As per **Table 6**, the supermarket tenancy requires one (1) general bin and two (2) recycled waste bins. Moreover, the Liquor Store and Tenancies 01 to 05 require two (2) general waste bins and four (4) recycling bins to meet the weekly waste generation rate. It is noted that the required bin rates are based on a frequency of collection of four (4) times per week. Bins are to be collected by the nominated contractor at the scheduled frequency.

Onsite waste management areas for the tenancies including the Liquor Store and Tenancy 01 to 05 are proposed within the north building elevation and opposite of the trolley storage near the loading dock. It is screened from public view based on the proposed location and further screened through the provision of 1.50m Colourbond screens and gates to meet Asset Protection Zone (APZ) requirements. The waste management area for the Supermarket is wholly contained within the non-trading area of the GFA and opposite the loading dock. Mechanical aid may be used to move the bins from the non-trading GFA for the scheduled pickup if required.

CONSTRUCTION REQUIREMENTS

The enclosed garbage room will be required to contain the following facilities to minimise odours, deter vermin, protect surrounding areas, and make it a user-friendly and safe area:

- External waste storage areas for the Liquor Store and Tenancy 01 to 05 is to be constructed with the appropriate material to comply with the Asset Protection Zone (APZ) requirements.
- waste room floor to be sealed with a two-pack epoxy.
- waste room walls and floor surface is flat and even.
- all corners coved and sealed 100mm up, this is to eliminate build-up of dirt.
- cold water facility and hose cock must be provided for washing the bins.
- any waste water discharge from bin washing must be drained to the sewer in accordance with the relevant requirements (Hunter Water).
- tap height of 1.6m.
- stormwater access preventatives (grate).
- all walls painted with light colour and washable paint.
- equipment electric outlets to be installed 1700mm above floor levels.

- the room must be mechanically ventilated.
- light switch installed at height of 1.6m.
- waste rooms must be well-lit (sensor lighting recommended).
- optional automatic odour and pest control system installed to eliminate all pest types and assist with odour reduction – this process generally takes place at building handover – building management makes the decision to install.
- all personnel doors are hinged and self-closing.
- The waste collection area must hold all bins – bin movements should be with ease of access.
- conform to the Building Code of Australia, Australian Standards and local laws.
- Public/operator safety shall be assessed and ensured.

WASTE MINIMISATION STRATEGIES

Waste avoidance and reduction strategies are important for a development proposal of this scale to reduce waste going to landfills. The following waste minimisation strategies will be considered in by the proposed development.

Waste avoidance

- Order produce to be delivered with excess foliage removed;
- Purchase items in bulk. Avoid purchasing multipacks and single serve containers;
- Review serving sizes to reduce waste from uneaten food for future retail tenancies;
- Investigate the use of air dryers as an alternative to paper towels in toilets; and
- Present all waste reduction initiatives to staff as part of their induction program.

Reuse

- Donate food due for expiry to local charity organisations for supermarket and future food outlet uses;
- Donate flowers to a local hospice or hospital;
- Store food in reusable containers;
- Return cardboard cartons to suppliers for reuse; and
- supermarket and future tenancies can work with supply chain stakeholders to ship products in reusable packaging.

Recycle

- Develop a 'buy recycled' purchasing policy;
- Buy products packed in recyclable packaging;
- Provide bins for the separation of recyclables;
- Buy beverages in containers that can be recycled by your contractor;
- Flatten cardboard boxes as much as possible to save space in bins; and
- Keep cardboard clean – soiled cardboard cannot be recycled.

WASHROOM FACILITIES

Washroom facilities areas should be supplied with collection bins for paper towels (if used). Sanitary bins for female restroom facilities must also be arranged with an appropriate contractor.

GREEN WASTE

Any green waste will be collected and removed from the site by the maintenance contractor during scheduled or arranged servicing of these areas.

SIGNAGE

The building manager is responsible for waste room signage including safety signage (see **Section 10**). Appropriate signage must be prominently displayed on walls and above all bins, clearly stating what type of waste or recyclables is to be placed in the bin underneath. All chute doors on all Hotel levels will be labelled with signs directing chute operations and use of chute doors. Overall, the total waste generation for the proposed development has been identified and the required bin rates have been nominated including the frequency of pickups per week to service the proposed development. Subsequently, the development is considered to adequately manage onsite waste during construction and the operation of the use.

2.7 CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Good planning is one that holistically recognises the interconnected of physical spaces and social dynamics and crime prevention. The proposed development is to be reviewed against the Crime Prevention Through Environmental Design (CPTED) principles to demonstrate CPTED considerations in developing the design of the proposal.

The NSW Crime Statistics presents crime data for 2018 to 2022 in the Port Stephens Local Government Area and a comparison against the wider NSW averages. Upon review, the data below shows that the identified crimes are relatively stable. Within the record period there has been a noted increase in the following types of crime:

- Sexual assault,
- Steal from retail store,
- Malicious damage to property,
- Intimidation, stalking and harassment,
- Fraud; and
- Trespass.

Other main instances of crime in the local area that have reported a decrease within the record period include:

- Break and enter dwelling;
- Motor vehicle theft;
- Other stealing offences;
- Steal from dwelling;
- Other theft;
- Possession and/use of amphetamines; and
- Other drug offences.

The full results of the NSW Recorded Crime Statistics 2018 - 2022 data are attached as **Appendix F**.

At the suburb level, the crime statistics for Fullerton Cove can be summarised as follows. The full findings are attached as **Appendix G**.

- Incidents of assault offenses within the suburb indicate an above average range when to the NSW data from January 2022 to January 2023 and a decline is observed from therefrom to June 2023 below the NSW average.
- Robbery with and without the use of a weapon incidents were below the average range for the NSW data on Jun 2023.
- Sexual offences with varying categories generally occurred above the NSW data from the periods of June 2022 and June 2023.
- Theft including steal from retail store occurred below the average for the NSW data from October 2023 to June 2023.
- Malicious damage to property incidents occurred above the average range when compared to NSW data from January 2022 to January 2023 and onwards.

In light of the crime statistics for the LGA and Fullerton Cove, the development is to be reviewed against CPTED provisions to determine consistency with the relevant principles for crime prevention.

Territorial Re-enforcement

Territorial reinforcement relates to the use of physical attributes that express ownership. The overall objective of territorial reinforcement is to create a sense of ownership in which the perception is that residents are more likely to challenge intruders or report them to the police via social control. It also provides an environment where strangers stand out and are more easily identified.

Response

As per the proposed development plans, landscaping comprised of mass planting of native groundcovers, to define entry points and tree planting provides softening to the built form and acts as an edge to delineate public spaces from private development spaces. The use of pavements and a kerb that runs along the full development frontage and footprint further emphasizes the distinction between private and public spaces.

The building orientation and mall access zones also encourage active uses (e.g., cafes, restaurants, or shops) along the perimeters of the shopping centre, except for the loading dock areas. It is considered that this will attract people and create a sense of community ownership.

Further, vehicle wheel stops, and landscaping is used around the parking areas to demarcate parking areas from the building areas. Defining these spaces, communicate to people where they should and should not be, and what activities are appropriate.

Subsequently, by using landscaping, pavement, kerb and channels, and mall access zones to express ownership and define public, semi-public, and private space, natural territorial reinforcement occurs. To ensure that the territorial enforcement is maintained at all times during the operation of the use, the following recommendations are given:

Recommendations:

Prior to the commencement of the use, entrances are to be well-marked, well-lit, and easily accessible as per the proposed development plans.

As per the Landscaping Plans, trees are to be maintained to remove low-hanging branches to allow clear lines of sight and shrubs should be maintained to not provide easy concealment.

As part of the operation of the use, landscaping is to be maintained at all times as per the proposed landscaping plans, to avoid dense, overgrown vegetation that can provide hiding spots for potential criminals.

Prior to the commencement of the use, demonstrate adequate and well-distributed lighting provision throughout the development including parking areas, walkways, entrances, and plazas. Where appropriate, lighting is to be used to highlight key features and entrances, creating a sense of importance and ownership.

During the operation of the use, a regular maintenance and cleaning schedule is to be implemented to ensure that the development remains well-kept and inviting to foster and maintain the communal sense of ownership of the development.

Prior to the commencement of the use, signage is to be used to supplement and reinforce behavioural expectations and advice around the outside of the loading dock area wherever deemed appropriate for the proposed development.

Prior to the commencement of the use, a wayfinding strategy/plan is to be developed and implemented to ensure wayfinding and territorial re-enforcement.

Surveillance

The surveillance principle of CPTED focuses on using physical and environmental factors to reduce opportunities for crime and increase feelings of safety in an area. Maximisation of visibility to allow the effective monitoring of the environment is the core element of the surveillance principle.

Response:

Natural surveillance is demonstrated by the proposed development through building orientation which is located central of the E1 zone. Mall access zones are provided along the full building façade excluding the loading dock areas. As per the floor plan proposed, windows and openings are provided along the south, east and west which are high-traffic areas. In contrast, windows and openings are not proposed along the north-east building elevation as per the floor and the area is not considered to provide high activity being the rear of the supermarket non-trading area.

As per the site and landscaping plans proposed, landscaping has further been integrated within the development design to help define space and encourage casual and safe interaction.

The location and orientation of the development, accompanied by the provision of windows and openings and mall access zones along the full building frontage promotes people-watching. Retail patrons have a full view of the activities being undertaken in the carpark areas from a wide range of standpoints from the building and the building orientations and landscaping enable views of these areas. Similarly, patrons and drivers within the carpark areas can also view the activities being undertaken within and around the proposed retailed development areas. However, recommendations are proposed to ensure that natural surveillance outcomes are met for the areas located northeast of the building and comprised of the load dock areas. Subsequently, the development is deemed to comply with the surveillance principle of CPTED. Recommendations are further provided to ensure ongoing compliance.

Recommendations

Prior to the commencement of the use, mirrors or other reflective surfaces are to be used within the northeast building elevation given its limited visibility from the mall access zones to eliminate blind spots.

Prior to the commencement of the use, CCTV security cameras are to be installed in suitable locations that complement natural surveillance points and cover key areas, such as entrances, parking lots, and high-traffic zones as well as less active areas such as the storage areas waste storage areas and the loading dock.

As part of the lighting plan/s, adequate illumination throughout the shopping centre, including parking areas, entrances, walkways, plazas and less monitored delivery areas is to be demonstrated.

As part of the lighting plan/s, lighting is to be even and consistent, dark corners or areas where people may feel less secure are to be avoided.

In accordance with the landscaping plan, landscaping is to be maintained so as not to obstruct views or create hiding spots for potential criminals.

As per the proposed development, open sightlines and natural surveillance will be used to ensure that people can see and be seen across the development footprint.

Overall, natural surveillance is achieved by the development by creating an environment where there is an opportunity for people engaged in their normal behaviour to observe the space around them.

Access Control

Access control strategies of CPTED seek to restrict, channel, and encourage the movement of people, vehicles, and materials into, out of and within designated areas. In principle, physical barriers are used to regulate who has the right to enter and exit a space to increase the effort required to commit a crime. For example, symbolic (or psychological) barriers are cues that help to define borders and transitions between public and private spaces.

Response:

The proposed development demonstrates access controls through a combination of natural surveillance, territorial reinforcement, and natural access control.

The development provides a single pedestrian access point (middle portion of the site) and dual vehicle access points from Fullerton Cove Road (north and south) which are clearly defined using landscaping direct to the intended destination. The north vehicle access point is intended for articulated vehicles entering and exiting the site, whilst the south vehicle access entry point is intended for standard vehicles and medium rigid vehicles. Further, confusing, or hidden access points are avoided as per the proposed development plans. Subsequently, pedestrian and vehicle access is clearly delineated by the proposed development.

As per the proposed rendered plans, vehicle access areas are sealed, and kerbs are used to delineate the development footprint and car parking areas from the proposed retail areas. Line markings are used to delineate the loading dock area boundary. Similarly, pedestrian areas are also delineated by the provision of lane markings.

Further, landscaping is used to define the property boundary from the Council's road reserves and to further define the building footprint, car parking areas and property boundaries. Landscaping has also been incorporated into the entranceway from the road frontage.

The development's design includes well-considered pedestrian channelling, through the implementation of pedestrian crossings and walkways from the carpark into the proposed retail development and entrance along Fullerton Cove Road frontage and mall access zones.

The development has a well-defined entrance point into the retailed building which can be located along the south building elevation. Minor and undefined access points are provided along east and west building elevations. However, the layout of the ground floor plan has been designed such that provisions have not been made to enable a rear entrance to point from the east and west corridor access points. Further, the width of the corridor has been reduced to prevent or discourage public access to or from these areas.

Subsequently, the proposed development is considered to include design considerations that demonstrate the access control principle of CPTED, and recommendations are proposed to ensure ongoing compliance.

Recommendations:

As per the proposed landscaping plans, landscaping is to be maintained to ensure clear sightlines and to prevent hiding spots. Specifically, bushes and trees near entrances and pathways are to be trimmed where required to maintain clear sightlines.

Prior to the commencement and operation of the Commercial Premises use, clear and consistent signage is to be provided to guide people to designated entrances and exits to prevent confusion and ensure that individuals use intended access points.

During the operation of the use, directional signs and maps are to be provided at an appropriate rate and location to assist visitors in navigating the area.

In operating the commercial development use, open-style fencing is to be used where proposed to maintain visibility and prevent hidden areas.

During the operation of the use, limit access to service areas, such as loading docks, to authorized personnel only. Where appropriate, barriers or controlled entry points are to be used in these areas to prevent unauthorized entry.

As per the proposed ground floor plan, automatic sliding or revolving doors are to be used at main building entrances to allow for controlled entry and exit and to reduce the likelihood of unauthorized access.

During the operation of the use, tenants, employees, and visitors are to be encouraged to be vigilant and report any suspicious activities where appropriate.

As per the proposed development plans, parking areas are to be maintained with controlled access points. Where appropriate, additional barriers may be used to regulate entry and exit from parking facilities.

During the operation of the use, implement electronic access control systems, such as key cards, for restricted areas within the retail development area, including offices, storage rooms, and maintenance areas.

Space/Activity Management

The Space/Activity Management principle of CPTED focuses on how spaces are organized, utilized, and managed to reduce opportunities for criminal activity and promote a safe, secure, and functional environment. Essentially, this principle acknowledges that the layout and use of spaces within a given environment can have a significant impact on behaviour and perceptions of safety. The proposed development is to be assessed against this principle to demonstrate compliance with the relevant provisions.

