

Newcastle Airport Access Licence

Please read
all parts of this Licence carefully and make
sure that you understand it before you sign it. Some
words and expressions have special meanings. They
are explained in Clause 29 and when you are
reading the Licence you should refer to Clause 29.

Newcastle Airport Access Licence

PART ONE

DETAILS PAGE

Items

1. **LICENSOR:** PORT STEPHENS COUNCIL and NEWCASTLE CITY COUNCIL
Address:
Attention: Maria Kelsall
C/- Newcastle Airport Limited
Williamtown Drive
WILLIAMTOWN NSW 2318
2. **LICENCEE:** Name:
Address:
3. **PERMITTED USE:** The provision of Authorised Services.
4. **HOURS OF ACCESS:** 6.00am till the later of 10.00pm or 45 minutes after the last scheduled flight lands
5. **TERM OF LICENCE:** 1 year
6. **COMMENCEMENT DATE:** To be advised
7. **TERMINATION DATE:** 12 months after commencement date
8. **ANNUAL LICENCE FEE:**
 1. Base licence fee – 1 to 3 vehicles inclusive \$300.00 per annum per vehicle
 2. Per vehicle licence fee – 4 vehicles or more \$500.00 per annum per vehicle
9. **FREE HOURS PER DAY IN CAR PARK:** 2 hours (pre paid)
10. **GUARANTORS:** Not Applicable

Newcastle Airport Access Licence

PART TWO

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LICENCE MEMORANDUM

Part A: Grant of Licence

1. Scope of Licence

- 1.1 Subject to this Licence, we will allow you during the Term in Item 5 to use the Roads, Car Park, Designated Area, and Drop Off Site on a non exclusive basis during the Hours of Access in Item 4 for the Permitted Use in Item 3. We do not warrant these areas are suitable for the Permitted Use.
- 1.2 You must not use, or allow to be used, the Roads, Car Park, Designated Area, or Drop Off Site for any purpose other than the Permitted Use.
- 1.3 You agree to perform and observe the obligations imposed on us in the Headlease as far as they relate to your use and occupation of the Roads, Car Park, Designated Area and Drop Off Site.

Part B: Length of Licence

2. Starting and Ending

- 2.1 The Licence begins on the Commencement Date in Item 6. It ends at midnight on the Termination Date in Item 7.
- 2.2 If you continue to use the Roads, the Car Park, the Designated Area and the Drop Off Site after the Termination Date, you do so under a monthly licence which either party may terminate on one month's notice in writing ending on any day.

Part C: Licence Fee

3. Payment in Advance

- 3.1 You must pay us the Annual Licence Fee, on or before the Commencement Date without set off, deduction or counterclaim.

Part D: Goods and Services Tax ("GST")

4. Payment of GST

- 4.1 The Annual Licence Fee is exclusive of GST. In respect of any liability we have for GST under this Licence, including for the Annual Licence Fee, you must pay us the full amount of GST at the same time as making the payment to which the GST relates. In respect of each such payment, we will provide you with a tax invoice to enable you to claim an input tax credit.

Part E: Vehicle Identification and Car Park Cards

5. Rules Relating to your Access Cards

- 5.1 We will issue you with a Vehicle Identification and Car Park Card for each of your Vehicles on the date you return this executed Licence to us. You must notify us in writing if you acquire a new Vehicle during the Term. We will issue you with a Vehicle Identification Card and Car Park Card for the new Vehicle within a reasonable time of you notifying us of your new Vehicle.
- 5.2 We will issue only one Vehicle Identification Card and Car Park Card per Vehicle licenced by you. You are responsible for the safe keeping of the Access Card and Car Park Card and are liable for any unauthorised use of it. You must tell us immediately if the Vehicle Identification Card or Car Park Card is lost, misplaced or stolen. If we are satisfied that you have lost or misplaced a Vehicle Identification Card or Car Park Card, we may replace it and charge you a reasonable fee for the replacement.
- 5.3 You must display your Vehicle Identification Card in the Vehicle in a place clearly visible to passengers. You must display your Vehicle Identification Card to Our Representative on request. If you do not display your Vehicle Identification Card to our Representative on request, we can require you or Your Employees and Agents to leave the Airport Site.
- 5.4 All Vehicle Identification Cards and Car Park Cards remain our property and are not transferable. You must not loan your Vehicle Identification Card or Car Park Card to anyone else or dispose of it (other than by returning it to us).
- 5.5 We are entitled to revoke any Vehicle Identification Card or Car Park Card if we are satisfied that it has been improperly used, tampered with, mutilated or otherwise altered.
- 5.6 The Car Park Card gives you access to the Car Park without additional charge for the amount of hours per day set out in Item 9. It does not guarantee you a car park space within the Car Park. You are only entitled to use a Car Park space within the Car Park if one is available. You must comply with any signs or our other requirements or directions relating to use of the Car Park.

Part F: Authorised Services

6. Performance of Authorised Services

- 6.1 You must perform the Authorised Services:
- (a) in a professional, diligent and high quality manner;
 - (b) in accordance with all laws, Approvals and the requirements of any Authority; and
 - (c) in accordance with our directions or the directions of Our Representative.

- 6.2 You must:
- (a) assist passengers with the loading and unloading of any parcels, baggage or luggage;
 - (b) accept credit card for payment of fares by customers; and
 - (c) give us any information we require regarding the performance of the Authorised Services at the Airport Site.
- 6.3 You must not:
- (a) tout or solicit for passengers or hirings (for e.g. calling or gesturing to passengers to use your Vehicle);
 - (b) enter any area that we (or Our Representative) advise you is a restricted area;
 - (c) park or stand your Vehicle in any area other than the designated Car Park;
 - (d) Pick Up any person from the Airport Site other than from the Designated Area (unless otherwise required by law); or
 - (e) Drop Off any person at the Airport Site other than at the Drop Off Site (unless otherwise required by law).
 - (f) Use the car park card in a manner contrary to special conditions Clause 6.

Part G: Other Charges

7. Costs

You must pay on demand for all rates and taxes that may be imposed by an Authority in respect of the grant of this Licence or the carrying out of any activity under this Licence.

8. You Must Pay Interest on Overdue Money

8.1 You must pay us interest on any money due under this Licence at 2% above the Westpac Indicator Lending Rate.

8.2 Interest will be calculated upon, and accrue on, a daily basis. Interest will be calculated on any unpaid money from the day the unpaid money was due until the day it is paid in full.

Part H: Your Obligations

9. Compliance with Laws and Our Representative

- 9.1 You must comply with all laws applicable to the Airport Site, your use of the Airport Site, the Authorised Services and/or this Licence.
- 9.2 You must comply with the directions and requests of us or Our Representative in respect of your use of the Airport Site, the Authorised Services and/or this Licence.
- 9.3 You must comply with all anti-smoking laws in respect of your use of the Airport Site, and in accordance with our directions or the directions of our Representative.

10. Use of Airport Site

- 10.1 You must not use the Airport Site in a manner which creates a nuisance, disturbs or interferes with other occupiers of or visitors to the Airport Site or adjoining properties. You must not do anything in or around the Airport Site which in our opinion may be dangerous or offensive
- 10.2 No verbal or physical abuse will be tolerated toward any of our employees or agents.

11. Risk and Insurance

- 11.1 You occupy any part of the Airport Site at your own risk. Any Vehicle, equipment or consumables brought onto the Airport Site are brought onto the Airport Site at your risk and we are not responsible for any loss or damage to them.
- 11.2 You must have:
 - (a) public liability insurance for at least the amount of \$20 million;
 - (b) comprehensive insurance for third party liability, property damage and theft in relation to each Vehicle;
 - (c) insurance for lost parcels, luggage or other property;
 - (d) workers compensation (including coverage for voluntary workers); and
 - (e) all other insurances required by law or required by us.
- 11.3 You must ensure that all the above insurance policies have no exclusions, endorsements or alterations, unless first approved by us in writing.
- 11.4 If we ask, you must give us evidence of the insurance by way of certified copies of your insurance policies on each anniversary of the Commencement Date in Item 6 and at any other time we request.
- 11.5 You must not do anything that may make our insurance invalid or able to be cancelled, or that may increase our insurance premium.

12. Protection of Airport Site

- 12.1 You must protect the Airport Site from damage caused by the performance of the Authorised Services or otherwise caused as a result of your use of the Airport Site. You must not make any alteration or addition to the Airport Site.
- 12.2 You must not litter at the Airport Site.

Part I: Release and Indemnity

13. What You Release and Indemnify Us From

- 13.1 You are liable for and indemnify us and Our Employees and Agents against all actions, demands, loss or damage (including legal costs on a full indemnity basis) incurred or suffered directly or indirectly in connection with either of the following:
- (a) your acts and omissions or the acts and omissions of Your Employees and Agents; and
 - (b) a breach of this Licence by you or Your Employees and Agents.
- 13.2 You release us from any action, demand, loss or damage for any damage, loss, injury or death occurring at the Airport Site, whatever its cause.

Part J: Our Obligations and Rights

14. Reservation of Rights

- 14.1 You only have a personal and restricted right to use parts of the Airport Site on the terms set out in this Licence and you do not have an interest or an estate in any part of the Airport Site.
- 14.2 Subject to the above and this Licence, we will not interfere with your reasonable use and enjoyment of the Roads, the Car Park, the Designated Areas and Drop Off Site on the Airport Site.

15. Our Powers

- 15.1 Unless otherwise stated in this Licence, we may:
- (a) withhold any consent or approval;
 - (b) give any direction; or
 - (c) exercise any discretion
- under this Licence in our absolute discretion. Any consent or approval granted under this Licence may be withdrawn at any time in our absolute discretion.
- 15.2 We may enter the Roads, the Car Park, the Designated Area and/or the Drop Off Site at any time for any reason.

Part K: Termination

16. Termination of License For Breach or Insolvency

16.1 We may end this Licence immediately by giving notice to you if:

- (a) you breach an essential term of this Licence;
- (b) you breach any term of this Licence (other than an essential term) and fail to remedy that breach within 7 days of receiving a notice from us requiring the breach to be remedied; or
- (c) you go into bankruptcy or liquidation, have a receiver, receiver and manager, administrator or similar person appointed, if you enter into a scheme of arrangement with creditors or you are unable to pay your debts as and when they fall due.

16.2 The following are essential terms of this Licence:

- (a) clause 1 (Scope of Licence);
- (b) clause 3.1 (Licence Fee);
- (c) clause 6 (Performance of Authorised Services);
- (d) clause 9 (Compliance with Laws and Our Representative);
- (e) clause 10 (Use of Airport Site); and
- (f) clause 11 (Risk and Insurance).

16.3 If this Licence is ended under clause 16.1, we may recover all money payable according to this Licence up to the Termination Date in Item 7.

17. Termination on End of Headlease or Commonwealth Exercise of Powers

17.1 This Licence automatically terminates if:

- (a) the Headlease ends for any reason;
- (b) the Head Landlord notifies us that this Licence should be terminated; or
- (c) the Head Landlord exercises any rights under the Headlease or in accordance with law which prevents us from complying with this Licence

and no compensation will be paid to you for this termination.

18. Expiry or Termination of License

18.1 If this Licence expires or is terminated you must immediately return to us all Access Cards and remove your Vehicle and any other of your equipment or property from the Airport Site.

Part L: Guarantor

19. Liability of Guarantor

- 19.1 This clause applies if a Guarantor is specified in Item 10.
- 19.2 In consideration of us entering into this Licence at the request of the Guarantor, the Guarantor agrees to guarantee to us the performance and observance by you of all of your obligations under this Licence and in connection with your use of the Airport Site.
- 19.3 Where there is more than one Guarantor their obligations are joint and several.
- 19.4 If you breach this Licence we may claim and recover the debt or damages arising from your breach directly from the Guarantor.
- 19.5 As a separate undertaking the Guarantor indemnifies us against liability or loss arising from and any costs (including legal costs on a full indemnity basis), charges or expenses incurred in connection with all of the following:
- (a) your breach of this Licence;
 - (b) your use of the Airport Site;
 - (c) a representation or warranty made by you in relation to this Licence being incorrect or misleading; and/or
 - (d) a liquidator disclaiming this Licence.
- We do not need to incur expense or make payment before enforcing the right of indemnity.
- 19.6 The Guarantor waives any right it has of first requiring us to commence proceedings or enforce any other right against you or any person before claiming under this Guarantee and Indemnity.
- 19.7 This guarantee and indemnity in this Part L is a continuing security and is not discharged by one payment.
- 19.8 The liabilities of the Guarantor under this Part L as a guarantor, indemnifier or principal debtor and our rights under this Part L are not affected by anything which might otherwise affect them at law or in equity, including one or more of the following:
- (a) the granting of time or other indulgence or the compromise with or release of you or any other Guarantor;
 - (b) our acquiescence, delays, acts, omissions or mistakes;
 - (c) transfer of our rights;
 - (d) the termination, surrender, expiry or variation, assignment or sub licensing of this Licence or the extension or renewal of the Term;

- (e) the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor;
- (f) any change in your use of the Airport Site;
- (g) this Licence not being effective as a licence;
- (h) any person named as the Guarantor not executing this Licence effectively;
- (i) a liquidator disclaiming this Licence; or
- (j) the subsequent death, bankruptcy or liquidation of any one or more of you and the Guarantor.

19.9 Until all money payable to us in connection with this Licence or your occupation of the Airport Site is paid, the Guarantor may not:

- (a) raise a set off or counterclaim available to it or you against us in reduction of its liability under this clause; or
- (b) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any security or guarantee held by us in connection with this Licence; or
- (c) make a claim or enforce a right against you or your property; or
- (d) prove in competition with us if a liquidator, provisional liquidator, receiver, administrator or trustee in bankruptcy is appointed in respect of you, or you are otherwise unable to pay your debts when they fall due.

19.10 If a payment to us in connection with this Licence or this clause is found or conceded to be void or voidable then we are entitled immediately as against the Guarantor to the rights to which we would have been entitled under this Part L if the payment had not occurred.

19.11 The Guarantor agrees to pay or reimburse us on demand for:

- (a) our costs, charges and expenses in making, enforcing and doing anything in connection with the guarantee and indemnity in this clause (including our legal costs and expenses on a full indemnity basis); and
- (b) all amounts which are payable in connection with the guarantee and indemnity in this clause or a payment, receipt or other transaction contemplated by it.

Money paid to us by the Guarantor must be applied first against payment of costs, charges and expenses under this sub-clause then against our other obligations under this Part L.

19.12 We may assign our rights under this Part L.

Part M: General Matters

20. Notices

20.1 A notice required by this Licence:

- (a) must be in writing;
- (b) may be served on you by:
 - (i) giving it to you personally; or
 - (ii) leaving it at or posting it to, or faxing it to your registered office or your business address set out on the details page.

20.2 You may serve a notice on us by leaving it at, or posting it to, or faxing it to our address as shown on the front of this Licence.

20.3 We may serve a notice on a Guarantor by:

- (a) giving it to the Guarantor personally; or
- (b) leaving it at, or posting it to, or faxing it to the Guarantor's registered office or last known business address.

21. Assignment

21.1 We may assign or otherwise deal with this Licence or a right under this Licence without your consent.

21.2 You must not assign or otherwise deal with this Licence or a right under this Licence without our consent.

21.3 If:

- (a) you are a company which is neither listed nor wholly owned by a company which is listed on the Australian Stock Exchange; and
- (b) there is a change in your shareholding or the shareholding of your holding company so that a different person or group of persons will control the composition of the board of directors or more than 50% of the shares giving a right to vote at general meetings,

then that change in control is treated as an assignment of this Licence and clause 21.2 applies to the assignment.

22. Entire Agreement

22.1 This Licence is the entire agreement between the parties concerning the subject matter.

23. Governing Law

23.1 This Agreement is governed by the laws of New South Wales.

24. Individual and Joint liability

- 24.1 If two or more people are described in Item 2 (you) or Item 10 (Guarantor), each person described in the item is liable for the obligations individually and together for each other person in that item.

25. Saturdays, Sundays or Public Holidays

- 25.1 Anything required to be done on a Saturday, Sunday or public holiday in New South Wales may be done on the next business day.

26. Employees and Agents

- 26.1 You must ensure that Your Employees and Agents comply, if appropriate, with your obligations under this Licence. Any act or omission of Your Employees and Agents is deemed to be an act or omission of you.

27. Waiver

- 27.1 A provision of or a right under this Licence may not be waived or varied except in writing and signed by whoever is to be bound. No act or omission by us under this Licence will act as a waiver of any statutory obligation or regulation imposed on you or in any way constraint or fetter our powers under any statute or regulation.

28. Interpretation

- 28.1 When this Licence requires anything not to be done, this includes not allowing or permitting the thing to be done.
- 28.2 A word or expression in the singular includes the plural - and the plural includes the singular.
- 28.3 A person includes an individual and a corporation.
- 28.4 Examples are descriptive only, and not exhaustive.

Part N: Definitions

29. