

## COUNCIL ASSESSMENT REPORT

Panel Reference	2011NTH029
DA Number	DA2011 – 438.2
LGA	Port Macquarie-Hastings
Proposed Development	Modification to Upgrade of Port Macquarie Airport (Passenger Terminal Building)
Street Address	Boundary Street, Port Macquarie
Applicant/Owner	Mecone (Applicant) and Port Macquarie-Hastings Council (Owner)
Date of DA lodgement	18 September 2017
Number of Submissions	None
Recommendation	That the s96 to DA2011 – 438.2 for a modification to the Passenger Terminal Building at Lot 25 DP 1123026, Lot 657 DP 45949, Lot 1 DP 242345 and Lot 2 DP 547484, Boundary Street, Port Macquarie, be determined by granting consent subject to the modified consent conditions.
Regional Development Criteria (Schedule 4A of the EP&A Act)	<p>Clause 4(b)&amp;(c) - Council related development over \$5 million</p> <p>Development that has a capital investment value of more than \$5 million if:</p> <ul style="list-style-type: none"> <li>(a) a council for the area in which the development is to be carried out is the applicant for development consent, or</li> <li>(b) the council is the owner of any land on which the development is to be carried out, or</li> <li>(c) the development is to be carried out by the council, or</li> <li>(d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).</li> </ul> <p>It should be noted that the original application was reported to the Joint Regional Planning Panel (JRPP) under Clause 13B(2) of the since repealed State Environmental Planning Policy (Major Development) 2005, being a Council application with a capital investment value of more than \$5 million.</p> <p>The modification is being reported back to the JRPP under Clause 21(1)(b) of State Environmental Planning Policy (State and Regional Development) 2011 being a s96(2) to a development previously determined by the JRPP.</p>
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 44 - Koala Habitat Protection</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No. 62 – Sustainable Aquaculture</li> <li>• State Environmental Planning Policy No. 71 – Coastal Protection</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (Rural Lands) 2008</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011 and previously SEPP (Major Development) 2005 (since repealed)</li> <li>• Port Macquarie-Hastings Local Environmental Plan 2011</li> <li>• Development Control Plan 2013</li> <li>• NSW Coastal Policy 1997</li> <li>• Demolition of buildings AS 2601</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Plans</li> <li>• Recommended consent conditions</li> <li>• Link to previous JRPP report</li> </ul>
Report prepared by	Clinton Tink – Acting Group Manager Development Assessment
Report date	24 January 2018

**Summary of s79C matters**

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

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**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**Clause 4.6 Exceptions to development standards**

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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**Conditions**

Have draft conditions been provided to the applicant for comment? **Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## **Executive Summary**

This report considers a Section 96(2) modification to DA2011 – 438 at the subject site and provides an assessment of the application in accordance with the Environmental Planning and Assessment Act 1979.

Being a s96 modification, the amended proposal has been assessed against the legislation in place at the time of the original lodgement/assessment.

Following exhibition of the modification application, no submissions were received.

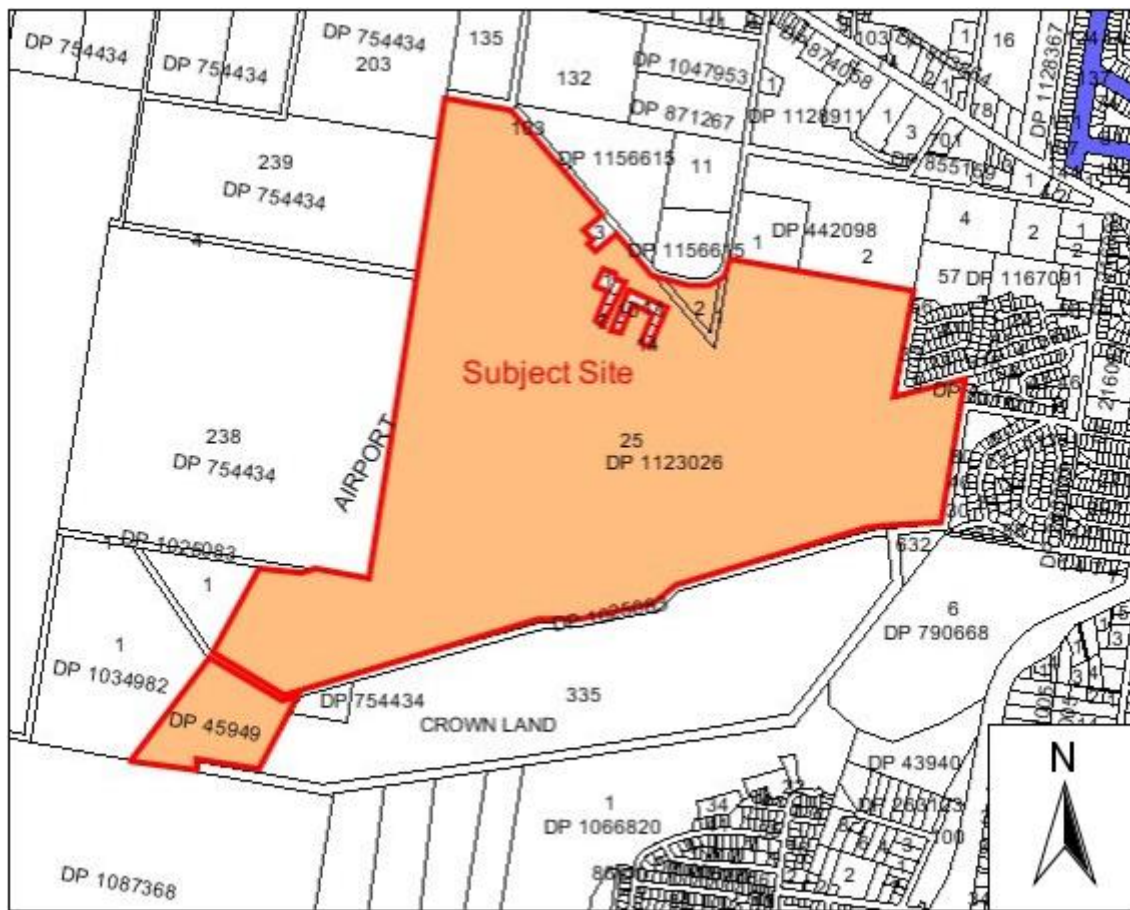
## **1. BACKGROUND**

### **Existing sites features and Surrounding development**

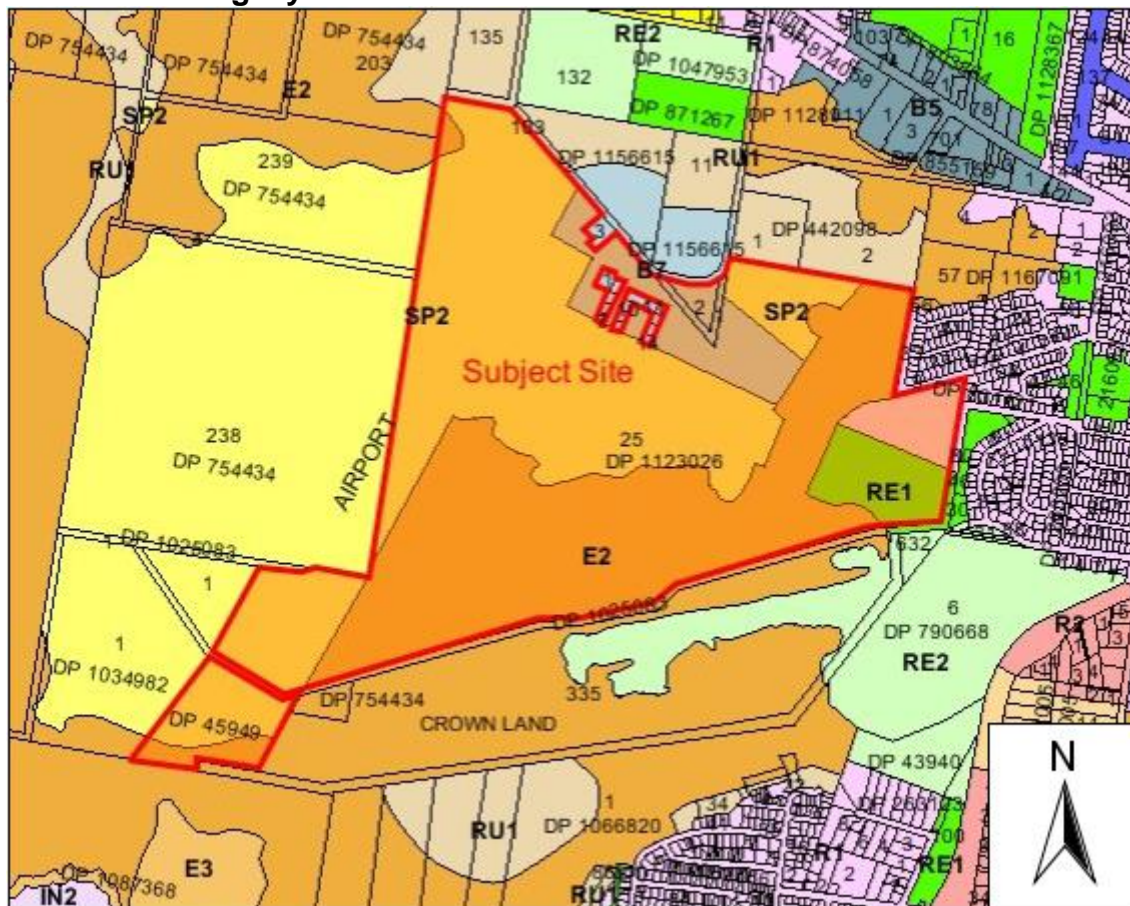
The site has a combined area of 188ha.

