

29 July 2024
2210600

Joanna Bakopanos
A/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 Additional Submissions

This letter prepared by Ethos Urban on behalf of Aurizon, constitutes a response to the further submissions received from the Environment Protection Authority (EPA) and the City of Newcastle Council 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.

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 (NIA) Addendum 2 prepared by SLR (**Attachment A**) – which includes additional assessment of reasonable and feasible mitigation measures for peak ($L_{A,max}$) noise generated during use of the reach stacker at night time (as requested by the EPA).
- Traffic Impact Assessment Addendum prepared by SLR (**Attachment B**) – which includes further clarification of the average vs peak daily heavy vehicles movements. SLR concludes that the level of traffic generation is very low and would not give rise to a material impact on existing or future traffic operations. As such, additional traffic modelling and analysis is not warranted.

We trust that this response is sufficient 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

Table 1 – Response to Issues Raised in Additional Submissions

Issues Raised in Submission	Response
Environment Protection Authority (EPA)	
<p>Noise</p> <p>During the stacking of containers, maximum noise levels are predicted to be 61 dBA for receivers R3 and R6 (in Stockton and Carrington), and exceed the sleep disturbance noise level trigger for receivers by up to 6 dBA. The Addendum NIA also notes 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.</p> <p>The EPA acknowledges that the noise enhancing weathers conditions and frequency of operations are not likely to be common, however the EPA is still concerned that no specific mitigation measures during container stacking activities at night have been proposed to reduce or mitigate the 6dBA sleep disturbance trigger level exceedance.</p> <p>The EPA therefore requests the Applicant advise on what feasible and reasonable mitigation measures would be implemented to address the potential night-time 6dBA noise exceedance at these locations during container loading and stacking activities.</p> <p>The mitigation measures may be additional controls or equipment modifications, or may include operational procedures specific to container loading and stacking activities. If the proponent believes there are no viable feasible and reasonable mitigation measures or control options, this needs to be assessed and justified.</p>	<p>The NIA Addendum 2 at Attachment A includes an analysis of potential mitigation measures to assess whether they are reasonable and feasible. The potential mitigation measures considered included:</p> <ul style="list-style-type: none"> • Construction of a noise barrier • Stacking of the ISO containers in a manner to provide shielding. • Scheduling of loading and unloading to occur only during the day and evening. <p>The noise wall and container stacking mitigation measures were not considered to be reasonable or feasible, as they are impractical and/or expensive and would result in negligible noise reduction. The scheduling of works to occur outside of the night time period is not considered reasonable or feasible given the need for 24 hour operation due to train timetabling, and customer/supplier requirements. Handling of containers would be minimised during the night-time period.</p> <p>NIA Addendum 2 includes further assessment of the predicted intensity and frequency of L_{Amax} noise level exceedances, as follows:</p> <ul style="list-style-type: none"> • The Reach Stacker is the only source predicted to exceed 55 dBA at residential locations. Maximum noise events from unloading a train would occur on average 12 times over the course of a night-time period. Maximum noise events from loading trucks are also not expected to exceed 10-15 times. Peak noise events would therefore be below the threshold identified for good sleep. • Maximum noise levels during the unloading/loading of a train or trucks are predicted to be below the level (65-70 dBA) that would significantly affect health and wellbeing. <p>Maximum noise levels in the area already routinely exceed those predicted from the project, and as such given the relatively infrequent occurrence of maximum noise level events, noise levels from the project are unlikely to have an adverse impact on the acoustic amenity of the surrounding residential areas.</p>
City of Newcastle Council	
Designated Development	
<p>It has not been adequately demonstrated that the proposal does not constitute a 'shipping facilities' and designated development under Schedule 3 of the Environmental Planning and Assessment Regulation 2021 (EP&AR). Based on the definitions, it is Council's view that the proposal still potentially triggers designated development. That these definitions do not provide any exclusions as a basis to avoid triggering designated development. Conversely, a development that is defined as 'port facilities' could also trigger the definition of 'shipping facilities' if its throughput capacity meets or exceeds the above criteria. It is suggested that the applicant consider cl48 of Sch3 of the EP&A Regulations 2021 in terms of additions and alterations in terms of designated development.</p>	<p>The applicant relies on the previous response. The Proposal does not trigger any other designated development types listed under Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2021</i> (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.</p> <p>Aurizon has consulted with the Department and understands that consideration of cl48 of Sch3 of the EP&A Regulations 2021 is not required.</p>

Traffic Impacts

The additional information submitted included an updated Traffic Impact Assessment which according to the covering letter prepared by Ethos Urban provides "... more accurate estimate of potential daily peak vehicle distribution of 20 inbound trucks and 20 outbound trucks a day (total of 40 days a day), which represents the maximum handling and processing capacity of the facility.'

Forecast Truck Movements of the updated TIA indicates 3,400 return trips a year based on seven-day operation over 50 weeks, hence 68 return trips a week. This means that over a year a total of 6,800 road trips will occur. This rate equates to approximately 10 return trips per day (i.e. 10 inbound and 10 outbound). However, based on peak daily of 20 return trips (i.e. 40 trips per day), as indicated in the TIA, the annual return trips equate to 7,000 return trips - (20 x 7 (days) x 50 (weeks)), thus 14,000 road trips overall per year. On a daily truck movement basis, the TIA indicates a substantially higher (i.e. double the number of truck movements) when compared to the informed yearly truck movements. Further, during the peak hours (assumed to be at least two hours) there will be 16 vehicles/hour (8 in and 8 out). These figures are a significant increase in the number of truck movements from the approximately four trucks per hour (2 in and 2 out) stated in the original TIA.

Concern is raised that based on the daily 20 return trips (40 truck movement per day), the overall increase may impact on-road traffic and intersection operations. It is recommended that additional traffic modelling is undertaken of the likely impacts of the above additional movements on key intersections.

It is considered that the peak traffic generated by this development must be approached with a conservative approach and cumulative traffic impacts (existing and proposed plus future projections) must be addressed. Overall, the development must provide justification for the increase in truck movements.

The Traffic Impact Assessment Addendum at **Attachment B** provides further clarification. In Summary:

- Based on the maximum handling capacity average daily vehicle movements per year have been calculated at approximately 10 return trips per day (i.e. 10 inbound, 10 outbound),
- Daily peak vehicle movements are however likely to fluctuate. As such, peak daily vehicle movements have been determined as double the average – at 20 return trips per day. Although this will not be a frequent occurrence, it is possible that some days may result in greater traffic than the average days. Similarly, there will be days when the truck movements will be less than the average values.
- Trips during the peak hour period have been conservatively estimated as 2 return trips based on average daily vehicle movements, and up to 8 return trips based on peak daily vehicle movements.

This analysis remains consistent with the documentation provided in the TIA and the previous response.

The (conservatively estimated) vehicle traffic movements during the peak hour on a peak day have been estimated as one additional truck movement every three signal cycles. Based on SLR's experience, this is very low and would not give rise to a material impact on existing or future traffic operations. As such, additional traffic modelling and analysis is not warranted.

Section 7.12 Development Contributions Plan

The Development Contributions Plan does not prevent contributions being imposed on development in the Port of Newcastle Lease Area. The Minister as the consent authority for development on land in the Lease Area, is still able to impose a contribution under s7.12 on local and State developments proposed on land in the lease area.

This interpretation of the direction has been accepted by DPHI previously as is evident from the Assessment Report for DA 10689 for a proposed commercial building at Carrington located on land in the Lease Area. Similarly, the Independent Planning Commission granted consent on 4 November 2021 to DA-110646 on land within the lease area subject to a condition requiring the payment of a S 7.12 monetary contribution to Council.

Therefore, it is confirmed that Council's advice is that a cost report remains required to be submitted and a contribution of 1% of the cost of development be levied as contribution under the Section 7.12 DCP.

Whilst it is acknowledged that the Section 7.12 Development Contribution Plan allows the Minister to levy contributions on development within the Lease Area., the construction of the Development Contribution Plan clearly intends to prevent contributions within the Port of Newcastle Lease Area unless there is a good reason (that is, for example if there is a change of use that is likely to increase demand on Council's services and facilities). In the two cases identified by Council, the proposal was for new facilities that would increase both floor space within the Lease Area, as well as the operational capacity of the port.

However, in this case, Aurizon is seeking to use an existing berth for the precisely use it was originally envisaged to be used for. Further, no additional operational staff are proposed to be required for the use of the facility. As such, there will be no increase on Council's services and facilities, and no contributions are warranted.