Response:

As per the proposed plans, the retail development is comprised of a supermarket tenant, and six (6) minor tenancies. The spaces are organised to enable efficient movement and achieve a coherent floor plan. Specifically, the supermarket which occupies large portions of the building footprint is located at the rear. While smaller tenancies are located within the front, west and east of the ground floor plan and adequately sized to enable versatility.

The provision of wide footpath and openings within the building front and minor access points within the west and east building floor plan enables accessibility and functional building design.

Further, minor storage areas are provided along the west building elevation and waste and loading docks are provided within the northeast building elevation and adequately screened.

Following the building elevation plans, the finished building materials are comprised of a minimum of four (4) varying building materials and colour schemes. As such, the development is considered to provide spaces that are well-organised and functional. It is recommended that the following measures be implemented to reduce opportunities for criminal activity.

Recommendations:

As part of the operation of the use, an Operation Management Plan is to be developed for the retail development to detail to define responsibilities and regulate common property use, establishment maintenance and procedures and the like. Maintenance issues are to be actioned promptly to prevent deterioration and neglect.

As part of the Operation Management Plan, clearly define different areas within the proposed development for its specific functions to ensure that spaces are used for their intended purposes.

As part of the lighting plan/s, a combination of ambient, tasks and accent lighting are to be used within the development to create a safe and inviting environment.

As per the proposed development plans, central gathering spaces are to be maintained and where appropriate provided with seating in locations where people can observe multiple directions and amenities to further encourage positive activities and social interaction. Landscaping and signage provisions are to avoid obstructing views.

As per the proposed development plans, the ground floor plan is to be maintained such that spaces enable multiple functions.

As part of the Operation Management Plan, include site-specific emergency response plans and evacuation routes. Adequate training and signage are to be provided to tenants, employees and visitors on emergency response plans and evacuation routes.

As part of building works, graffiti and vandal resistance building materials and fixtures shall be considered in low-traffic areas susceptible to graffiti and vandalism. Alternatively, in such areas exposed to the potential for graffiti damage, graffiti-resistant coatings should be applied.

As per the Operation Management Plan, Graffiti shall be removed as quickly as possible to minimise cumulative graffiti and to deter future vandalism.

During the operation of the use, the development is to be well maintained including all locks within the development.

Prior to the commencement of the use, directional signage shall be provided throughout the development, inclusive of car parking areas and vehicle access entrances/exits. The signage is to be clear, legible and useful, to aid way-finding throughout the area reducing the opportunity for excuse-making behaviour and loitering.

3. STATUTORY CONSIDERATIONS

This section identifies the statutory planning provisions that apply to the subject site. The development application will be determined by Port Stephens Council under the provisions of the *Environmental Planning and Assessment Act 1979*.

3.1 COMMONWEALTH LEGISLATION

Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC), in conjunction with the Commonwealth Environmental Protection and Biodiversity Conservation Regulations 2000, provide the basis for national environmental protection and conservation. The EPBC Act specifically aims to:

- *Provide for the protection of the environment, especially matters of national environmental significance.*
- *Conserve Australian biodiversity.*
- *Provide a streamlined national environmental assessment and approvals process.*
- *Enhance the protection and management of important natural and cultural places.*
- *Control the international movement of plants and animals (wildlife), wildlife specimens and products made or derived from wildlife.*
- *Promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources.*
- *Recognise the role of Indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity.*
- *Promote the use of Indigenous peoples' knowledge of biodiversity with the involvement of, and in cooperation with, the owners of the knowledge.*

The EPBC requires Commonwealth approval for development which significantly impacts matters relating to National environmental significance. The nine matters of national environmental significance protected under the EPBC Act include:

- *World heritage properties.*
- *National heritage places.*
- *Wetlands of international importance.*
- *Listed threatened species and ecological communities.*
- *Migratory species.*
- *Commonwealth marine areas.*
- *The Great Barrier Reef Marine Park.*
- *Nuclear actions (including uranium mines).*
- *A water resources, in relation to coal seam gas development and large coal mining development.*

Matters of National Environmental Significance were addressed under the rezoning application approved over the site. Furthermore, the BDAR prepared as part of the lodgement material also demonstrated that impacts are not envisaged on the Matters of National Environmental Significance comprised of threatened species, threatened ecological communities, or listed migratory species. Subsequently, a referral is considered unlikely to be required based on the findings of the report, due to the extent of the proposed development.

3.2 STATE LEGISLATION

Environmental Planning and Assessment Act 1979

The following demonstrates the proposal's compliance with the relevant heads of consideration in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as amended, in particular:

- *Any Environmental planning instrument, and (Section 4.15(1)(a)(i)).*
- *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 Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and (Section 4.15(1)(a)(ii)).*
- *Any development control plan, and (Section 4.15(1)(a)(iii)).*
- *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 (Section 4.15(1)(a)(iia)).*
- *The regulations (to the extent that they prescribe matters for the purposes of this paragraph), and (Section 4.15(1)(a)(iv)).*
- *Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates, (Section 4.15(1)(a)(v)).*
- *The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, (Section 4.15(1)(b)).*
- *The suitability of the site for the development, (Section 4.15(1)(c)).*
- *Any submissions made in accordance with this Act or the regulations, (Section 4.15(1)(d)).*
- *The public interest, (Section 4.15(1)(e)).*

Table 6 outlines the compliance of Section 4.15 and refers to the relevant sections of this SOEE.

Table 6: Section 4.15 – Matters for Consideration

4.15 – Matters for Consideration	
Provision	Consideration
<i>Section 4.15(1)(a)(i) – Any environmental planning instrument.</i>	Relevant environmental planning instruments have been addressed in Section 3.2 and 3.3 of this SOEE.
<i>Section 4.15(1)(a)(ii) – Provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified by the consent authority.</i>	The site is not associated with any proposed instruments that are relevant to the development.
<i>Section 4.15(1)(a)(iii) – Provisions of any development control plan that apply to the land.</i>	The Port Stephens DCP has been addressed in Section 3.6 of this SOEE.
<i>Section 4.15(1)(a)(iiia) – Provisions of 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.</i>	The development proposed is not associated with a Planning Agreement and no new Planning Agreements are proposed.
<i>Section 4.15(1)(a)(iv) – Provisions of the regulations that apply to the land.</i>	No matters of relevance are raised regarding the proposed development
<i>Section 4.15(1)(b) – The likely Impact of the Development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.</i>	Section 4 of this SOEE considers the environmental impacts associated with the proposed development with recommendations.
<i>Section 4.15(1)(c) – The Suitability of the site for the development.</i>	Site suitability has been addressed in Section 5 of this SOEE.
<i>Section 4.15(1)(d) – Any Submissions made in accordance with this Act or the regulations.</i>	Submissions have been addressed in Section 6 of this SOEE.
<i>Section 4.15(1)(e) – The Public Interest.</i>	Public Interest has been addressed in Section 7 of this SOEE.

Other Acts

Other legislation relevant to the development has been considered, including legislation concerning whether the proposal is integrated development. Integrated development is a development that, to be carried out, requires development consent and one or more of the following approvals:

- *Biodiversity Conservation Act 2016*
- *Coal Mine Subsidence Compensation Act 2017*
- *Fisheries Management Act 1994*
- *Heritage Act 1977*
- *National Parks and Wildlife 1974*
- *Protection of the Environment Operations Act 1997*
- *Roads Act 1993*
- *Rural Fires Act 1997*
- *Water Management Act 2000*

Biodiversity Conservation Act 2016

The proposed development has been reviewed against the *Biodiversity Conservation Act 2016*, upon this review, additional triggers are not identified. Following the approved Planning Proposal for rezoning, the site contains land dedicated for conservation purposes to offset the development footprint. As per the BDAR assessment prepared in support of the application, the proposed development is deemed to maintain the avoid and minimise principles considered in the rezoning stage by utilising the disturbed land parts for the development. While retaining the area containing higher quality vegetation and biodiversity values as conservation zones. Further, biodiversity offsets are determined based on the biodiversity values assessed for the development footprint. In total, nineteen (19) Ecosystem credits are required to offset the residual impact of the development following the findings of the BDAR as per the below:

- 1 x PCT 1646 (moderate);
- 2 x PCT 1717 (poor/managed);
- 8 x PCT 1717 (poor); and
- 8 x PCT 1737 (moderate).

Moreover, the proposal also requires Specifics credits to offset the residual impact of the proposed development with the assumed presence of Common Planigale due to heritage complications at this stage following the BDAR:

- 24 x Southern Myotis (*Myotis macropus*); and
- 17 x Common Planigale (*Planigale maculata*).

As such, a total of nineteen (19) Biodiversity Offsets Credits will be required to be retired to offset the residual impacts on native vegetation and achieve a no-net loss standard as per the BDAR.

Coal Mine Subsidence Compensation Act 2017

Assessment against the *Coal Mine Subsidence Compensation Act 2017* is not required in this regard. The subject site is not mapped as containing a Mine Subsidence pursuant to the Planning Portal interactive map.

Fisheries Management Act 1994

The *Fisheries Management Act 1994* is not an applicable assessment benchmark as the site is not mapped as containing fishery resources of the state.

Heritage Act 1977

The *Heritage Act 1977* protects Non-Indigenous heritage and is administered by the NSW Office of Environment and Heritage (OEH). Under Section 139 of the Act, an excavation permit must be obtained for the excavation or disturbance of a relic unless an exemption applies. Items of Aboriginal heritage were identified within the locality through a search on the Aboriginal Heritage Information Management System (AHIMS). An Aboriginal Heritage Assessment (AHA) was undertaken which identified three areas of Potential Archaeological Deposit (PAD) within the site, with one being within the E1 - Local Centre. As such, an Aboriginal Heritage Impact Permit is required and will be obtained prior to any excavation works.

National Parks and Wildlife Act 1974

The NPW Act is the primary legislation dealing with Aboriginal cultural heritage in NSW. Sections 86, 87 and 90 of the NPW Act require consent from the NSW OEH for the destruction or damage of Aboriginal cultural heritage. It is noted that a search of the Aboriginal Heritage Information Management System (AHIMS) found three areas of Potential Archaeological Deposit of Aboriginal sites or places on the subject site, a subsequent application will be lodged accordingly.

Protection of the Environment Operations Act 1997

Further assessment is not required in this regard, the proposal to establish a Commercial Premises (Neighbourhood Shopping Centre) on the site complies with the objectives of the Act.

Roads Act 1993

Pursuant to Section 138 of the *Roads Act 1993*, the proposed shopping centre does not require integrated approval from Transport for New South Wales. Notwithstanding, the proposal will require approval by Port Stephens Council for works within the road reserve of a public road (Fullerton Cove Road) under section 138 as well as concurrence by Transport for NSW under the provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021* as traffic generating development.

Rural Fires Act 1997

The subject site is located within mapped bushfire prone land following the Port Stephens Council interactive mapping system. Bushfire hazards risks have been considered under a Bushfire Assessment Report which is to accompany the lodged Development Application. Additionally, the proposed Commercial Premises use is not a "special fire protection purpose" under this Act and referral to the NSW Rural Fire Service is not required.

Water Management Act 2000

The proposed development is located within 40 metres of waterfront land and the application will therefore be referred to the Office of Water.

Overall, the proposal is categorised as integrated development pursuant to Section 4.46 of the Act due to matters pertaining to aboriginal heritage and development proximity to a watercourse.

3.3 STATE ENVIRONMENTAL PLANNING POLICIES

The relevant State Environmental Planning Policies applicable to the land and the development types have been considered under the heading below.

State Environmental Planning Policy (Planning Systems) 2021

Chapter 2 State and Regional Development

The development is specified in Schedule 6 and declared to be a regionally significant development for the purposes of the Act. Specifically, the proposal is categorised as a general development that has a capital investment value of more than \$30 million. As such, the Development Application is to refer to the Regional Planning Panel for Determination as per SEPP and Act.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

The proposed development involves the removal of trees and vegetation (see BDAR) which requires approval under the provisions of section 2.9 of this chapter and Section B1 of the *Port Stephens Development Control Plan 2014* (DCP). Impacts on ecology and vegetation and compliance with the *Biodiversity Conservation Act 2016* and the DCP are addressed in further detail below.

Chapter 4 Koala Habitat

The provisions of this chapter apply to the Port Stephens local government area. Following the BDAR, the site is predominately identified as containing "Supplementary Koala Habitat" (SKH) and vegetation surrounding the site is predominantly SKH to the south there are small, fragmented areas of "potential koala habitat" (PKH) occurring to the northeast, south and south-west which are not connected to the subject site. As per the BDAR, the site does not contain a core koala habitat.

Further, the site located at 42 Fullerton Cove Road, Fullerton Cove NSW has an approved Koala Plan of Management and as such the Port Stephens Comprehensive Koala Plan of Management (CKPoM) applies. Subsequently, the proposed development complies with Chapter 4 pertaining to Koala Habitat and the Biodiversity and Conservation SEPP in its entirety.

State Environmental Planning Policy (Resilience and Hazards) 2021

The site is within the "coastal environment area" pursuant to the state mapping and as such subject to the provisions of Chapter 2, section 2.10 of this SEPP.

Chapter 2 Coastal

Table 7: Section 2.10(1) Provision Review

State Environmental Planning Policy (Resilience and Hazards) 2021	
Section 2.10(1) Provision	Consideration
a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,	As per the BDAR, Stormwater and Flood Assessment and Heritage Assessment findings, the integrity and resilience of the biophysical, hydrological and ecological environment will be maintained based on the scale of the proposed development and current site conditions and subject to the recommendations of the relevant reports.
(b) coastal environmental values and natural coastal processes,	Adverse impacts are not envisaged on coastal environmental values and natural coastal processes. The works are to be carried out in accordance with the recommendations of the BDAR and Flood and Stormwater Management Plan.
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,	The site-based Stormwater Management Plan prepared in support of the proposed development demonstrates non-worsening outcomes for stormwater quantity and quality based on the nature of the works proposed. As such, the development is not considered to result in adverse impacts on the hydrological environment.
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,	As per the BDAR, adverse impacts are not proposed on marine vegetation, native vegetation or fauna and their habitats. However, the development as associated with vegetation clearing will result in the surrender of biodiversity offset credits.
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,	Adverse impacts are not envisaged, existing access to and along the foreshore, beach, headland, or rock platform for members of the public are not compromised by the proposed development.
(f) Aboriginal cultural heritage, practices and places,	The proposed development is to be carried out in accordance with the recommendations of the ACHA and subsequent approvals are to be obtained prior to any works being undertaken in areas with Aboriginal and cultural heritage significance.
(g) the use of the surf zone.	Adverse impacts are not envisaged on surf zones, the proposed development is wholly contained on the subject site.

Chapter 3

Chapter 3 of the SEPP provides the requirements for hazardous and offensive development. The proposed development is for Commercial Premises (Neighbourhood Shopping Centre) including Signage, Demolition and Sewer Extension. As per the proposed development plans, the proposed use is not associated with hazardous or offensive development components.

Chapter 4 Remediation of land

Section 4.6 of this SEPP requires the consent authority to consider whether the land is contaminated and whether it is suitable with or without remediation for the purpose for which the development is proposed to be carried out. Following a review of the contaminated land register, the subject site is not listed as a contaminated site. Therefore, further assessment against Chapter 4 is not required and the proposal complies with the SEPP.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The proposed development is to be reviewed against the relevant provisions of the Transport and Infrastructure SEPP. In this regard, the proposal is to be reviewed against Chapter 2 of the SEPP for traffic generating developments.

Table 8: S2.122 Traffic Generating Review

State Environmental Planning Policy (Transport and Infrastructure) 2021	
S2.122 Traffic generating	Consideration
(1) This section applies to development specified in Column 1 of the Table to Schedule 3 that involves— (a) new premises of the relevant size or capacity, or (b) an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.	The proposal for Commercial Premises including shops that exceed 2,000m ² is development specified in Column 1 of the Table to Schedule 3 and will be associated with new premises.
(2) In this section, relevant size or capacity means— (a) in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or (b) in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.	Noted
(3) A public authority, or a person acting on behalf of a public authority, must not carry out development to which this section applies that this Chapter provides may be carried out without consent unless the authority or person has— (a) given written notice of the intention to carry out the development to TfNSW in relation to the development, and (b) taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.	Complies, Concurrence Agency response has been sought and obtained from TfNSW for the proposed sewer extension works. TfNSW is in support of the proposal and works will be undertaken in accordance with the Concurrence Agency Response conditions. Further, a notice can be given to TfNSW prior to the commencement of the relevant work.
(4) Before determining a development application for development to which this section applies, the consent authority must— (a) give written notice of the application to TfNSW within 7 days after the application is made, and (b) take into consideration— (i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and (ii) the accessibility of the site concerned, including— (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and (iii) any potential traffic safety, road congestion or parking implications of the development.	In accordance with Section 4, the consent authority is to notify TfNSW of the application within the legislated timeframe.

State Environmental Planning Policy (Sustainable Buildings) 2022

The primary objective of the State Environmental Planning Policy (Sustainable Buildings) 2022 is to encourage the development of energy-efficient and environmentally sustainable buildings in New South Wales. It seeks to reduce the environmental impact of buildings by setting standards and requirements for sustainability measures. The proposed development is to be reviewed against Chapter 3 of SEPP (Sustainable Buildings) 2022 for non-residential developments.

Table 9: Chapter 3 Standards Review

SEPP (Sustainable Buildings) 2022	
Chapter 3 Standards for non-residential development	Consideration
<p>3.4 Application of Chapter</p> <p>(1) This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—</p> <p>(a) the erection of a new building, if the development has a capital investment value of \$5 million or more, or</p> <p>(b) alterations, enlargement or extension of an existing building, if the development has a capital investment value of \$10 million or more.</p>	<p>The development is not categorised as development for the purpose of residential accommodation and is associated with the erection of a building with a capital investment value of \$5 million or more. As such, the development is subject to the relevant provisions of this chapter.</p>
<p>(2) This Chapter does not apply to the following development—</p> <p>(a) development that is permitted with or without consent or that is exempt or complying development under—</p> <p>(i) State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, or</p> <p>(ii) State Environmental Planning Policy (Resources and Energy) 2021, Chapter 2, or</p> <p>(iii) State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 5,</p> <p>(b) development on land wholly in any of the following zones—</p> <p>(i) Zones RU1, RU2 or RU3,</p> <p>(ii) Zone E5,</p> <p>(iii) Zone IN3,</p> <p>(iv) Zones C1, C2 or C3,</p> <p>(v) Zones W1, W2, W3 or W4,</p> <p>(c) development for the purposes of residential care facilities.</p>	<p>Not applicable in this regard.</p>
<p>(3) To avoid doubt, this Chapter does not apply to development to which Chapter 2 applies.</p>	<p>Complies with clause (3), the provisions under Chapter 2 are not applicable to the proposed development.</p>
<p>3.5 Development consent for non-residential development</p> <p>(1) In deciding whether to grant development consent to non-residential development, the consent authority must consider whether the development is designed to enable the following—</p> <p>(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials,</p>	<p>As per the plans proposed, the development is for new Commercial Premises over the site. The existing use of the site is a Dwelling House with ancillary structures which is proposed to be demolished and a sewer extension is required to facilitate the development. Given the condition of the existing structures on site and the new use proposed for the site, there is no opportunity to reuse the building material directly for the development proposed. However, there is an opportunity for green waste, excavated soil, bricks, concrete and timber materials from demolished developments to be re-used onsite</p>

SEPP (Sustainable Buildings) 2022	
Chapter 3 Standards for non-residential development	Consideration
	<p>for the preliminary site works and landscaping where possible. Subsequently, best practices will be considered in the final detailed construction design and when applicable e.g., demolished timber framing to be wood-chipped for landscaping. The development complies with section 3.2 (1) (a).</p>
<p><i>(b) a reduction in peak demand for electricity, including through the use of energy efficient technology,</i></p>	<p>The following measures will be explored as part of the detailed planning stage to reduce peak demand for electricity which demonstrates energy-efficient technology for the proposed development:</p> <p>LED lighting is proposed to be used within the retail development and landscaping areas as opposed to incandescent or fluorescent lighting.</p> <p>High-efficiency HVAC systems are proposed to be used for heating, ventilation and air conditioning systems with advanced controls for the development.</p> <p>Smart building management systems (BMS) are proposed to be implemented within the development to integrate all building systems (lighting, HVAC, security, etc.) and utilise data analytics to optimize energy use in real time. Further, the BMS will monitor occupancy levels, outdoor temperature, and other factors to adjust energy usage dynamically. For example, during peak shopping hours, the system can intelligently manage HVAC and lighting to reduce overall electricity demand.</p> <p>There is also an opportunity for the development to install solar panels on the roof or parking structures to generate renewable energy on-site.</p> <p>Consideration will be given to demand response programmes offered by utility providers to temporarily reduce electricity usage during peak periods when demand on the grid is exceptionally high. This will help alleviate strain on the grid.</p> <p>Encourage tenants to use energy-efficient appliances and equipment within their stores and restaurants.</p> <p>The implementation of the abovementioned measures can reduce peak demand for electricity within the proposed development whilst also helping the development achieve its sustainability objectives. Therefore, the proposal is considered to comply with section 3.2 (1) (b). Further energy efficiency considerations will be provided in the final detailed construction design, which will be subject to a Section J Report.</p>

SEPP (Sustainable Buildings) 2022	
Chapter 3 Standards for non-residential development	Consideration
<i>(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design,</i>	<p>As per the site analysis plans, the proposed development is oriented to include north and south aspects. Windows and openings are strategically along the south, east and west building elevations. The building orientation and strategic placement of windows and openings are considered to harness natural light within the proposed development given the east-west sun travel path. Additionally, the use of atriums within the shopping centre also serves as light wells and enables natural lighting to further extend inwards to supermarket tenancy at the rear. Similarly, the placement of the windows and openings also enables fresh air to circulate within the proposed development, reducing the reliance on mechanical HVAC systems due to prevailing summer and winter winds.</p> <p>Additionally, awnings are proposed within the north, south, east and west building elevation plans which include shade devices. Also, here is an opportunity to install louvres and screens within the building windows during the operation of the use.</p> <p>Further, finished building materials and colour schemes will ensure thermal mass and insulation consideration. Specifically, the roof, walls and ceilings are to be insulated as per the relevant building standard which will be subject to a Sect J Report.</p> <p>Subsequently, artificial lighting and mechanical heating and reliance are reduced by the passive design strategies proposed and the proposal complies with section 3.2 (1) (c).</p>
<i>(d) the generation and storage of renewable energy,</i>	<p>As mentioned, there is an opportunity to install solar photovoltaic panels within the building roof and over parking shade structures. Similarly, there is also an opportunity for small-scale wind turbines to be included in the car parking areas for electricity generation. Best practices are to be considered in the final detailed construction design, which will be subject to a Section J Report. As such, the development is deemed to comply with section 3.2 (1) (d).</p>
<i>(e) the metering and monitoring of energy consumption,</i>	<p>The following methods are proposed for metering and monitoring energy consumption:</p> <ul style="list-style-type: none"> • Smart metering technology that offers real-time data collection, remote monitoring, and the ability to set alarms or notifications for unusual energy usage patterns. Interval monitoring systems to be used to collect energy consumption data at prescribed intervals. • Sub-metering to measure energy usage in specific areas or systems.

SEPP (Sustainable Buildings) 2022	
Chapter 3 Standards for non-residential development	Consideration
	<ul style="list-style-type: none"> Benchmarking and Comparison are to be undertaken during the operation of the use against industry standards. <p>Best practices are to be considered in the final detailed construction design, which will be subject to a Section J Report. Subsequently, the development complies with section 3.2 (1) (e).</p>
(f) the minimisation of the consumption of potable water.	To maximise the development's potential for reuse, each rainwater reuse tank has a proposed daily internal reuse parameter for toilet flushing and annual external irrigation demand applied following the Flooding and Stormwater Management Plan. It is, therefore, considered that the proposed development minimises the consumption of portal water and compliance with section 3.2 (1) (f) is achieved.
(2) Development consent must not be granted to non-residential development unless the consent authority is satisfied the embodied emissions attributable to the development have been quantified.	Complies with section 3.2 (2), the proposed development is accompanied by embodied emissions attributable to the development that has been quantified.
3.3 Other considerations for large commercial development (1) In deciding whether to grant development consent to large commercial development, the consent authority must consider whether the development minimises the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.	The proposed development is deemed to comply with section 3.3 (1). As demonstrated above, the development includes passive design strategies that minimise on-site fossil fuel consumption. Additionally, there is also an opportunity for the development to generate and store sustainable energy on the premises.
(2) Development consent must not be granted to large commercial development unless the consent authority is satisfied the development is capable of achieving the standards for energy and water use specified in Schedule 3.	<p>As per Schedule 3, a proposal for Commercial Premises is not subject to standards for energy.</p> <p>The development proposes to comply with the 3 star NABERS water rating standard for commercial premises. It is requested that the Council condition this requirement to ensure ongoing compliance. Therefore, the development with section 3.2 (2).</p>
(3) For the purposes of subsection (2), development is capable of achieving a standard specified in Schedule 3 if there is a NABERS commitment agreement in place to achieve the standard.	Complies with clause (3). In this regard, the proposed development for commercial premises is not subject to star NABERS energy rating pursuant to Schedule 3 (3). The development proposes to comply with the 3 star NABERS water rating standard for commercial premises.
(4) Subsection (2), to the extent it relates to energy use, does not apply to large commercial development on land to which the following local environmental plans apply— (a) Sydney Local Environmental Plan 2012, (b) Sydney Local Environmental Plan (Green Square Town Centre) 2013, (c) Sydney Local Environmental Plan (Green Square Town Centre—Stage 2) 2013.	Not applicable in this regard, energy standards are not prescribed for Commercial Premises use under Schedule 3.

SEPP (Sustainable Buildings) 2022	
Chapter 3 Standards for non-residential development	Consideration
(5) <i>Despite subsection (4), subsection (2) applies to large commercial development to the extent that the development relates to prescribed serviced apartments.</i>	Not applicable in this regard, the development proposes a Commercial Premises use over the site.
3.4 Other considerations for certain State significant development	
(1) <i>This section applies to non-residential development that is declared to be State significant development by State Environmental Planning Policy (Planning Systems) 2021, section 2.6(1) and specified in that policy, Schedule 1, sections 13–15.</i>	Not applicable in this regard, the development is not categorised as a State Significant development. The Sewer Extension works do not exceed the equivalent population, and capital value threshold as per Schedule 1.
(2) <i>In deciding whether to grant development consent to development to which this section applies, the consent authority must consider whether the development will minimise the use of on-site fossil fuels, as part of the goal of achieving net zero emissions in New South Wales by 2050.</i>	Not applicable in this regard, the development is not categorised as a State Significant development.

State Environmental Planning Policy (Industry and Employment) 2021

The proposed development is to be reviewed against Chapter 3 of SEPP (Sustainable Buildings) 2022 for non-residential developments.

Table 10: Chapter 3 Standards Review

State Environmental Planning Policy (Industry and Employment) 2021	
Chapter 3 Advertising and signage	Consideration
<p><i>3.1 Aims, objectives etc</i></p> <p><i>(1) This Chapter aims—</i></p> <p><i>(a) to ensure that signage (including advertising)—</i></p> <p><i>(i) is compatible with the desired amenity and visual character of an area, and</i></p> <p><i>(ii) provides effective communication in suitable locations, and</i></p> <p><i>(iii) is of high quality design and finish, and</i></p> <p><i>(b) to regulate signage (but not content) under Part 4 of the Act, and</i></p> <p><i>(c) to provide time-limited consents for the display of certain advertisements, and</i></p> <p><i>(d) to regulate the display of advertisements in transport corridors, and</i></p> <p><i>(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.</i></p> <p><i>(2) This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.</i></p>	<p>The development is associated with a business identification sign proposed near the corner of Nelson Bay Road and Fullerton Cove Road. As per the development plans, the proposed device is comprised of pylon signage for business name display and is not associated with screens. It features a slim design (600mm) and has an overall height of 4.29m. The finished building material, colour scheme and textures match the proposed Commercial Premises building. Further, the placement of the sign will improve public awareness of the proposed Commercial Premises being adjacent to a transport corridor. Subsequently, the proposed signage is deemed to comply with the aims and objectives of Chapter 3 based on the scale and placement of the device within the property boundary.</p>
Schedule 5 Assessment criteria	
1 Character of the area	Complies, the proposal is compatible with the existing and future character of the locality. The signage proposes a minor building footprint and is not associated with screens or moving components. This is generally consistent with existing signs along Nelson Bay Road.
2 Special areas	Complies. As per the supporting material, the proposed location for the device does not impact on special areas on the site.
3 Views and vistas	Complies. The proposal does not propose impacts on views and vistas based on the proposed location.
4 Streetscape, setting or landscape	Complies as above. Unsightly components will be screened and contained at the rear of the device.
5 Site and building	Complies. As demonstrated above, the proposal is deemed appropriate for the site and is only associated with pylon signage for business identification purposes.
6 Associated devices and logos with advertisements and advertising structures	Complies. safety devices, platforms, lighting devices or logos will be considered in the design.
7 Illumination	Complies. The proposal is not associated with a digital screen and illumination will be in accordance with the relevant standards and can be adjusted depending on ambient lighting.
8 Safety	Complies. Reduction in public road safety is not envisaged. The location and design of the proposal minimise distraction for road users.

3.4 LOCAL ENVIRONMENTAL PLANS (LEP)

Port Stephens Local Environmental Plan 2013

The Port Stephens Local Environmental Plan 2013 (LEP) is the local categorising environmental planning instrument and provides the plans for development proposals. Pursuant to the LEP, the following apply to the subject site.



Figure 6: Zoning Map Extract (Source: ePlanning Spatial Viewer, 2023)

Building Height Map



Figure 7: Building Height Map Extract (Source: ePlanning Spatial Viewer, 2023)

Table 11: Review against Port Stephens Local Environmental Plan 2013

Section	Provision	Statement of Compliance
Part 1	Preliminary	
1.2	<p>Aims of Plan:</p> <p><i>(1) This Plan aims to make local environmental planning provisions for land in Port Stephens in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.</i></p> <p><i>(2) The particular aims of this Plan are as follows—</i></p> <p><i>(aa) (Repealed)</i></p> <p><i>(a) to cultivate a sense of place that promotes community well-being and quality of life,</i></p> <p><i>(b) to provide for a diverse and compatible mix of land uses,</i></p> <p><i>(c) to protect and conserve environmental values,</i></p> <p><i>(d) to facilitate economic growth that contributes to long-term employment,</i></p> <p><i>(e) to provide opportunities for housing choice and support services tailored to the needs of the community,</i></p> <p><i>(f) to conserve and respect the heritage and cultural values of the natural and built environments,</i></p> <p><i>(g) to promote an integrated approach to the provision of infrastructure and transport services,</i></p> <p><i>(h) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.</i></p>	<p>The proposed development complies with the aims of the Local Environmental Plan on the following grounds:</p> <ul style="list-style-type: none"> The development application seeks consent for a neighbourhood shopping centre (commercial premises) that will meet the needs of the local community. The site has recently been rezoned from RU2 Rural Landscapes to B1 (E1) Neighbourhood Centre to provide for a diverse and compatible mix of land uses. Environmental values were considered as part of the rezoning application and protected through land dedication for environmental conservation purposes. The proposal contributes to long-term economic growth by attracting a diverse range of businesses to the premises as well as job creation from construction to the operation of the use. The commercial premises development can influence housing choices given its strategic location and fulfilment of a community need. Heritage and cultural values are protected by the proposal. Surveys and permits have been sought to conserve heritage and cultural values.
Part 2	Permitted or Prohibited Development	
2.1	Land use zones.	The site is zoned E1 Local Centre and C2 Environmental Conservation.
2.3	<p>Zone objectives and Land Use Tables</p> <p>E1 Local Centre</p> <ul style="list-style-type: none"> <i>To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.</i> <i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i> <i>To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.</i> 	<p>The proposal for Commercial Premises (Neighbourhood Shopping Centre) including Signage, Demolition and Sewer Extension provides for a range of retail spaces to attract different businesses tenancies to cater to the community's needs. Additionally, the proposed development within the E1 zone is categorised as development permitted with Consent.</p>

Section	Provision	Statement of Compliance
	<ul style="list-style-type: none"> To encourage business, retail, community and other non-residential land uses on the ground floor of buildings. 	
Part 4	Principal Development Standards	
4.3	<p><i>Height of Buildings.</i></p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <p>(a) <i>to ensure the height of buildings is appropriate for the context and character of the area,</i></p> <p>(b) <i>to ensure building heights reflect the hierarchy of centres and land use structure.</i></p> <p>(2) <i>The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</i></p>	The development proposes a maximum building height of 9.75 metres which exceeds the maximum building height provisions for the site by 0.75. Nonetheless, the exceedance is addressed under Part 5 Section 5.6 of the LEP (see below). Subsequently, the development complies with section 4.3.
4.4	<p><i>Floor space ratio.</i></p> <p>(1) <i>The objectives of this clause are as follows—</i></p> <p>(a) <i>to ensure that buildings are compatible with the bulk and scale of the desired future character of the locality,</i></p> <p>(b) <i>to provide a suitable balance between landscaping and built form,</i></p> <p>(c) <i>to minimise the effects of bulk and scale of buildings.</i></p> <p>(2) <i>The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.</i></p>	Not provided for the site.
Part 5	Miscellaneous Provisions	
5.6	5.6 Architectural roof features	Complies. The development proposes an architectural roof form to illustrate changes in the built form and to provide varying roof pitches to include decorative elements on the uppermost portion of the building. Additionally, the architectural roof form is not for advertising devices and does not include a floor space area. Overshading impacts are not proposed by the architectural roof. Building identification signs and equipment are integrated into the design of the roof feature as per the proposed development plans.
5.10	Heritage conservation	Complies with Section 5.10, the application is accompanied by an Aboriginal Cultural Heritage Assessment and Aboriginal Due Diligence Assessment prepared by Biosis which demonstrates heritage conservation considerations by the proposed development. It is further noted that the proposal is categorised as Integrated Development and a referral is required to Heritage NSW for AHIMS approval prior to any works being undertaken over the site.

Section	Provision	Statement of Compliance
5.21	Flood Planning	Complies. As part of the lodgement material, a Flood and Stormwater Management Plan has been prepared by Northrop and demonstrates a no worsening outcome for flooding. The report can be found in the appendix of this SOEE.
Part 7	Additional Local Provisions	
7.1	<p>Acid Sulfate soils.</p> <p>Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the water table is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.</p>	Complies. The site is mapped as containing 'Class 2 and 4' Acid Sulphate Soils. Considering the site elevation, the proposal is unlikely to involve works below 5 meters. Nonetheless, Acid Sulphate soils will be managed as per the relevant standards if encountered during construction.
7.2	<p>Earthworks</p> <p><i>(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</i></p> <p><i>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</i></p> <p><i>(b) the effect of the development on the likely future use or redevelopment of the land,</i></p> <p><i>(c) the quality of the fill or the soil to be excavated, or both,</i></p> <p><i>(d) the effect of the development on the existing and likely amenity of adjoining properties,</i></p> <p><i>(e) the source of any fill material and the destination of any excavated material,</i></p> <p><i>(f) the likelihood of disturbing relics,</i></p> <p><i>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</i></p> <p><i>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</i></p>	Complies. The proposal seeks development consent. As per the Flood and Stormwater Management Plan, the earthworks sought do not result in detrimental effects on drainage patterns or soil instability post-development.
7.4	Airspace operations	Complies. The proposed development is comprised of a single storey building and is not associated with the provision of outdoor lighting or gaseous plumes which has the propensity to distract aircrafts. As such, the proposed development is not anticipated to penetrate the Limitation or Operations Surface.
7.6	Essential services	Complies. As per Dial Before You Dig records, services essential for the development are available and adequate arrangements have been made for the provision of a rising sewer main.
7.9	Wetlands	Complies. As per the BDAR, the development is not considered to unduly impact on flora and fauna within the locality. Further, recommendations are provided to ensure ongoing compliance.

Section	Provision	Statement of Compliance
7.24	Maximum gross floor area for commercial premises and neighbourhood supermarkets at Fullerton Cove	Complies. As per the proposed plans, the development proposes 4,998m ² of Net Floor Area (NFA) for Commercial Premises and Neighbourhood Supermarket uses of the total 6,304m ² of Gross Floor Area. The floor area for the Commercial Premises and Neighbourhood Supermarket uses does not exceed the 5,500m ² threshold under the LEP.

3.5 REGIONAL AND LOCAL PLANNING CONSIDERATIONS

Hunter Regional Plan 2041

The Hunter Regional Plan 2041 is a 20-year blueprint for the future of the Hunter region. In reviewing the proposal against the plan, the development is considered to comply with the plan objectives as follows:

- Objective 3 for the creation of 15-minute neighbourhood to support vibrant communities. The proposed development is proximate to existing and new communities within Fullerton Cove and the Stockton locality. Thus, reducing travel times for these communities when accessing daily needs to achieve a 15-minute neighbourhood.
- Objective 4 relates to the interconnected and globally focused Hunter without car-dependant communities. As demonstrated above, the provision of Commercial Premises within proximity to existing and emerging communities is considered to reduce car dependency within the locality when accessing daily needs.
- Objective 6 pertains to heritage conservation, landscapes, environmentally sensitive areas, waterways and drinking water catchments. As per the BDAR and ACHA provided, heritage, landscapes, environmentally sensitive areas and waterways are maintained by the development and adverse impacts are not proposed. Further, the development is proposed within the E1 zone and is associated with land dedication for environmental conservation purposes to offset any associated impacts on biodiversity and biodiversity credits will be retired where appropriate.
- Objective 8 relates to the provision of businesses and services at the heart of healthy, prosperous, and innovative communities. The proposed development seeks to provide Commercial Premises with multiple tenancies at the heart of new and emerging communities within Fullerton Cove.

Overall, the proposed development is considered to comply with the Hunter Regional Plan 2041 and contributes to the region's growth.

Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan 2036 sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities. The development complies with Strategies 7 and 8 of the metropolitan plan by responding to the changing land use needs of the new local economy as well as the changing consumer demand.

3.6 PORT STEPHENS DEVELOPMENT CONTROL PLAN

The *Port Stephens Development Control Plan 2014* (DCP) provides direction about aspects of development that must be considered prior to submitting a Development Application.

The provisions of the DCP as they apply to the proposed development are presented in **Table 12** below.

The proposed development is consistent with the applicable controls.

Port Stephens Development Control Plan 2014

B2.A Environmental significance

Table 12: Elements of the Port Stephens DCP that apply to the Proposed Development

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT
Part B – Natural Resources	
B2.A – Environmental Significance	
<p><i>Objective:</i></p> <p>To ensure adequate consideration is provided to the protection and conservation of items of environmental significance</p>	<p>B2.1 Development located on land or is within 500m of land that contains items of environmental significance, such as threatened species or communities, listed migratory species, wildlife corridors, wetlands or riparian corridors and has the potential to impact biodiversity provides:</p> <ul style="list-style-type: none"> a flora and fauna survey to inform the assessment of significance, <p>- The flora and fauna survey is in accordance with:</p> <ul style="list-style-type: none"> NSW Department of Environment and Conservation. 2004, 'Threatened Species Survey and Assessment: Guidelines for development and activities'⁸ Hunter and Central Coast Regional Environmental Management Systems. 2002, 'Lower Hunter and Central Coast Regional Fauna and Flora Guidelines'⁹ <p>- If development poses a significant effect under 5A of the EP&A Act or if development is on land which is, or is part of, critical habitat then a species impact statement (SIS) is required</p> <p>- If development does not pose a significant effect under 5A of the EP&A Act, but proposes unavoidable vegetation impacts then a vegetation management plan (VMP) that is consistent with the tree technical specification¹ is required</p> <p><i>Note: Under section 5.5 of the EP&A Act the determining authority has a duty to consider the environmental impact of proposed activities</i></p> <ul style="list-style-type: none"> If the flora and fauna survey proposes the removal of hollow bearing trees then a hollow tree assessment is required:

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<p>- Two replacement hollows are provided for each hollow tree identified by the hollow tree assessment</p> <p>- Salvaged hollows are preferred over nest boxes that are consistent with the nest box technical specification¹</p> <p><i>Note: This is consistent with B1.8 that requires a hollow tree assessment to remove hollow bearing trees on land to which B1 applies</i></p> <ul style="list-style-type: none"> • A proposed buffer on the land subject to the development is provided to items of environmental significance. The width of the buffer is recommended by the flora and fauna survey report based and is based on taking into account the following parameters: <ul style="list-style-type: none"> - The condition of the item of environmental significance - Proposed methods of mitigating adverse impact - Possible external effects, such as weed encroachment or domestic animals and their potential to cause impact - Where the vegetation of buffers are proposed, the vegetation is established along the relevant boundaries prior to the issuing of the relevant subdivision or occupation certificate <p><i>Note: C4.11 nominates a suitable buffer for residential accommodation adjoining land used for agricultural purposes</i></p>	
B2.B – Biodiversity Offsets		
<p><i>Objective:</i></p> <p><i>To provide further guidance for the use of biodiversity offsets within the Port Stephens local government area</i></p>	<p>B2.2</p> <p><i>If biodiversity offsets are employed as a suitable compensatory measure under the TSC Act then they are:</i></p> <ul style="list-style-type: none"> • <i>calculated in accordance with the bio-metric terrestrial biodiversity assessment tool</i> • <i>consistent with the tree technical specification¹</i> • <i>in a secure tenure ownership</i> • <i>located on land to which this Plan applies</i> 	<p>Complies with B2.2, the BDAR demonstrates biodiversity offset credit calculations for the credits existing on the subject site and the credits to be retired due to the proposed development.</p>
B2.C Biosecurity risks (weeds)		
<p><i>Objective:</i></p> <p><i>To reduce the negative impact of biosecurity risks (weeds) on the economy, community and environment by eliminating or restricting their geographical spread</i></p>	<p>B2.3</p> <p><i>Development situated on land that contains weeds, will seek to prevent, eliminate or restrict the spread of weeds in accordance with the biosecurity technical specification²</i></p> <p><i>Note: NSW Weedwise is an online tool to identify weeds available on the Department of Primary Industries website</i></p>	<p>Complies with B2.3. As per the BDAR, the development will reduce the level of noxious weeds present in the degraded Subject Site with hygiene and sanitation protocol recommendations made during development.</p>
B2.D – Koalas		

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT
<p><i>Objective:</i></p> <p><i>To encourage the proper conservation and management of areas of natural vegetation that provide koala habitat to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline</i></p>	<p><i>B2.4</i> <i>Development located on or in proximity to land identified as koala habitat complies with the Port Stephens Comprehensive Koala Plan of Management¹⁰ through consideration to the performance criteria, being:</i></p> <ul style="list-style-type: none"> • <i>Minimising the removal or degradation of native vegetation within preferred koala habitat or supplementary koala habitat</i> • <i>Maximising the retention and minimising degradation of native vegetation within supplementary habitat, habitat buffers and habitat linking areas</i> • <i>Minimising removal of any individual preferred koala feed trees</i> • <i>Where appropriate, restore and rehabilitate koala habitat/buffers and linking areas</i> <ul style="list-style-type: none"> - <i>Removal of koala habitat is off-set by a net gain of koala habitat on-site or adjacent</i> • <i>Make provision for long-term management of both existing and restored koala habitat</i> • <i>Not compromise the safe movement of koalas, through:</i> <ul style="list-style-type: none"> - <i>Maximisation of tree retention</i> - <i>Minimising barriers for movement, such as fences</i> • <i>Restrict development to defined building envelopes</i> • <i>Minimising the threat to koalas from dogs, motor vehicles and swimming pools</i> <ul style="list-style-type: none"> - <i>Development demonstrates consideration to the performance criteria within the statement of environmental effects (SEE) by providing the following:</i> <ul style="list-style-type: none"> - <i>Assessment of koala habitat in accordance with Appendix 6 –Guidelines for Koala Habitat Assessment of the Port Stephens Comprehensive Koala Plan of Management¹⁰</i> - <i>Site analysis plan indicates vegetation to be disturbed, cleared or retained</i> - <i>Illustration of the Asset Protection Zone (APZ)</i> - <i>Proposed measures for the safe movement of koalas, such as fencing or traffic control measures</i> - <i>Details of any programs to monitor koala populations</i> <p><i>Note: The Port Stephens Comprehensive Koala Plan of Management¹¹ applies through the application of the SEPP (Koala Habitat Protection) 2019</i></p> <p>Complies with B2.4: areas of preferred koala habitat or defined habitat buffers are not mapped within the development site or within the study area as per the biodiversity report submitted as part of the rezoning application and the BDAR. Nonetheless, the development provides for a conservation zone and the change of use is contained within the disturbed parts of the land.</p>

B3 Environmental Management

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B3 Environmental Management		
B3.A – Air quality		
<p>Objective:</p> <p>To ensure air quality is not negatively impacted on by dust and odour in recognition of the associated human health impacts</p>	<p>B3.1</p> <ul style="list-style-type: none">• An air quality impact assessment is required where development has potential to adversely impact surrounding areas in terms of air quality• An air quality impact assessment is to be generally provided for the following development types:<ul style="list-style-type: none">- Rural industries- Heavy Industry- Sewerage systems- Waste or resource management facilities- Extractive industry- Other development types identified by Council• An air quality impact assessment is to:<ul style="list-style-type: none">- address construction, operation and occupational impacts- identify emissions and measures to mitigate against impact on any nearby residences, especially on sensitive receivers- be prepared in accordance with the NSW Department of Environment and Conservation, 2001. 'Approved Methods for Modelling and Assessment of Air Pollutants in New South Wales'⁶	<p>N/A: the proposal is not anticipated to compromise the air quality within the area. Notwithstanding this, it is requested that the Council condition construction to ensure air quality objectives are met and impacts are minimised during civil, and construction works.</p>
B3.B – Noise		
<p>Objective:</p> <p>To identify potentially offensive noise to ensure it is managed within the relevant legislative requirements</p>	<p>B3.2</p> <p>An acoustic report is required for development that has the potential to produce offensive noise, meaning:</p> <ul style="list-style-type: none">• that, by reason of its level, nature, character or quality or the time at which it is made, or any other circumstances:<ul style="list-style-type: none">- is harmful to (or is likely to be harmful) to a person who is outside the premises from which it is emitted, or- interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted• that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations, such as the Environmental Protection Authority. 2000, 'NSW Industrial Noise Policy'¹⁴ <p>Note: Development that is likely to require compliance with this requirements includes:</p> <ul style="list-style-type: none">• clubs, hotels and pubs with outdoor smoking, dining and gaming areas, mechanical plant, carparks;• function centres that host outdoor weddings:	<p>N/A: the proposed development and use for Commercial Premises is not considered to produce offensive noise which has the propensity to impact on sensitive receivers. Further, the proposed development area is buffered by a conservation zone and as such does not adjoin sensitive receivers.</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<ul style="list-style-type: none"> • childcare centres with outdoor and indoor play areas, air-conditioning plant, carparks; • residential developments with ventilation and air-conditioning plant, carparks; and • commercial developments with workshops, mechanical and ventilation plant such as air exhaust and supply fans, chillers, cooling towers, truck and freight train movements, loading docks etc. 	
B3.C – Earth-works		
<p>Objectives:</p> <p>To facilitate earthworks so as to minimise potential environmental impacts, such as erosion or the release of sulfuric acids as identified by the Local Environmental Plan</p>	<p>B3.3 Development may need to provide a bulk earthworks plan in order to adequately address the above matters when:</p> <ul style="list-style-type: none"> • cut exceeds 2m in depth • fill has a total area of 100m² or more • is within 40m of the top bank of a riparian corridor as defined under the Water Management Act 2000 	Complies with B3.3: Earthworks plans which include cut and fill details are contained in Appendix B . Also, the earthworks required for the sewer extension are not considered to exceed 2m in depth.
	<p>B3.4 Fill must consist of virgin excavated natural material (VENM) as defined under the Protection of Environment Operations Act 1997 or any other waste-derived material the subject of a resource recovery exemption under clause 91 of the Protection of the Environment Operations (Waste) Regulation 2014 that is permitted to be used as fill material.</p>	Complies with B3.4: fill associated with the development will be comprised of natural material. It is requested that the Council condition this requirement where required.

B4 Drainage and Water Quality

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B4 Drainage and Water Quality		
B4.A – Stormwater drainage plan		
<p>Objectives:</p> <ul style="list-style-type: none">• To ensure a stormwater drainage plan is submitted when development either increases impervious surfaces or drains to the public drainage system.• To ensure the stormwater drainage plan details a legal and physical point of discharge to minimise impacts on water balance, surface water and groundwater flow and volume regimes and flooding.• To implement sustainable mitigation systems that can be maintained using resources available to the maintainer.	<p>B4.1</p> <p><i>Development that applies to this part is to provide a stormwater drainage plan and a written description of the proposed drainage system within the SEE.</i></p> <p><i>Note: C1.D also provides drainage requirements for development relating to subdivision</i></p> <p><i>Note: Hydrological/hydraulic calculations and designs shall be prepared in accordance with the approaches outlined in the current Australian rainfall and runoff guidelines using the current hydrologic soil mapping data for Port Stephens available from Council. Other current Australian published design guides may also be applied to particular design situations.</i></p>	<p>Complies with B4.1: Stormwater Drainage Plans have been prepared by Northrop and provided in Appendix B of the SOEE. As per the Stormwater Management Plan, the proposed development is not considered to compromise the stormwater quality and quantity of the site.</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B4.B – On-site detention / on-site infiltration		
<p>Objective:</p> <p>To regulate the impacts on the capacity of the public drainage system</p>	<p>B4.2</p> <p>On-site detention / on-site infiltration is required in stormwater requirement areas where:</p> <ul style="list-style-type: none">the post-development flow rate or volume exceeds the pre-development flow rate or volume; orimpervious surfaces exceed the total percentage of site area listed under Figure BC; orit is identified under Section D Specific Areas of the DCP. <p>Note: A map of stormwater requirement areas is published on Council's website</p>	Complies with B4.2: On-site detention/infiltration is provided as per the Flood and Stormwater Management Plan contained in Appendix B.
	<p>B4.3</p> <p>On-site detention / on-site infiltration is to be:</p> <ul style="list-style-type: none">sized so that the post-development flow rate and volume equals the predevelopment flow rate and volume for all storm events up to and including the 1% annual exceedance probability (AEP) storm eventprovided by either underground chambers, surface storage or a combination of the two and are generally positioned:<ul style="list-style-type: none">under grassed areas for any cellular system (which can be easily maintained)under hardstand areas such as driveways for any concrete tank structures <p>Note: A neutral or beneficial effect (NorBE) on water quality must be designed for all storm events</p>	Complies with B4.3: refer to Flood and Stormwater Management Plan contained in Appendix B.
	<p>B4.4</p> <p>Details of the on-site detention / on-site infiltration concept design must be provided in the stormwater drainage plan and the written description and must include information on:</p> <ul style="list-style-type: none">the location and type of detention / infiltration systemdemonstrated flow rate / volume for all design storm events up to the 1% AEPpipes, pits, overland flow and discharge pointsurface grates and maintenance access pointsorifice type, location and screening facilityslope/gradient of the landpost-development flow rate and volume for the site equal to pre-development flow rate and volume for the site	Complies with B4.4: refer to the Flood and Stormwater Management Plan contained in Appendix B.

B5 Flooding

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B5 Flooding		
B5.A – Development on all flood prone land		
<p>Objectives:</p> <ul style="list-style-type: none">• To ensure development satisfies the provisions of the LEP.• To provide detailed controls for the assessment of development proposed on flood prone land in accordance with the Environmental Planning and Assessment Act 1979.• To ensure flood risk is considered as early as possible in the planning and development process, based on the best available flood information.• To reduce the impact of flooding and flood liability on individual owners and occupiers of flood prone land.• To recognise flood prone land as a valuable social, economic and environmental resource that should not be sterilised by inappropriate development.• To ensure that the use and development of flood prone land includes risk consequences that are manageable.• To implement the principles of the NSW Government 'Floodplain Development Manual' (as updated from time to time), Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board) and Council's Floodplain Risk Management Policy	Site selection	
	<p>B5.1 If multiple flood hazard categories are specified for a site on a flood certificate, the proposed development must be located on the land with the lowest flood risk.</p>	Complies with B5.1: the proposed development is located on the part of the land with the lowest flood risk as per the proposed development plans.
	Finished floor level (FFL)	
	<p>B5.2 Development must meet the minimum FFL as specified in Figure BJ.</p> <p><i>Note: The National Construction Code may provide minimum FFLs for some categories of development which prevail to the extent of any inconsistency with these controls.</i></p>	Complies with B5.2: refer to Flood and Stormwater Management Plan prepared by Northrop and Contained in Appendix B and the proposed development plans. The development proposes an RL of 2.90m for the ground level which is considered acceptable for Commercial Premises use under Figure BJ of the DCP.
	<p>The finished surface of open space car parking, carports and driveways should be designed having regard to vehicle stability, including consideration of depths and velocity during inundation by flood waters.</p>	Complies: the finished surface of the car parks accounts for flood impacts as per the recommendation of the Flood and Stormwater Management Plan prepared in support of the proposal.
	Flood compatible design	
	<p>B5.3 Development for a building (and/or an associated driveway or access) must be of a flood compatible design and construction and shall meet the relevant requirements in the Construction of Buildings in Flood Hazard Areas (Australian Building Codes Board). Council may also require structural certification for development proposed on land which becomes a floodway in the PMF.</p>	Complies with B5.3, the proposed development has been designed to withstand flood impacts as per the relevant standards for the construction of buildings in flood-hazard areas. It is requested that the Council condition this requirement if required to ensure ongoing compliance.
	<p>B5.4 Fencing on flood prone land should be stable in events up to the current day 1% AEP flood event and not obstruct the flow of floodwater.</p>	Complies with B5.4, fencing will be stable and can withstand 1% AEP flood event and will not obstruct the flow of floodwater.
	Electrical features	
<p>B5.5 All incoming main power service equipment, including all metering equipment, and all electrical fixtures, such as power points, light fittings,</p>	Complies with B5.5: electrical components will be located above the FPL or where possible above	

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
<p>and flood hazard maps as identified within Figure BF.</p>	<p>switches, heating, ventilation and other service facilities must be located above the FPL, or where possible above the PMF.</p> <p>Where the above cannot be achieved, the following features shall be used:</p> <ul style="list-style-type: none"> • Electrical cabling is not to be installed within walls, or chased into walls; and • Any circuit containing switches, power points or any other electrical fitting that are located below the FPL, shall connect to the power supply through an individual Residual Current Device (RCD), located in the meter box. 	<p>the PMF. Alternatively, electrical components will not be installed within walls and electrical components located below the FPL shall be connected to the power supply through an individual residual current device located in a meter box.</p>
	Potentially hazardous and/or polluting material	
	<p>B5.6 The storage of hazardous or potentially hazardous materials, potentially polluting material or material that could be washed from site and cause harm downstream must be stored above the FPL with appropriate bunding.</p>	<p>Complies with B5.6: the proposed use is not associated with the storage of hazardous or potentially polluting material.</p>
	<p>B5.7 Items that may wash away during flood events (e.g. rainwater tanks, hot water tanks, gas cylinders, shipping containers) must be elevated above the 1% AEP flood event level in the year 2100 (without freeboard) or anchored to resist buoyancy and impact forces.</p>	<p>Complies with B5.7: earthworks will be undertaken to achieve flood immunity against the relevant flood event. As such, items that may be washed away during flood events will be elevated above the minimum flood levels.</p>
B5.B Development on all flood prone land other than minimal risk flood prone land		
<p>Objectives:</p> <p>In addition to the objectives listed in B5.A, the following objectives apply to development on all flood prone land other than minimal risk flood prone land:</p> <ul style="list-style-type: none"> • To ensure that appropriate controls are applied to development on land where more than a minimal risk is present. 	<p>Flood impact and risk assessment</p> <p>B5.8 A flood impact and risk assessment is required for:</p> <ul style="list-style-type: none"> • Any fill on land identified as floodway. • Any fill located in a flood storage area, unless: <ul style="list-style-type: none"> - The net volume of fill does not exceed the lesser of 20% or 2000m³ of the flood volume of the lot in the 1% AEP flood event in the year 2100 (this includes consideration of previous fill volumes); and - It is demonstrated that the fill does not adversely affect local drainage patterns of all events up to the 1% AEP flood event in the year 2100. <p><i>Note: Fill in flood storage areas greater than the abovementioned volume can be offset by flood storage. Offsetting can be achieved through consolidation of lots and/or assigning an 'easement to flood land' on the compensatory lot/s. Compensatory lots must be located within the zone of influence of the proposed fill (as demonstrated by the flood impact and risk assessment) or adjacent to the proposed fill and be of the same hazard category of the subject site.</i></p> <ul style="list-style-type: none"> • Any fill for the purposes of a livestock flood refuge mound, unless the livestock flood refuge mound is located in an identified flood fringe area: <ul style="list-style-type: none"> - The volume/size and location of the livestock flood refuge mound meets the criteria in Figure BK; and <p>Complies with B5.8: the proposed development is associated with Flood and Stormwater Management Plan prepared by Northrop. The findings of the report demonstrated that the development adequately addresses flood risks through the selection of floor levels, driveway access levels and flood compensatory cut.</p>	

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<p>- The size of the mound must have regard to the agricultural capacity of the land. The design and size of the mound shall be determined by reference to the NSW Department of Primary Industries – Agriculture. 2009, 'Primefacts: Livestock flood refuge mounds'; and</p> <ul style="list-style-type: none"> • Where the proposed development could change flood behaviour, affect existing flood risk, or expose people to flood risks that require management or; • If Council determines a flood impact and risk assessment is necessary for any other reason. 	
	Ongoing flood adaptation	
	<p>B5.9 For residential accommodation, subdivision, commercial premises, industrial premises, garages, open car parking spaces and carports, a reduced planning horizon of 50 years from the date of determination will be accepted where the design facilitates ongoing flood adaptation (ie the future raising of the building).</p>	Complies with B5.9: Refer to Flood and Stormwater Management Plan prepared in support of the proposal.
	Minor alterations and additions to existing residential accommodation	
	<p>B5.10 Where proposed alterations and additions to existing residential accommodation is less than 40% of the gross floor area of the existing residential accommodation, and does not involve a net increase in the number of bedrooms, Council will consider a FFL lower than the flood planning level (FPL), but not lower than the existing floor level. Any additional flood risk must include mitigation measures to reduce the overall flood risk of the development.</p>	N/A
	Driveways and access	
	<p>B5.11 Access from the building envelope to the public road is to have a minimum finished access level of:</p> <ul style="list-style-type: none"> • The flood immunity of the connecting public road; or • The current day 1% AEP flood event level for the site. 	Complies with B5.11: Refer to Flood and Stormwater Management Plan prepared in support of the proposal.
	<p>B5.12 Earthworks for driveways and access must satisfy the objectives of B3.D of the DCP and LEP.</p> <p>Note: Impacts on local drainage and localised flooding should be considered and addressed. Driveways should be designed and constructed in accordance with Councils standard design drawings</p>	Complies with B5.12: the proposal satisfies the objectives of B3.D of the DCP and LEP.
	Subdivision	
	<p>B5.13 Subdivision that creates the ability to erect additional dwellings is to indicate building envelopes above the FPL and comply with the requirements of B5.11, B5.12 and B5.14 of this Part.</p>	N/A
	Emergency onsite flood refuge	
	<p>B5.14 If evacuation egress from residential accommodation, a commercial premises, an industrial premises, fill or development vulnerable to emergency response and critical infrastructure to</p>	Complies with B5.14: The proposed evacuation route is to the south via Fullerton Cove Road and Seaside Boulevard to a

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<p><i>flood free areas cannot be achieved via a route that is flood free in the current day 1% AEP flood event or is a low hazard flood area, an onsite flood refuge must be provided meeting the following criteria:</i></p> <ul style="list-style-type: none">• <i>Is located above the PMF level;</i>• <i>Is intrinsically accessible to all people on the site, plainly evident and selfdirecting;</i>• <i>Is accessible in sufficient time for all occupants with fail safe access and no reliance on elevators;</i>• <i>Has unobstructed external access for emergency boats during flooding;</i>• <i>Caters for the number of persons that could reasonably be expected on-site at any one time (approx. 2m2 per person);</i>• <i>Provides adequate shelter from the storm and has natural lighting and ventilation; and</i>• <i>Contains sufficient clean water, a first aid kit, portable radio with spare batteries and a torch with spare batteries.</i> <p><i>Note: If a flood refuge is required, the DA must be accompanied by structural certification.</i></p>	higher ground in Fern Bay Seaside Village. Fullerton Cove Road and Seaside Boulevard are flood free or have low flood hazard during the 1% AEP flood event as per the Flood and Stormwater Management Plan.
	Development on land identified as overland flow path	
	<p>B5.15 <i>A site based overland flow report must be submitted for development located within a designated overland flow path. The purpose of this report is to demonstrate that the development:</i></p> <ul style="list-style-type: none">• <i>Will not result in material increase in flood level or flood hazard upstream, downstream or surrounding properties; and</i>• <i>Will provide acceptable management of flood risk with appropriate development levels to ensure the safety of people.</i>	N/A – Development is not located on land identified as overland flow path.
B5.C Development on land identified as floodway		
<p>Objectives</p> <p>In addition to the objectives listed in B5.A and B5.B, the following objectives apply to development onland defined as floodway:</p> <ul style="list-style-type: none">• To ensure development on land identified as floodway is restricted to low risk development.• To ensure the capacity of the floodway to convey and contain floodwaters is not diminished.	<p>Appropriate development</p> <p>B5.16 <i>Development other than farm buildings and/or fill is not supported on land identified as either low hazard floodway or high hazard floodway.</i></p> <p>Fencing</p> <p>B5.17 <i>Fencing in a floodway should not include non-permeable materials or fencing types that could restrict or redirect flood waters.</i></p>	<p>N/A – the site is only listed as Flood Prone Land (PMF) and is not identified as either low hazard floodway or high hazard floodway.</p> <p>Complies with B5.17: It is requested that the Council condition this requirement to ensure ongoing compliance.</p>
B5.D Application of performance based solutions		
<p>Objectives</p> <p>Performance based solutions that meet the objectives listed below apply to:</p>	<p>Performance based solutions</p> <p>Risk to life</p> <p>B5.18 <i>The proposed land use is consistent with Figure BI, which shows suitable land uses by flood hazard category (as identified on a flood certificate) and the proposed development incorporates adequate</i></p>	<p>Complies with B5.18: the site is located within mapped Flood Prone Land and a Commercial Premises and propose</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
<ul style="list-style-type: none"> Proposed development identified as suitable on flood prone land in Figure BI that cannot meet the relevant development controls in this Part; or Proposed development that is identified as possibly suitable on flood prone land in Figure BL, subject to performance based solutions. 	<i>measures to manage risk to human life from flooding, including:</i> <ul style="list-style-type: none"> <i>Evacuation access from an area affected by flooding to an area free of risk from flooding, taking into account any potential access restrictions;</i> <i>Warning times and procedures to make people aware of the need to evacuate;</i> <i>Consideration of the current and potential future occupants; and</i> <i>Consistency with the most recent Council adopted flood study or floodplain risk management study that has been undertaken for the site.</i> 	uses are considered suitable, subject to development controls.
	Performance based solutions	
	Risk to property	
	B5.19 <i>The proposed development will not increase the potential individual or cumulative flood impacts on other development or properties that are likely to occur in the same floodplain. In determining any potential increase in flood impacts, Council will consider:</i> <ul style="list-style-type: none"> <i>Future (in the year 2100) flood levels and/or velocities including, but not limited to the 5% AEP flood event, 1% AEP flood event and probable maximum flood (PMF) events;</i> <i>Loss of flood storage in the immediate floodplain; and</i> <i>Consistency with the most recent, Council adopted flood study or floodplain risk management study that has been undertaken for the site.</i> 	Complies with B5.19: As per the Flood and Stormwater Management Plan, the proposed development is not considered to create worse outcomes for flooding and stormwater quality and quantity.
	Flood hazard compatibility	
	B5.20 <i>The proposed development must be compatible with the flood hazard category of the land (as identified on a flood certificate) or include mitigation measures or offsets to reduce the flood risk. In determining compatibility, Council will consider:</i> <ul style="list-style-type: none"> <i>Whether there is other land on the site with lower flood risks where the development could be located;</i> <i>Depth of flood inundation on the site and the adjacent land;</i> <i>Flow velocity on the site as well as upstream and downstream from the site;</i> <i>Suitability of design so that the development does not become isolated by high hazard floodwaters; and</i> <i>Consistency with the most recent, Council adopted flood study or floodplain risk management study that has been undertaken for the site.</i> 	Complies with B5.20. There is no other land on the site with lower flood risks where the development could be located. Civil works are to be undertaken to enable the development to achieve the minimum flood planning levels. Moreover, as per the Flood and Stormwater Management Plan, flow conditions during the developed case remain largely unchanged when compared with the existing case. The development is also suitably designed.

B7 Heritage

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B7 Heritage		
B7.A Heritage impact		
Objective: To ensure satisfactory consideration of the objectives for LEP clause 5.10	<p>B7.1 Development under LEP clause 5.10 that is likely to impact on the heritage significance of a heritage item provides a heritage impact statement with the development application that is consistent with the Office of Environment & Heritage, N/A, 'Statements of Heritage Impact'¹⁹</p> <ul style="list-style-type: none">• The heritage impact statement demonstrates how the proposed development conserves and mitigates for the protection of the identified heritage significance, based on the following principles:<ul style="list-style-type: none">- development is consistent with the statement of heritage significance for that item- development protects the setting of the heritage item- development retains the significant internal and external spaces and is to recycle, re-purpose and re-use fabric and building elements- development avoids facadism by using all of the components of the building including, but not limited to, the structure, floor, roof, floor and wall framing, fittings and finishes, fabric and materials- development removes alterations and additions that are unsympathetic to the heritage significance of the heritage item- reinstates missing building elements and details- uses materials, finishes and colours that are appropriate to the architecture and stylistic period of the heritage item- reinforces the dimensions, pattern, scale and style of the original windows, door openings and features of the heritage item- maintains and repairs building elements in order to retain the heritage item in a serviceable condition commensurate with the statement of heritage significance- reference to the Heritage Act 1977 is required where highly significant archaeological items and relics are discovered and there is likely to be disturbance, damage or an item destroyed by excavation• The preparation of heritage reports is to be undertaken by a suitably qualified consultant who has experience in heritage conservation matters and is registered on the NSW Office of Environment and Heritage Consultants Directory.	Complies with B7.1: an Aboriginal Cultural Heritage Assessment has been prepared by Biosis and is contained within Appendix H of this statement. Further, the report is prepared by a suitably qualified registered consultant who has experience in heritage conservation matters.
	<p>B7.2 Development under LEP clause 5.10 that is likely to impact on the heritage significance of a heritage conservation area is to demonstrate how it is complementary to the statement of heritage significance for the heritage conservation area within the SEE.</p>	Complies with B7.2: the proposed development is to be carried out in accordance with the recommendations of the Aboriginal Cultural Heritage Assessment.

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B7.B Minor nature - maintenance		
Objective To ensure that maintenance or repairs do not distract from the heritage significance of an existing item	B7.3 <i>A development application is required under LEP clause 5.10(2), if the proposed development does not, in the opinion of Council satisfy the requirements of LEP clause 5.10(3)</i> <ul style="list-style-type: none">The following types of development are considered to be works of a minor nature or maintenance which would not adversely affect the heritage significance of the heritage item or property within a heritage conservation area for the purposes of Clause 5.10(3)<ul style="list-style-type: none">Maintenance or repairs, including painting of a heritage item or item located in the heritage conservation area that is consistent with the statement of heritage significance of the existing building or the heritage character of surrounding areasPrior to undertaking these works the applicant is to complete the PSC. 2014, 'Notification – Heritage Minor Works or Maintenance'24 <i>Note: SEPP (Exempt and Complying Development Codes) 2008 – Subdivision 25A Maintenance of buildings in draft heritage conservation areas allows for development to be defined as exempt development</i>	Complies with B7.3. The proposed development is associated with a Development Application and heritage matters follow the recommendations of the ACHA contained in Appendix H.
B7.C Demolition		
Objective To ensure evidence is provided for the demolition of a building of heritage significance	B7.4 <i>Development that proposes the partial or total demolition of a heritage item or item within a heritage conservation area for reasons of structural integrity is supported by a structural engineering assessment. An archival record may be required in accordance with the relevant Heritage Branch Guidelines</i>	N/A: the buildings proposed to be demolished do not contain heritage significance.
B7.D Aboriginal heritage		
Objective To ensure due diligence is followed before carrying out development that may harm Aboriginal objects	B7.5 <i>Where development involves significant cut, being greater than 2m under B3.7 of the SEE addresses the following matters:</i> <ul style="list-style-type: none">A statement indicating the results of the Aboriginal heritage information management system (AHIMS) database search and any other sources of informationA statement indicating whether there are landscape features that indicate the presence of Aboriginal objectsA statement indicating whether the proposed development is likely to harm Aboriginal objectsA statement indicating whether an Aboriginal heritage impact permit (AHIP) is required. When required:<ul style="list-style-type: none">Prepare an Aboriginal cultural heritage assessment to assess the impact of the proposed development on Aboriginal cultural heritage consistent with the Office of Environment & Heritage. N/A, 'Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW'25	N/A: the proposed development is not associated with cut and fill that exceeds 2 metres, as illustrated within the Civil Engineering Plans attached within Appendix B.

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT
	<i>Note: Section 90 of the National Parks and Wildlife Act 1974 requires an AHIP where harm to an Aboriginal object or Aboriginal place cannot be avoided. An AHIP can be issued under Part 6 of the National Parks and Wildlife Act 1974</i>