The site is zoned SP2 Infrastructure, B7 Business Park and E2 Environmental Conversation in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011 as shown in the following maps:

### **Site without zoning layout**



**Site with zoning layer**



The existing subdivision pattern and location of existing development within the immediate locality is shown in the following aerial photos.



Aerial photo of overall airport and surrounds



Aerial photo of terminal building area and north western car park (DA2012 – 599)





## **2. DESCRIPTION OF DEVELOPMENT**

The original DA2011 – 438 was approved by the JRPP on 15 February 2012. At the same time and outlined in the original JRPP assessment report, Council was assessing other upgrade works to the Port Macquarie Airport. The other works were being undertaken under a Review of Environmental Factors (REF) utilising the “Development permitted without consent” category for Air transport facilities in State Environmental Planning Policy (Infrastructure). The consent for DA2011 – 438 was to cover all other upgrade works to the Port Macquarie Airport that did not fit within the “Development permitted without consent” category.

Physically commencement of part of the approved works under DA2011 – 438 occurred in 2014 and thereby activated the consent. As a result, the consent is deemed to not have lapsed.

Since 2011, changes in Airport Regulations, client funding and stakeholder requirements have resulted in the current approved airport design requiring modification. Specifically, the modification focuses on the terminal building, which has been re-designed to improve baggage handling, security and passenger arrival/departures. The modification will not change the passenger and staff numbers, aircraft movements, hours of operation or height of the building as previously approved.

In summary, the main changes are as follows:

- A re-configuration of the internal layout of the terminal building. The reconfiguration has also resulted in an additional 451m<sup>2</sup> of floor area to the terminal building, which is to be located in an area that was being used for outdoor airport activities (i.e. open baggage claim area).
- Changes to the external appearance of the terminal building.
- The car park design has been reconfigured, resulting in 286 spaces with additional pick up/drop off areas. This is 4 spaces down on the 290 spaces with additional pick up/drop off parking areas proposed in the original application. However, it should be noted that since DA2011 – 438 was approved, Council has also installed an additional 112 space staff and hire car parking area to the north west as part of a separate DA2012 – 599.
- Inclusion of covered pathway from the terminal to the plane parking apron.
- Cost of construction will be \$5,600,000, down \$400,000 from the \$6,000,000 in 2011.

Refer to attachments at the end of this report, including a link to the previous JRPP assessment report.

