

23 April

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Chris Ritchie  
Director, Industry Assessments  
Department of Planning, Housing and Infrastructure  
4 Parramatta Square, 12 Darcy Street  
Parramatta NSW 2150

Attention: Thomas Bertwistle, Department of Planning, Housing and Infrastructure

Dear Thomas,

**Aurizon Port Facility Storage Changes and Increases (DA-339886) – Response to Request for Additional Information**

This letter prepared by Ethos Urban on behalf of Aurizon, constitutes a response to the request for information from the Department of Planning, Housing and Infrastructure (the Department) dated 8 August 2023 and 23 August 2023 in relation to the abovementioned Development Application (DA). The DA seeks to increase the throughput capacity of zinc, copper and lead concentrate, and the addition of mineral sands and containerised cement to the types of materials stored, loaded and unloaded at the Dyke 2 site within the Port of Newcastle.

The Department has requested a response to the issues raised in public submissions, advice provided by agencies and as well as matters raised by the Department. Submissions have been received from the Environment Protection Authority (EPA), Transport for NSW (TfNSW) and the City of Newcastle Council.

A response to the submissions and comments raised by agencies and the Department is provided in **Table 1** overleaf. This Response is also accompanied by the following attachments:

- Noise Impact Assessment Addendum prepared by SLR (**Attachment A**) – which includes additional assessment of rail noise impacts associated with increased rail movements on the Bullock Island Rail Loop, as well as an updated operational noise impact assessment.
  - The Noise Impact Assessment Addendum confirms that the Project related rail movements would in all cases result in noise levels below the NSW Rail Infrastructure Noise Guideline trigger levels of 65 dBA LAeq(15hour) in the daytime and 60 dBA LAeq(9hour) in the night time. Given that the Project related increase would not lead to an exceedance of the noise assessment trigger levels, no further assessment of mitigation measures is required.
  - The updated operational noise impact assessment took into account updated design information and additional noise monitoring data. Noise from the Project is predicted to comply with the Project Noise Trigger Levels (PNTLs) at all receivers under standard meteorological conditions but is predicted to exceed the PNTL by a 1 dBA under noise-enhancing weather conditions during the night-time period at receivers in Stockton. Given the conservative nature of the assessment, and the limited occasions that noise enhancing meteorological conditions would coincide with maximum site operations during the night-time (i.e. concurrent ship loading, train unloading and cement handling), the cost and operational constraint on the installation of mitigation to the reach stacker is not considered to be warranted. Notwithstanding, SLR recommend that verification noise monitoring be conducted, and appropriate mitigation measures be implemented should offsite noise levels be found to exceed the PNTLs.
  - Maximum ( $L_{Amax}$ ) noise levels are predicted to be 61 dBA in Stockton and Carrington, which exceeds the sleep disturbance noise level trigger for receivers by up to 6 dBA. Internal noise levels in a dwelling, with

the windows open, are commonly 10 dBA lower than external noise levels. As such, maximum external noise levels of up to 61 dBA would result in internal noise levels of up to 51 dBA for residents in Stockton and Carrington. Based on the NSW Road Noise Policy, short-term internal noises of 50 dBA to 55 dBA are unlikely to cause awakening reactions, and therefore also not likely to affect health and wellbeing significantly. It should be noted that this predicted  $L_{Amax}$  noise level is due to the loading of containers onto trucks or stacking on top of each other and does not occur for the duration of handling containers, or for every container movement. It is also noted that noise monitoring conducted as part of the NIA and the NIA Addendum indicates that maximum external noise levels during the night-time period currently routinely exceed 61 dBA, and as such noise levels from the Project are unlikely to have an adverse impact on the acoustic amenity of surrounding residential areas.

- In relation to the maximum pass-by ( $L_{Amax}$ ) noise, it is identified by SLR that existing noise from train pass-by exceeds the noise assessment trigger level of 85 dBA, with existing movements generating maximum noise levels of up to 89 dBA  $L_{Amax}$ . Given that there would be no change to the types of trains associated with the rail movements on the Bullock Island Balloon Loop due to the Project, in accordance with the assessment procedures detailed in Appendix 2 of the RING no additional consideration of mitigation measures is required.
- Updated Traffic Impact Assessment prepared by (**Attachment B**) – which includes a more accurate estimate of the expected distribution of heavy vehicle movements to reflect the maximum handling capacity of the facility. Whilst the weekly heavy vehicles movements were accurately estimated as approximately 68 per week, the original Traffic Impact Assessment did not account for the possibility of peak movements associated with loading and unloading activities. A more accurate estimate of peak vehicle movements would result in up to 20 return trips in a peak day (rather than 10), and up to 16 vehicle movements in a single hour (up from 8). The Updated Traffic Impact Assessment provides an assessment of this increased estimate of peak vehicle movements, concluding that the traffic movements remain low in the context of the existing traffic, and the peak movements would occur intermittently and infrequently. On this basis, the proposed development was considered to still have a low impact on the wider road network.