B8 Road Network and Parking

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
B8 Road Network and Parking		
B8.A Traffic impacts		
<p>Objective</p> <p>To ensure that the impacts of traffic generating development are considered and that the existing level of service of the road network is maintained</p>	<p>B8.1</p> <p>The statement of environmental effects (SEE) details:</p> <ul style="list-style-type: none">• car parking location, number and dimensions;• access arrangements;• traffic implications on the existing road network and junctions;• street features, such as trees, footpaths and pipes; and• pedestrian impacts and access for disabled persons.	<p>Complies with B8.1: As per the proposed site plan, car parking is located along the north, south, east, and west building elevation plans at the rate of 303 spaces and 16 parking spaces for motorbikes.</p> <p>Onsite vehicle access is facilitated by the provision of two commercial driveways along Fullerton Cove Road. In support of the proposal, a Traffic Impact Assessment has been prepared by SECA Solutions and contained within Appendix I.</p> <p>Further, street trees are proposed along Commercial Premises Road frontage.</p> <p>It is requested that the Council condition the provision of footpaths along the commercial premises frontage. As such, pedestrian impacts are not envisaged, and the proposal enables access for disabled persons as per the proposed development plans.</p>
	<p>B8.2</p> <p>A traffic impact assessment (TIA) is required for:</p> <ul style="list-style-type: none">• development for 20 or more dwellings;• development defined as traffic generating development; or• development deemed in Council's opinion to impact on the existing road network.	<p>Complies with B8.2: the proposed development is associated with a TIA contained within Appendix I.</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<p>B8.3 A construction management plan is provided prior to the issuing of a construction certificate or subdivision works certificate when development will impact on traffic movements during the construction phase</p>	<p>Complies with B8.3: It is requested that Council condition this requirement if required to ensure ongoing compliance.</p>
B8.B On-site parking provisions		
<p>Objectives</p> <ul style="list-style-type: none"> • To ensure development provides adequate on-site parking, loading and servicing spaces • To ensure that vehicle access is in a safe location and has minimal impacts on existing transit movements • To ensure driveways have adequate sight distances for traffic and pedestrians on footpaths 	<p>B8.4 <i>Except as required by B8.5, B8.6, or B8.7, all development that has the potential to create demand for on-site parking must provide parking in accordance with Figure BU</i></p>	<p>Complies with B8.4: 303 parking spaces are required, and 12 accessible parking areas are required based on the NFA of 4,998m². The site plan proposed illustrates the provision of 303 car spaces inclusive of 12 accessible car parking spaces provided which exceed the minimum car parking rates.</p>
	<p>B8.5 <i>Where the parking requirements for B8.4 cannot be provided for onsite in accordance with Figure BU, Council may consider alternative off-site arrangements for parking demand, such as providing parking on another site in proximity to the development.</i></p>	<p>N/A: compliance with B8.4 achieved</p>
	<p>B8.6 <i>A reduction in the number of spaces required in accordance with Figure BU may be considered when supported by a TIA in the following circumstances:</i></p> <ul style="list-style-type: none"> • Parking has a negative visual impact on heritage; • The current land use has been approved with a parking shortfall and the proposed parking concession does not exceed the current shortfall for the approved use calculated in accordance with Figure BU; • Peak demand between commercial and residential development types is shared; • An upgraded public transit facility, such as a bus stop, is provided in proximity to the site; • Where it can be demonstrated that ancillary uses carried out as part of, or ancillary to a marina do not generate demand for on-site parking, consistent with the relevant rate prescribed in Figure BU. 	<p>N/A: compliance with B8.4 achieved</p>
	<p>B8.7 <i>A reduction in the number of spaces required in accordance with Figure BU may be considered for commercial premises on land zoned B2 Local Centre or B3 Commercial Core when dedicated car sharing service spaces equipped with electric vehicle charging provisions are provided. The maximum reduction is not to exceed:</i></p> <ul style="list-style-type: none"> • For development requiring up to 5 spaces – no reduction • For development requiring more than 5 and up to 20 spaces – 1 space • For development requiring more than 20 spaces – 5% 	<p>N/A: compliance with B8.4 achieved</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<i>Note: dedicated car sharing service spaces are included as a car parking space for the purposes of calculating the total number of spaces provided.</i>	
	B8.8 <i>All internal driveways and parking areas of public car parks are concrete pavement or gravel sealed with bitumen or asphalt</i>	Complies with B8.8: it is requested that Council condition this requirement to ensure ongoing compliance.
	B8.9 <i>Walking routes through large car parks are to be delineated by markings, signage, grade separation and pedestrian crossings in accordance with AS 2890 – Parking facilities</i>	Complies with B8.9: the proposed site plan illustrates delineation of walking routes within the car park areas.
	B8.10 <i>Parking for people with a disability is designed and constructed:</i> <ul style="list-style-type: none"> <i>• in accordance with AS 2890 - Parking facilities and AS 1428 - Design for access and mobility</i> <i>• to be located as close to wheelchair accessible entrances/lifts and linked by an accessible/continuous path</i> 	Complies with B8.10: Accessible parking spaces are to be designed in accordance with AS 2890 - Parking Facilities and AS 1428 - Design for access and mobility. As per the site plan proposed, accessible parking areas are located as close to wheelchair-accessible entrances and linked by an accessible/continuous path.
	B8.11 <i>On-site parking is located behind the building line or setback by 1m</i> <i>Note: C4.6 requires a minimum garage setback of 1m behind the building line or setback</i>	Complies with B8.11: as per the site plan proposed, on-site parking is setback more than 1 metre where located behind the building line.
B8.C On-site parking access		
Objectives <ul style="list-style-type: none"> <i>• To ensure that vehicle access is located in a safe location, where it least impacts on existing transit movements</i> <i>• To ensure driveway exits maximise intersection sight distances for traffic and pedestrians on footpaths</i> 	B8.12 <i>The entry, exit and driveway separation widths of access points from a site to a street frontage is provided in accordance with Figure BV and the following steps:</i> <ol style="list-style-type: none"> <i>1. Determine the class of parking, either being A, B or C</i> <i>2. Determine the ingress/egress category by identifying whether that class is located on either an arterial road or local street and by referencing the number of parking spaces that are required, which is determined by B8.4</i> <i>3. Determine entry, exit and driveway separation widths by using the ingress/egress category</i> <i>Ingress/Egress dimensions may need to be increased to 6.5m for the first 6m inside the property boundary when:</i> <ul style="list-style-type: none"> <i>• ingress/egress exceeds 30m in length</i> <i>- Ingress/Egress exceeding 30m in length provides passing bays at 30m intervals</i> <i>• sight distance in accordance with Figure BW cannot reasonably be achieved</i> <i>• development provides direct access to an arterial road</i> 	Complies with B8.12: the development can provide a double entry and exit driveway with a width that exceeds 4 metres as per the site plan proposed.

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<p>B8.13 Ingress and egress to parking areas is:</p> <ul style="list-style-type: none"> • not located in proximity to intersections or where queuing and sight distances are restricted • not located opposite other traffic generating developments, unless separated by a median strip • not located within the sections of kerb illustrated by Figure BY • to provide a minimum of 0.5m from the side boundary at the front property line and minimum 0.5m clearance from the edge of existing street furniture • intersect with the road between 70 to 90 degrees • to provide a driveway cross-fall for the first 3 metres, which is to match the longitudinal gradient of the kerb/road pavement • to ensure vehicles can enter and leave in a forward direction • to provide the minimum sight distances (MSD) required by Figure BW in accordance with Figure BX 	Complies with B8.13: As per the proposed development plans, ingress and egress points are located within a suitable location.
B8.D Visitor parking & loading facilities		
<p>Objectives</p> <ul style="list-style-type: none"> • To ensure visitor parking is conveniently located and easily identifiable • To ensure loading facilities do not adversely impact on the road network and are visually concealed 	<p>B8.14 Visitor parking is clearly marked, signposted and located in proximity to the main building of the development</p>	N/A
	<p>B8.15 Service areas, car parking and loading bays are provided:</p> <ul style="list-style-type: none"> • At the basement or ground level at rear • Away from pedestrian public spaces • Away from residential areas • Separately to staff and customer parking 	Complies with B8.15: the loading dock is located northeast of the premises away from pedestrian areas and is separated from staff and customer parking areas as per the proposed site plan.
	<p>B8.16 Parking layouts provide direct pedestrian paths to building entries and street frontage and is screened from the street</p>	Complies with B8.16: direct pedestrian access is facilitated by the proposed parking layout which enables efficient pedestrian and vehicle movements.
B8.E Access to public transport for 20 or more dwellings		
<p>Objective</p> <p>To encourage more active lifestyles and ecologically sustainable development by providing convenient and accessible public transport options</p>	<p>B8.17 A development application for 20 or more dwellings shall demonstrate that bus stops and shelters are:</p> <ul style="list-style-type: none"> • Existing and fully accessible to current standards within a 400m walking catchment or bus stops within a 400m catchment are able to be upgraded (at the proponents cost). • Located as close as possible to the common destination, being the development site, and are connected to the entry of the development by a continuous accessible footpath 	N/A: the proposed use is not associated with dwellings
	<p>B8.18 Council may require the provision of taxi, private vehicle and bus/coach drop off/set down areas for significant scale developments, such as educational establishments or commercial premises</p>	N/A
	<p>B8.19</p>	N/A

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT
	<p>Ensure clear crossing points adjacent to public transport stops that are designed for pedestrian desire lines</p> <ul style="list-style-type: none"> Development unable to demonstrate the above is required to liaise with the public transport providers and Transport for NSW to meet the requirements

C2 Commercial

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT
C2 Commercial	
C2.A Height	
<p><i>Objectives</i></p> <ul style="list-style-type: none"> To ensure development is of an appropriate height that minimises privacy loss and overshadowing To ensure that floor to ceiling height allows for flexible uses over time 	<p>Building height</p> <p>C2.1 Building height is provided in accordance with the Local Environmental Plan clauses 4.3 and 5.6</p> <p>Complies with C2.1: As per the LEP, the site has a maximum height provision of 9 metres. The development proposed a maximum building height of 9.75 metres which complies with the height provision for the site and the cut and fill associated with the proposal does not exceed 2 metres. The exceedance in maximum height by the roof pitch complies with the acceptable outcomes under the LEP and thus does not trigger a variation to the height provisions as demonstrate in section 5.6.</p>
	<p>Floor to ceiling height</p> <p>C2.2 Minimum ground floor to ceiling height for all new development within a commercial zone is 3.5m</p> <p>Complies with C2.2: The minimum ground floor-to-ceiling height for the proposed development is 4.70 metres which exceeds the 3.5 metre minimum requirement.</p>
	<p>C2.3 Minimum first floor and above floor to ceiling height for commercial premises is 3m</p> <p>N/A</p>
	<p>C2.4 Minimum first floor and above floor to ceiling height for residential accommodation is 2.7m</p> <p>N/A</p>
	<p>C2.5 Ground level (finished) must be between 100-500mm above adjacent footpath levels</p> <p>Complies with objectives. the proposal has a finished ground level of 2.90RL and is associated with cut and fill. Privacy loss and overshadowing are minimised by the proposed setback, scale</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
		and building height, and roof form.
C2.B Site frontage and setbacks		
<p><i>Objective</i></p> <p><i>To ensure development provides continuity and consistency to the public domain</i></p>	<p>C2.6 <i>Minimum 20m site frontage where development is proposed to be more than 10.5m in height</i></p>	<p>Complies with C2.6. The development proposes a 20.68-metre setback from the front property boundary at the outermost project which complies.</p>
	Front setback and facade articulation	
	<p>C2.7 <i>Development is built to the front property line for the ground and first floor</i></p>	<p>N/A: The proposal is for a single storey</p>
	<p>C2.8 <i>Minimum 3m front setback from the front property line for the second floor and above</i></p>	<p>N/A: the proposal is for a single-storey</p>
	<p>C2.9 <i>Minimum 3.5m front setback from the front property line for mixed use development for second floor and above</i></p>	<p>N/A</p>
	<p>C2.10 <i>Parts of a building may give variation in setback to provide design articulation</i></p>	<p>Complies with C2.10: As per the proposed development plans, the building setbacks vary to provide design articulation.</p>
	Side setback	
	<p>C2.11 <i>Development should be built to the side boundary to maximise continuous active street frontage, except where side access is provided</i></p>	<p>N/A – side access is provided within the proposed development.</p>
	Rear setback	
	<p>C2.12 <i>Commercial premises adjacent to a lot that is zoned or used for residential purposes or a public reserve is to provide a minimum rear setback of 5m, plus an additional 0.5m for each metre of the height of the building that exceeds 8m</i></p>	<p>N/A</p>
	<p>C2.13 <i>Rear setback is built for purpose and informed by a site analysis plan</i></p>	<p>Complies with C2.13: the proposed development is informed by a site analysis plan as attached.</p>
	Longitudinal gradient	
	<p>C2.14 <i>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</i></p>	<p>Complies with C2.14, the floor plate and roofline of the development steps as per the proposed development plans.</p>

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
C2.C Building form and massing		
Objective <i>To ensure development reinforces, compliments and enhances the visual character of the street</i>	Amenity	
	C2.15 <i>Building mass does not result in unreasonable loss of amenity to adjacent properties or the public domain</i>	Complies with C2.15: the building features articulated walls and is in keeping maximum GFA imposed under the rezoning application.
	Proportions	
	C2.16 <i>Building proportion is complimentary to the form, proportions and massing of existing building patterns</i>	Complies with C2.16: refer to the proposed development plans which illustrates building proportions to illustrate different tenancies.
C2.D Facades		
Objectives <ul style="list-style-type: none">• <i>To ensure street activation and passive surveillance through active street frontage</i>• <i>To facilitate development that is safe and secure for pedestrians and contributes to public domain safety by incorporating principles of crime prevention through environmental design (CPTED), such as:</i><ul style="list-style-type: none">- Territorial re-enforcement- Surveillance- Access control- Space/activity management• <i>To ensure the bulk of large floor plate development is concealed by a sleeve of smaller buildings fronting the street</i>	Materials	
	C2.17 <i>Building facades use materials, colours and architectural elements to reduce bulk and scale that are complimentary to existing built-form and natural setting</i>	Complies with C2.17
	Active street frontage	
	C2.18 <ul style="list-style-type: none">• <i>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</i>• <i>An active street frontage provides the following:</i><ul style="list-style-type: none">- <i>Maximum unarticulated wall is 2m in length</i>- <i>Minimum 50% of ground floor front is windows, which does not include false windows</i> <i>Note: C1.13 requires that the street layout enable each lot to front a street or corner lots to face both streets</i>	Complies with C2.18: It is requested that the council condition this requirement.
	C2.19 <i>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</i> <i>Note: C2.K provides additional requirements for bulky goods premises</i>	N/A
	C2.20 <i>Development incorporates crime prevention through environmental design (CPTED) principles by providing passive surveillance to public spaces through building design and orientation</i>	Complies with C2.20: passive surveillance is provided to public spaces though the building design which offers windows and building orientation which allows for unconstraint view. Refer to Section 4 of the statement for further justification.
	Public footpath	
	C2.21 <i>Development provides paving to the public footpath for the entire length of the development street frontage</i>	Complies with C2.21.

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
C2.E Awnings		
Objectives <ul style="list-style-type: none">To ensure continuous awnings along pathways to provide shelter where most pedestrian activity occursTo ensure awning design is integrated with the building façade to integrate with adjoining buildings	Awnings C2.22 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 streetA 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 lessUnder awning height will be between 3.2m and 3.6mAwnings on sloping sites should be a cantilevered steel box section that steps with street slopeAwnings are varied when there is a need to highlight the location of a major building entrance	Complies with C2.22: Awnings are provided over pedestrian pathways as per the proposed development plans.
C2.F Building entries		
Objective To provide clear direction to access points	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 cornerA separate and secure access point that provides a clear sense of building address is provided for the residential component of mixed-use development	Complies with C2.23. Entry points are recognisable from the street as per the proposed development plans.
	Entry Structures 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	Complies with C2.24. Entry structures are to be provided in accordance with C2.24
C2.G Building facilities and services		
Objective To appropriately locate building facilities and services that do not adversely impact on the public domain	Location of building facilities and services 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	Complies with C2.25: Plant, equipment, storage areas, communication structures and servicing areas are located at the rear of the building and not be visible from streets as per the proposed development plans.
	Public toilets C2.26 Commercial development with a capital investment value over \$2 million shall provide toilets that are accessible to the public	Complies with C2.26. toilets are accessible to the public
C2.H Public art		
Objective 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	Complies with C2.27: frontage to the public domain shall incorporate public art in accordance with Council's Public Art Policy and guidelines.

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	<i>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.</i>	
C2.I Shipping container stacks		
<i>Objective</i>	Scale and height	
<i>To ensure development that proposes the use of shipping containers does not impact upon the amenity of the area</i>	C2.28 <i>The scale and height of shipping container stacks shall have regard to the scale and height of nearby buildings.</i>	N/A
	Siting C2.30 <i>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</i>	N/A
C2.J Landscaping		
<i>Objectives</i>	Landscaping coverage	
<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. 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 	C2.31 <i>Landscaping is provided as follows:</i> <ul style="list-style-type: none"> 10% of the site area consisting of deep soil planting 30% shading over car park areas <i>Note: The canopy coverage of specimen trees can be used to calculate deep soil landscaping</i>	Complies with C2.31: Landscaping is provided at the required rate as per the landscaping plans proposed contained in Appendix J.
	Landscaping dimensions	
	C2.32 <i>To be counted as part of the total landscaping coverage the landscaped area must be at least 1.5m wide and 3m long.</i>	Complies with C2.32: Refer to the proposed landscaping plan
	Landscaping qualities	
	C2.33 <i>Landscaping is in accordance with the following:</i> <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 scale of the proposed development's buildings and pavement areas 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 	Complies with C2.33: Refer to the proposed landscaping plan
	Rear setback	
	C2.34 <i>The rear setback area is to be:</i> <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 	Complies with C2.34: Refer to the proposed landscaping plan.

DEVELOPMENT CONTROL	RELEVANCE TO PROPOSED DEVELOPMENT	
	Species selection	
	C2.35 Landscape species are to be selected in accordance with the landscape technical specification ⁴	Complies with C2.35: Refer to the proposed landscaping plan
C2.K Bulky goods premises		
<i>Objectives</i>	Bulky goods premises principles	
<ul style="list-style-type: none"> Establish requirements for bulky goods premises Ensure the design of bulky goods contributes positively to the streetscape and public domain through quality architecture, materials and finishes 	<i>Bulky goods premises are to be designed to:</i> <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 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 	N/A
C2.L Signage		
<i>Objective</i>	Types of signage	
<i>To ensure signage is complementary to its surroundings</i>	C2.37 <i>The following types of signage are generally not supported:</i> <ul style="list-style-type: none"> Flashing signs <i>Note: Flashing signs may be permitted in the road reserve if the text is a road safety message</i> <ul style="list-style-type: none"> 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 	Complies with C2.37. The signs mentioned are not proposed as part of the development.

4. ENVIRONMENTAL IMPACT ASSESSMENT

The following section assesses the proposed development against any likely impacts in relation to both the natural and built environments, and the social and economic sectors of the locality. It is considered that the proposed development will have minimal environmental, social and economic impacts. The potential impacts are discussed in detail below.

4.1 CONTEXT AND SETTING

The subject site is zoned E1 - Local Centre and is surrounded by conservation zoning. Minimal impacts are envisaged, the proposal is within the parameters of the original rezoning approval over the site and is positioned to address APZ and building footprint requirements.

Additionally, the proposed development is integrated with the conservation zones that surround the area and are comprised of dense vegetation. Furthermore, the proposal is adequately setback from the road frontage to Fullerton Cove. As such, the development is not considered to unduly impact on the context and setting of the site.

4.2 EARTHWORKS

Soil Erosion and Sedimentation:

Excavation and grading can expose soil to erosion by wind or water, which can result sedimentation in nearby water catchments.

Mitigation: Earthworks are proposed to be undertaken in accordance with the erosion control measures established under the Flooding and Stormwater Management Plan prepared by Northrop to prevent soil erosion and sedimentation.

Contamination and Hazardous Materials:

Impact: The site is mapped as containing acid sulphate soils as illustrated by the NSW Planning Portal Spatial Viewer. As such, earthworks comprised of cut and fill may expose acid sulphate soils or other hazardous materials which can pose risks to the environment and human health.

Mitigation: thorough environmental site assessments are proposed to be undertaken prior to earthwork. Further, contaminated, and/or hazardous soils are proposed to be handled and disposed of in line with the relevant standards.

The Earthworks proposed to raise the building platform to the flood planning level and to ensure adequate fall across the site have the capacity to introduce the following environmental impacts:

- Cultural and Archaeological Resources;
- Loss of Natural Habitat and Biodiversity;
- Water Quality Impacts;
- Alteration of Drainage Patterns;
- Air Quality Impacts;
- Noise and Vibration;
- Visual and Aesthetic Impacts; and
- Waste Generation.

Mitigation measures proposed to reduce the environmental impacts listed above associated with the earthworks and construction of the development are to be discussed further.

4.3 ABORIGINAL AND CULTURAL HERITAGE

Construction activities including earthworks may unearth or disturb cultural or archaeological resources, potentially impacting cultural heritage.

Mitigation: Works will be undertaken in accordance with the ACHA and subsequent approval will be obtained for AHIP before construction.

Mitigation: Works are to cease if matters containing aboriginal and cultural heritage significance are uncovered at any time during construction works and a suitably qualified consultant will be engaged for assessment and recommendation.

4.4 BUSHFIRE

Pursuant to the NSW Planning Portal Spatial Viewer, the site is wholly contained within mapped bushfire hazards. In support of the proposal, a Bushfire Assessment Report (BAR) has been prepared by Bushfire Planning Australia and contained in **Appendix K**. The findings of the report demonstrate the site is exposed to a moderate to high bushfire hazard, namely remnant vegetation located to the east and south within the subject site. The BAR concluded that, the hazard identified can be successfully mitigated by applying the requirements of Planning for Bushfire Protection 2019 subject to the report recommendations.

Therefore, the proposed development is not considered to expose people or property to intolerant levels of bushfire hazard risks subject to the implementation of the recommendations for the development.

4.5 AIR QUALITY / CLIMATE / ENERGY

Air Quality Impacts Construction Phase:

Construction activities including earthworks can generate dust and particulate matter emissions which can contribute to localized air pollution if not mitigated effectively.

The use of paints, solvents, and adhesives during construction may release Volatile Organic Compounds (VOCs) into the air which can affect the air quality within the locality.

Air quality Impacts Operational Phase:

Increased traffic to and from the operation of the Commercial Premises use can lead to elevated levels of air pollutants within the locality.

Improperly maintained heating, ventilation, and air conditioning (HVAC) systems can release indoor air pollutants into the atmosphere.

Mitigation and Solutions:

As part of construction works, dust control measures are to be detailed under a Construction Environment Management Plan (CEMP) and implemented by the contractor.

During construction works, air quality monitoring systems are to be installed and green infrastructure utilized for natural air filtration.

During the operation of the use, provisions will be made to promote public transportation, cycling, and pedestrian access to reduce vehicular emissions.

Climate Impacts Construction Phase:

The production and transportation of building materials, as well as construction activities, can produce carbon and other greenhouse gases.

Climate Impacts Operational Phase:

Energy consumption for lighting, heating, cooling, and other operations can contribute to ongoing emissions during the lifespan of the Commercial Premises use.

The large building footprint of the development, including sealed concrete and asphalt surfaces, can contribute to the urban heat island effect and ultimately result in localized temperature increases if no mitigation measures are implemented.

Mitigation and Solutions:

As part of construction works, consideration will be given to sustainable building materials and construction practices to reduce emissions during the construction phase.

As per the SEPP Sustainable Buildings 2022, energy-efficient systems are proposed and there is an opportunity to consider on-site renewable energy generation and storage to minimize operational phase emissions.

As per the landscaping plans, green spaces and vegetation are proposed and will help mitigate the urban heat island effect.

Energy Impacts Construction Phase:

Construction processes, such as material production and transportation, can contribute to a temporary spike in energy consumption.

Energy Impacts Operational Phase:

The operation of the use demands energy lighting, HVAC, and other systems. This can have an impact on the overall energy consumption of the Commercial Premises use.

Mitigation and Solutions:

During construction works, consideration will be given to building materials, insulation, and energy-efficient systems to help reduce energy consumption.

There is an opportunity for the development to incorporate an on-site renewable energy source (e.g., solar panels, small-scale wind turbines etc) to offset the development's energy needs during operation.

4.6 FLORA AND FAUNA

The biodiversity status of the site has been discussed above. Earthworks and construction activity may introduce minor disturbances on nearby vegetation, wildlife habitats, and natural features on the site.

Mitigation: as part of the development works, civil and construction works are proposed to be undertaken following the recommendations of the BDAR and ACHA report findings.

Mitigation: Works are proposed to be undertaken as per the proposed development plan, CEMP and Flooding and Stormwater Management Plan, and relevant standards to ensure indirect impacts on the adjoining environments will be minimised.

4.7 HYDROLOGY, FLOODING AND WATER QUALITY

Water Quality Impacts:

Impact: Sediment runoff from earthworks and construction may impact stormwater quality and quantity by introducing silt and other pollutants and increase volume into nearby water bodies.

Mitigation: The works are proposed to be undertaken following the recommendations of the Flooding & Stormwater Management Plan and runoffs are to be captured and treated before entering natural waterways.

Alteration of Drainage Patterns:

Impact: changes in the topography and grading of the site can alter natural drainage patterns of the site and increase flood risks.

Mitigation: Earthworks are proposed to be designed and implemented following the Flooding and Stormwater Management Plan drainage recommendations that include natural flow patterns and incorporate features to control and manage stormwater runoff.

4.8 NOISE / VIBRATION

Impact: Heavy machinery used in earthwork operations and construction can generate noise and ground vibrations, potentially disturbing nearby residents, and wildlife.

Mitigation: It is proposed to implement noise barriers, schedule work during allowable hours, and use vibration-dampening techniques to minimize impacts.

4.9 SOCIAL / ECONOMIC

It is considered that the proposed development will provide social and economic benefits through addressing the community's need for a shopping centre within the Fullerton Cove and Stockton locality. Specifically, the proposed development will reduce the need for residents to travel to other LGAs to purchase basic daily domestic necessities and by way of providing a community gathering space. Similarly, the proposed development will also provide healthcare, allied healthcare, and pharmacy opportunities for residents. Overall, good access to groceries, health, and other services within close proximity, especially adjacent to local retirement villages, provided by the proposed development, is considered to provide positive social benefits.

Further, positive economic impacts are also envisaged for the proposed development. The constructions of the development will generate local jobs and local materials purchase. Once completed, the development will also boost the local economy by attracting shoppers from neighbouring regions, leading to increased spending in the community. This has the potential to attract residential development opportunities within the locality. Subsequently, the positive economic impacts associated with the proposed development has the potential to attract residential development within the immediate area which will contribute to housing supply and reduce demand.

4.10 TRAFFIC AND TRANSPORTATION

Construction and operation of the commercial premises use on the site will lead to additional traffic generation within the locality. The additional traffic generation that would result from the proposed development has been assessed to be within the available capacity of the surrounding road network as per the Traffic Impact Assessment (TIA) prepared by SECA Solution in support of the proposal. The key intersection, subject of this assessment being the roundabout controlled intersection of Fullerton Cove Road and Nelson Bay Road.

There is opportunity for future consumers to access the commercial premises use via the public transport infrastructure adjacent to the site. The available public transport infrastructure can contribute to a reduction in the generation of additional vehicular traffic because of the proposed development. Further, there is also an opportunity to access the centre by foot given its proximity to Seaside Village, Ingenia, The Cove and the like.

Mitigation: The additional traffic generation is proposed to be mitigated by following the recommendations of the TIA.

4.11 VISUAL CHARACTERISTICS

Impact: Drastic changes in the landscape due to earthworks and construction of a large-scale commercial development can alter the visual character of an area, potentially impacting the scenic quality. In this regard, the proposal is not considered to compromise the visual character of the site or locality. Additionally, impacts on the Historic Local Stanley Park are not envisaged. As per the visual impact assessment prepared in support of the proposal, the existing Fullerton Cove Road alignment, onsite vegetation, and setback of the proposal enables the integration of the development within the sites' existing visual characteristics.

Mitigation: the proposed development is to be constructed in accordance with the landscaping and screening measures proposed so as to soften the visual impact and integrate the development with the surrounding environment.

4.12 WASTE MANAGEMENT

Impact: Earthwork activities can generate significant amounts of excess soil, which may require appropriate handling and disposal measures. Similarly, the operation of the use is anticipated to generate general and recycled waste as per the development waste generation calculations previously discussed in this SOEE.

Mitigation: As part of earthworks, a soil management plan is to be developed that includes options for reuse, recycling, or responsible disposal of excess material.

Mitigation: As part of earthworks, soil for fill is to be transport onsite in accordance with the recommendation of the principal engineer to avoid excess soil going to waste.

Mitigation: prior to the commencement of the use, waste and recycling bins are to be provided as per the waste generation rates for the proposed development.

4.13 CUMULATIVE ENVIRONMENTAL IMPACTS

As discussed above, the impacts resulting from the proposal are maintained following the recommendations of the technical reports prepared in support of the proposed development. Including the mitigation measures proposed for the environmental impacts that are likely to be associated with the proposal.

5. SITE SUITABILITY

It is considered that the site is suitable for the development proposed. The Commercial Premises development is within the parameters of the approved Planning Proposal which sought to rezone the site. Similarly, the development is contained within the E1-Local Centre zone and integrates with the conservation zones. Further, the development addresses a local need for a Commercial Premises over the site.

6. SUBMISSIONS

The proposal will be notified in accordance with the requirements of Council's DCP, providing opportunity for the public to comment on the suitability of the development. All reasonable concerns raised in any submissions will be considered.

7. PUBLIC INTEREST

The public interest is best served through the orderly use of the land for purposes for which it is zoned and in accordance with the relevant planning controls and policies.

The proposed development is permitted with consent within the B1 Neighbourhood Centre zone and complies with all the relevant policies and controls governing the development of the site.

The proposed development is therefore considered to be in the public interest.

8. CONCLUSION

This report has been prepared to accompany a Development Application to Port Stephens Council for a Change of Use to a Commercial Premises.

The proposal is consistent with the Regional and Local Strategies, and the objectives of the SEPPs and is permitted with development consent. The proposal complies overall with the development standards and development controls as contained within the Local Environmental Plan and the DCP applicable to the land.

Overall, a proposal permitted with consent is not considered to jeopardise the public interest nor result in significant environmental impacts. As such, it is requested that Port Stephens Council recommends approval of the development application.

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