### **Application Chronology**

- 15/2/2011 - JRPP approved DA2011 - 438.
- 18/9/2017 – Modification to DA2011 – 438 lodged with Council.
- 10/10/2017 – Council staff requested clarification on the elevation of the walkway, a comparison plan (ie between the s96 and original DA) and parking numbers.
- 19/10/2017 to 17/11/2017 – Modification notified.
- 20/10/2017 – Applicant responded to additional information request.
- 22/11/2017 – CASA provided response. It should be noted that CASA was advised of the original DA2011 – 438 but did not provide any response or feedback.

## **3. STATUTORY ASSESSMENT**

*Is the proposal substantially the same?*

Section 96 of the Environmental Planning and Assessment Act 1979 enables the modification of consents and categorises modifications into three categories - s96(1) for modifications involving minor error, mis-description or miscalculation; s96(1A) for modifications involving minimal environmental impact; and s96(2) for other modifications. Each type of modification must be considered as being substantially the same to that which was originally consented to.

The subject application is being considered under the provisions of s96(2). The proposal is considered to be substantially the same development to that which was originally lodged and consented to and will have minimal environmental impact. In relation to s96(2), the proposed modification is considered to be substantially the same development as the approved DA 2011/438 for the following reasons:

- The intended use and characterization of the development will remain as previously approved.
- The modification will be generally consistent with the approved building envelope with only a minor extension to the eastern elevation. The extension covers an area previously nominated for outdoor airport activities.
- The changes are more to improve the internal layout and running of the terminal.
- The modification will not change the passenger and staff numbers, aircraft movements, hours of operation or height of the building as previously approved.

***Are there any condition(s) of consent imposed by a Minister, government or public authority that require modification?***

No changes to any conditions imposed by a Minister, government or public authority.

It should be noted that CASA were advised of the original application and modification. While CASA did not provide a response to the original application within the statutory timeframes a response was received to the modification. CASA did not raise any immediate concerns but suggested consideration against the National Airports Safeguarding Framework Guideline and Civil Aviation Safety Regulations 1998. CASA also suggested the use of cranes during construction being referred to the organisation responsible for flight procedures. CASA also suggested consultation should also be undertaken with the aerodromes operational management team to manage the following issues:

- Airport master planning: Council should ensure that the proposal does not affect any future development or upgrades planned by the aerodrome's operational management.
- Obstacle limitation surfaces (OLS) and Procedures for Air Navigation Services – Aircraft Operations: Prior to construction, the development and crane activity should be reviewed by the aerodrome's management team for the protection of these surfaces.
- Wildlife hazard management plan: Consideration needs to be given to the final heights and bird attractions of landscaping provisions which potentially may cause a risk to aviation activities.
- Obstacle lighting: The building and any construction cranes would need to be marked to comply with CASR 139 and associated MOS, paying particular attention to the quantity, type, luminescence and whether day and/or night marking is required.
- Lighting in the vicinity of an aerodrome: Any proposed non-aeronautical ground light in the vicinity of an aerodrome may by reason of its intensity, configuration or colour, cause confusion or glare to pilots and therefore might endanger the safety of aircraft.
- Gaseous plume: Exhaust plumes can originate from a number of sources and aviation authorities have established that an exhaust plume with a vertical gust in excess of 4.3 metres/second may cause damage to an aircraft airframe, or upset an aircraft when flying at low levels.

- Control of dust: During any construction the emission of airborne particulate may be generated which could impair the visual conditions.

The application has been lodged on behalf of Council. As owner of the airport and preparer of the Masterplan, Council has had a key role in developing both matters to ensure a consistent outcome.

In addition, being the owner of the airport and driver behind the upgrade works, Council is considered to be able to easily manage issues such as crane use and can work closely with CASA to ensure any airport upgrade design meets specific air transport requirements. To reinforce this, a condition of consent was imposed on the original consent to obtain any approvals from CASA prior to work commencing. It is envisaged that this condition can be carried over for the modification.

Ultimately CASA is the expert in terms of aviation matters and Council as the owner and proponent to the application, will need to work closely with CASA through the specific design stages to ensure the end outcome is a compliant airport and operational facility.