We trust that this response is suitable for the Department to finalise its assessment of DA-339886. Should you have any questions regarding the above, please contact the undersigned.

Yours sincerely,



**Tim Ward,**  
Director  
0450 133 453, [tward@ethosurban.com](mailto:tward@ethosurban.com)

Table 1 – Response to Request for Information Matters

Post-Lodgement RFI	Consultant	Comment
<b>The Department of Planning</b>		
1. Rail Line Use		
<p>The Department has received feedback from the community with concerns over noise associated with rail traffic using the rail balloon loop adjacent to Bourke Street. The Department requests you confirm the routes rail traffic will use to access the site and confirm any impacts this may have on traffic in the abovementioned balloon loop.</p>		<p>In response, it is confirmed that the proposed development will generate an additional 4 rail movements per week on the Bullock Island Rail Loop, compared to the current 14. A Noise Impact Assessment (NIA) Addendum has been prepared by SLR and is provided at <b>Attachment A</b> which provides a direct response to the Department's query regarding concerns over noise associated with rail traffic using the rail balloon loop adjacent to Bourke Street.</p> <p>A noise logger was placed in the front yard of 103 Bourke Street which is the nearest residence to the rail tracks on Bourke Street from Tuesday 10 October 2023 to Wednesday 18 October 2023. The data confirmed that the noise levels were significantly below the NSW Rail Infrastructure Noise Guideline noise assessment trigger levels.</p> <p>The Project proposes an increase in rail movements to the site of up to 12 trains per week from an existing 8 per week. Trains would enter the site on Grain Arrival Roads 1 or 2 and generally leave via the Bullock Island Balloon Loop. As such the Project would increase weekly train movements on the Bullock Island Balloon loop from approximately 14 per week to 18 per week, approximately one additional movement in any given day or night period.</p> <p>Testing was undertaken relating to the predicted increase in the Balloon Loop noise levels which found a Project related increase of 3dB where Project related rail movements coincide with an existing rail movement during the day or night period. In all cases the noise levels would be below the NSW Rail Infrastructure Noise Guideline noise assessment trigger levels.</p> <p>In relation to the maximum pass-by (LAMax) noise, it is identified by SLR that existing noise from train pass-by exceeds the noise assessment trigger level of 85 dBA, with existing movements generating maximum noise levels of up to 89 dBA. Given that there would be no change to the types of trains associated with the rail movements on the Bullock Island Balloon Loop due to the Project, in accordance with the assessment procedures detailed in Appendix 2 of the RING no additional consideration of mitigation measures is required.</p>

## 2. Pipeline Consultation

The Department understands a high-pressure BP fuel pipeline is located within close proximity to the site, being the connection between Port of Newcastle, Carrington Precinct Dyke Berth 1 (directly adjacent to the main "Product Storage Shed" in SEE Figure 3) and the BP Newcastle Terminal (corner of Industrial Drive and Elizabeth Street, Carrington). As such, the Department requests you consult with BP and report on the consultation outcomes, to verify that the pipeline can continue to comply with Australian Standard 2885 Pipelines – Gas and liquid petroleum throughout the life of the development.

Email correspondence between Aurizon and BP has occurred post lodgement which has confirmed BP's pipeline will not be impacted by the Project and that the pipeline will continue to comply with the Australian Standard 2885 if the Project is undertaken.

## 3. Built Form

It is acknowledged that the proposal relies on the construction of a storage shed, which is being sought under a different approval pathway. The Department requests an update to the status of the relevant approvals and construction of the storage shed.

Aurizon is undertaking a staged approach to the construction of the shed extension through the complying development certificate (CDC) pathway. SureScope Building Certifiers have been engaged as the independent certifying authority.

Early works consisting of construction of footings, and slab have been completed in compliance with the issued early works CDC. The final CDC permitting construction of outstanding infrastructure is scheduled to be issued in May 2024 pending final consultation with Fire and Rescue NSW .

## City of Newcastle Council

### 1. Designated Development

Section 1.1-Approval Pathway of the SEE states that the Proposal is not designated development without any consideration being given to Schedule 3 of the Environmental Planning and Assessment Regulation 2021. It being noted 'shipping facilities' are defined as follows:

#### 43 Shipping facilities

Development for the purposes of a wharf or wharf-side facility is designated development if cargo is loaded onto or unloaded from vessels, or temporarily stored, at the wharf or facility at a rate of more than—

(a) for a wharf or facility handling goods classified in the ADG Code—

- (i) 150 tonnes per day, or,
- (ii) 5,000 tonnes per year, or

(b) otherwise—

- (i) 500 tonnes per day, or
- (ii) 50,000 tonnes per year.

It is requested that the applicant be required to provide supplementary information which corroborates the above statement that the Proposal is not designated development.

The Proposal does not trigger any other designated development types listed under Schedule 3 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Reg). In particular, the Proposal is not considered a shipping facility, because a 'shipping facility' is defined as development that it relates to a 'wharf or wharf-side facility', which is defined as excluding 'Port facilities'. As the Proposal is characterised as a 'Port facility' in terms of land use, it is not considered to be a 'shipping facility' under Schedule 3 of the EP&A Reg. The Proposal is therefore not considered to be designated development.

## 2. Traffic Impacts

The Traffic Impact Assessment prepared by SLR indicates that the development will generate approximately four trucks per hour (2 in and 2 out) and generating approx. 20 truck movements per day, across nine hours) to increase the cement capacity. This increase is approx. 1% of the overall existing traffic along Darling Street. It is noted, however, movement that the operation at the site is generally 24 hours a day.

Should consent be granted to the application it is recommended that an appropriate condition be imposed which restricts the development to 20 additional truck movements per day.

The Traffic Impact Assessment at **Attachment B** has been updated to assess a more accurate estimate of potential daily peak vehicle distribution of 20 inbound trucks and 20 outbound trucks a day (total of 40 trucks a day), which represents the maximum handling and processing capacity of the facility. Peak heavy vehicle movements would be limited to 8 inbound trucks and 8 outbound trucks during any 1-hour period due to the processing capacity of the development.

The assessment concluded that the incremental changes in the development's traffic generation potential are considered low and insignificant and unlikely to result in a material impact on the wider road network.

On this basis Aurizon would accept a condition that restricts the development to 40 additional truck movements per day.

## 3. Amenity and health impacts

During the public exhibition of the application Council was made aware of a submission of objection from a local resident expressing concerns regarding the likely impacts of the proposal on her health and lifestyle by noise and fumes generated by trains idling and trucks. These impacts are associated with the transportation of product to the existing facility.

This relates to the same issue raised in item 1 of the Department's submission. As noted above, the NIA Addendum at **Attachment A** has been prepared to assess the potential noise impacts associated with increased rail movements because of the Project. In summary:

- The Project would increase weekly train movements on the Bullock Island Balloon loop from approximately 14 per week to 18 per week, approximately one additional movement in any given day or night period.
- The NIA Addendum determines that the predicted Project related increase in the Balloon Loop noise levels would be 3dBA, which is below the NSW Rail Infrastructure Noise Guideline noise assessment trigger levels.
- The NIA Addendum determines that whilst the existing maximum pass-by noise level of 89 dBA currently exceeds the noise assessment trigger level of 85 dBA, given that there would be no change to the types of trains used, and therefore no increase in the maximum pass-by noise level associated with the Project, in accordance with the assessment procedures detailed in Appendix 2 of the RING no additional consideration of mitigation measures is required.

Section 3.3 of the SEE states.

'The storage and unloading and loading of concentrate from trains to ships is included within the approvals of the Site. However, the movement of trains (on the neighbouring rail line) to the Site are included within separate approvals.'

It is recommended that the DPE seek further details of these 'separate approvals' and whether these approvals require review in conjunction with the current application, particularly in respect of noise on sensitive receivers like the objector's property.

Searches of Newcastle City Council historical records and consultation with Port of Newcastle and ARTC have been undertaken. It was noted that ARTC Ops Access Agreement and Port of Newcastle Lease Agreement do not limit in any way the number of ships / trains able to access the Port. The outcome of these investigations is that, whilst there appears to be no restrictions on the number of train and ship movements through the port, we have not been able to find any definitive records of development consent (or other planning approvals) that accommodates the additional rail and shipping movements now proposed by Aurizon.

As such, additional movement associated with this proposed intensification of activities has been assessed. In particular the NIA Addendum at **Attachment A** includes assessment of additional rail movements as well as ship unloading activities, and consultation with ARTC and Port Authority of NSW confirms that rail and ship movements would be consistent with existing arrangements and managed accordingly.

#### 4. Section 7.12 Development Contributions

The provisions of CN's Section 7.12 Development Contributions Plan, which became operational on 1 January 2022, apply to the subject site. Under the plan, a contribution rate of 1% of the cost of the development applies to all non-residential developments having a cost of more than \$200,000.

Section 6.9 of the SEE states:

'...no contributions are required for applications determined by Council (or delegate) for development on land within the 'Port of Newcastle Lease Area'. As such, no contributions are applicable.'

As the Minister for Planning and Public Spaces is the consent authority, not Council, a contribution can be imposed if required by the plan. It is recommended the Applicant is required to submit a cost summary report for the proposed development. It is further recommended that the full 1% levy is applied to the development, if applicable.

The provision within Council's Section 7.12 Development Contribution Plan clearly intends to prevent contributions within the Port of Newcastle Lease Area and therefore payment of contributions is not necessary.

#### Environment Protection Authority

The EPA requests the Department of Planning and Environment to seek from the proponent further information regarding the assessed noise impacts and the mitigation measures currently discussed in the provided Statement of Environment Effects (SEE).

As summarised in Section 6.2.2 of the SEE, the Noise Impact Assessment (NIA) demonstrates, under noise-enhancing weather conditions, the night-time period at receivers R2 and R6 (103 Bourke Street, Carrington and 70 Hunter Street, Stockton) are predicted to exceed the relevant Project Noise Trigger Levels (PNTLs) by up to 2dB from expanded operational activities. The EPA understands that the exceedances are from plant and equipment (particularly from forklifts and from the movement and storage of the proposed shipping containers with a reach stacker) operating to the south of the current premises.

The NIA Addendum at **Attachment A** responds directly to the comments raised by the NSW EPA. The computer noise model developed for the NIA has been updated based on various information updates and additional noise monitoring conducted at the site since the NIA. The main changes include:

- Inclusion of train movements on the private siding servicing the site.
- Updated sound power levels for handling of containerised cement based on measurements conducted on-site.
- Additional noise modelling scenarios for proposed expanded operational activities.
- Spatial distribution of noise sources such as forklifts and reach stackers operating in defined areas under typical loading/unloading cycles.

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The EPA note in Table 11 of the SEE that mitigation measures to reduce the noise emitted from the forklift and the reach stacker were considered by means of engine cowling upgrades, cooling fan upgrades and/or exhaust muffler upgrades. These were however not deemed feasible due to costs and the potential to reduce the efficiency and reliability of the forklift and reach stacker.

Section 3.1 of the Noise Policy for Industry 2017 (EPA, 2017) states the following:

*Where the project noise trigger level is exceeded, assess the feasible and reasonable mitigation measures that could be implemented to reduce noise down towards the relevant project noise trigger level. If it is reasonable to achieve these levels, the proponents should do so. If not, then achievable noise levels should be identified. It is not mandatory to achieve the trigger levels but the assessment should provide justification if they cannot be met. An assessment of the acceptability of residual impacts should also be provided.*

The EPA has in the past received complaints from Stockton residents concerned about noise from activities across the Hunter River. The EPA is concerned about incremental “noise creep”, with background noise levels slowly increasing over time, and having impacts on residential amenity.

It is understood, based on Table 11 of the SEE, that the above noise control measures have the potential to have an individual source noise reduction of 5-10 dB. The EPA therefore requests further justification regarding how the proposed modifications to the forklifts and reach stacker (cowling upgrades, cooling fan upgrades and/or exhaust muffler upgrades) would affect their efficiency and reliability to operate on site. Alternatively, the proponent could provide written commitment to the noise controls, given that the proposal represents a significant increase in activities at the premises.

It is requested that the Applicant provide the information to the EPA, via the Department of Planning and Environment. Upon receipt of the above information the EPA will resume its assessment of this proposal.

The Assessment found the noise from the Project is predicted to comply with the Project Noise Trigger Levels (PNTLs) at all receivers under standard meteorological conditions. It was acknowledged that under noise-enhancing weather conditions, the night-time period at receivers in Stockton are predicted to exceed the PNTL by a negligible 1 dB from expanded operational activities.

It has been recommended that verification noise monitoring be conducted, and appropriate mitigation measures be implemented should offsite noise levels be found to exceed the PNTLs. In all cases best practice noise mitigation and management strategies at the site should be implemented as detailed in the NIA.

Due to stacking/loading of containers, maximum noise levels are predicted to be 61 dBA in Stockton and Carrington and exceed the sleep disturbance noise level trigger for receivers by up to 6 dBA. It should be noted that this predicted L<sub>Amax</sub> noise level is due to the loading of containers onto trucks or stacking on top of each other and does not occur for the duration of handling containers, or for every container movement.

Internal noise levels in a dwelling, with the windows open, are commonly 10 dBA lower than external noise levels. As such, maximum external noise levels of up to 61 dBA would result in internal noise levels of up to 51 dBA for residents in Stockton and Carrington.

Based on the NSW Road Noise Policy, short-term internal noises of 50 dBA to 55 dBA are unlikely to cause awakening reactions, and therefore also not likely to affect health and wellbeing significantly.

It is also noted that noise monitoring conducted as part of the NIA and Addendum NIA indicates that maximum external noise levels during the night-time period currently routinely exceed 61 dBA, and as such noise levels from the Project are unlikely to have an adverse impact on the acoustic amenity of surrounding residential areas.