

8 August 2022  
Port Stephens Council  
PO Box 42  
Raymond Terrace  
NSW 2324

Submitted via Planning Portal and email: [Dylan.Mitchell@portstephens.nsw.gov.au](mailto:Dylan.Mitchell@portstephens.nsw.gov.au)

Dear Dylan,

The purpose of this letter is to respond to the items raised in the Port Stephens Council Request for Additional Information Letter dated 6 July 2022 in relation to DA 16-2022-428-1 located at Lot 43, DP1045602. The items raised in the letter are addressed below:

1. **Consistency with Terminal Consent** - *It is noted that the layout of the car parking in the existing terminal approval (DA 16-2008-940-4) is different to that shown in the proposed plans supporting this DA. Noting the inconsistency and that the application does not include a time limited consent, it is requested that further details regarding the sequencing of works and proposed means of addressing this inconsistency between the two consents is provided to Council for further consideration.*

*This should be considered prior to the Hunter and Central Coast Regional Planning Panel (HCCRPP) kick off briefing scheduled for 13 July 2022 so that feedback can be received from the panel. It is understood that the airport is developing amended plans for the terminal expansion which should also be presented to the panel during the briefing.*

As noted above the proposed development, with regard to the layout of the access loop road and location of the car park, is inconsistent with the existing Terminal Expansion Consent (DA 16-2008-940-4). The background and reason for this inconsistency is outlined in Section 2.2.1 of the Statement of Environmental Effects, submitted in support of the application.

The identified inconsistency between plans approved under DA 16-2008-940-4 and the plans of the proposed development, is not considered to have any significant material implications. In terms of the sequencing of construction, although the Department of Defence have indicated that the removal of transpiration ponds and sewerage farm could occur in the next five to seven years, there is no planned program to this effect.

Accordingly, it is anticipated that the Stage 5 and 6 (the new expanded Terminal Building) of the Terminal Expansion Consent, together with the proposed road and car park layout proposed in this application will be able to be constructed and operate as a seamless development, albeit under two separate approvals.

This matter was also discussed with the JRPP Kick off briefing on 13 July 2022. In this discussion the Panel alluded to the various possible statutory provisions to address ‘inconsistency’ when assessing development. These include:

- Council may impose a condition requiring the consent issued under DA 16-2008-940-4 (Terminal Expansion Consent) to be modified or surrendered to address any inconsistency with the proposed plans the subject of DA 16-2022-428-1 (current DA), pursuant to Section 4.17(1)(b) of the EP&A Act.
- Council may impose a condition whereby upon a development consent issued for DA 16-2022-428-1 (current DA), the plans approved explicitly supersede the plans approved under DA 16-2008-940-4 (Terminal Expansion Consent) to the extent of any inconsistency, pursuant to Section 4.17(1)(b) of the EP&A Act.
- Notwithstanding the inconsistency with DA 16-2008-940-4 (Terminal Expansion Consent) Council may approve DA 16-2022-428-1 (current DA), as per the judgement in *Waverley Council v CM Hairis Architects [2002] NSWLEC 180*, which found that there can be more than one valid and operating consent in existence for a site at any one time.

It is the preference of the Applicant that the third mechanism be utilised, that is, that the current application is approved, and the inconsistency is allowed, however in practice only one application will be able to be implemented at any given time.

However, it is understood that this may not be Council’s preference, and as an alternate the imposition of a condition like that imposed on the Development Consent (DA 16-2021-1153-1) that was recently issued for the extension of car parks at the Airport, would be satisfactory.

The condition from this consent is set out below

*Prior to Commencement of Use - An application to modify the road and car parking network approved under DA 16-2008-940-4 is to be lodged under Section 4.55 of the EP&A Act 1979 to correspond with this consent.*

2. **Pedestrian Connectivity** – *The dedicated pick up zone adjacent the area marked as Construction Site Office, does not have a direct pedestrian link from the terminal building, noting that there is a road in between this area which does not feature a pedestrian crossing. This means that pedestrians would have to use the much less direct pedestrian path that traverses through the car park, shown in blue on the marked up plan below.*

*As a result, pedestrians may be encouraged to cross the loop road at the location marked in Green on the plan below, without a pedestrian crossing. Accordingly, it is requested that a more direct pedestrian connection to the pick up zone be provided in an amended plan set.*

As discussed above, the proposed development will align with proposed works to be undertaken as part of the Terminal expansion project. This will effectively close the road and allow the pedestrian concourse to extend in this area with a continual kerb between the two passenger set down / pick up zones. Please refer to updated architectural set prepared by Cox Architecture ACE-01-AR-DRG-DA-00-07 Rev C, which indicates the full extent of pedestrian footpath along the pick up zone which will provide continuous pedestrian connection from the terminal building. The updated plans also indicates the area that will be closed to pedestrian access during the constriction of the new terminal building.

3. **Construction Site Office** – *A construction site office is shown to the northwest of the proposed car park. Given the construction site office would be temporary in nature, it is requested that plans be provided indicating its intended land use following removal of the office.*

The temporary construction site office will be removed at the completion of construction with the vacated area forming part of the site of the new terminal building, which is subject to a separate approval.

4. **Signage** - *The signage plan (Drawing No. ACE-01-AR-DRG-DA-00-10, prepared by COX Architecture) includes areas labelled 'indicative area for potential advertising', however, no elevations for the signs have been provided. Please be advised that these signs cannot be approved without supporting elevation plans for signage.*

The signage for advertising indicated on the proposed plans is no longer proposed and as such, Drawing Number ACE-01-AR-DRG-DA-00-10 is to be removed from the architectural set.

5. **HWC Referral** - *Hunter Water Corporation (HWC) have requested that water quality modelling files be provided for their review.*

It is understood that Hunter Water is generally concerned with the achievement of water quality targets, but notes that the proposed development will meet both the Port Stephens Council DCP water quality targets and the NorBe requirement. Given that the proposed development is not proposing to change the use of the land, and there is no material change to the impervious areas, there is no need to introduce additional water quality measures.

Please see the attached letter from Hatch Engineers dated 5 August 2022 regarding the recommended stormwater management system.



If you have any questions regarding this letter, please don't hesitate to contact me, as below.

Yours sincerely

Director – Planning manager

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