***Does the application require notification/advertising in accordance with the regulations and/or any Development Control Plan?***

Neighbour notification has been undertaken in accordance with Council's DCP.

***Any submissions made concerning the modification?***

No submissions were received to the modification.

***Any matters referred to in section 79C (1) relevant to the modification?***

Overall, the proposed development remains consistent with the original s79C assessment. Areas of the original assessment impacted by the changes or with revised comments are outlined below. For all other matters, refer to comments provided in the original JRPP assessment linked to this report:

**Port Macquarie Hastings Development Control Plan 2011**

DCP 2011 Requirement	Proposed	Complies
<b>Signage</b>		
<b>Notification/Advertising</b>		
Development has been notified in accordance with DCP 2011	The development has been notified in accordance with the DCP.	Yes
<b>Hazards Management</b>		
DP 12.1 Stormwater complies with Auspec	Council's Engineering Section have reviewed the revised design and deem that storm water can still be managed onsite with conditions imposed to reinforce compliance.	Yes
<b>Transport, Traffic Management, Access and Car Parking</b>		
DP 1.1-1.3 New roads are designed in accordance adopted specifications.	Council's Engineering Section have reviewed the revised road/parking layout and accepted the changes, subject to conditions.	Yes
DP 3.1-3.3 Off street	There was no set rate for	Yes

<p>parking is provided in accordance with Table 2. Where a use does not fall within a listed definition a parking demand study will be required. Credit can be provided as per DP 4.1 and 5.1.</p>	<p>an airport terminal under DCP 2011. As part of the original assessment, the existing car park was assessed on the following:</p> <ol style="list-style-type: none"> <li>1. The existing car park contained approximately 175 spaces and accommodated a peak period of 300 passengers (150 arriving and 150 departing).</li> <li>2. The upgrade will provide a revised car park containing 300+ spaces, while the peak period is expected to rise to 450 passengers (225 arriving and 225 departing).</li> <li>3. The current 175 spaces represents 58% of passenger numbers, while the proposed 300+ spaces will represent a minimum 66% of passenger numbers.</li> </ol> <p>Based on the above, the number of parking spaces per passenger were deemed to be improving via the original upgrade and deemed acceptable. Being a Council facility on Council land, there was also additional area available onsite to expand the car park should it later be required.</p> <p>In terms of the s96, the passenger numbers are not changing. The proposed "immediate" car park has been reduced by 4 spaces. However, since 2011, Council has also approved and constructed a 112 space car park to the north west of the terminal. Factoring in the 4 space loss but the 112 space gain, there will be an overall increase of 108 spaces onsite (398 total, plus pick up and drop off</p>	
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	areas). The 398 spaces represents approximately 89% per passenger, a further improvement.	
DP 7.1-9.3 Visitor parking must be: <ul style="list-style-type: none"> <li>• Identifiable from the street.</li> <li>• Line marked.</li> <li>• Behind the building line unless stacked in driveway (or as per DP 7.5), results in improved open space or screened by minimum 3m landscape.</li> <li>• Designed in accordance with AS 2890 1&amp;2 and AS 1428 (disabled)</li> <li>• Include bicycle &amp; motorcycle parking.</li> </ul>	Council's Engineering Section have reviewed the revised road/parking layout and accepted the changes, subject to conditions.	Yes

Other matters from the original assessment that have been revised due to the modification are listed below.

#### ***Proposed changes to conditions***

Refer to attached draft consent illustrating condition changes.

#### **4. DEVELOPMENT CONTRIBUTIONS APPLICABLE**

The proposal relates to a Council development application and contributions are therefore not applicable.

#### **5. CONCLUSION**

The application has been assessed in accordance with Section 96 and 79C of the Environmental Planning and Assessment Act 1979.

Issues raised during assessment and public exhibition of the application have been considered in the assessment of the application. Where relevant, conditions have been recommended to manage the impacts attributed to these issues.

The site is suitable for the proposed development, is not contrary to the public's interest and will not have a significant adverse social, environmental or economic impact. It is recommended that the application be approved, subject to the recommended conditions of consent provided in the attachment section of this report.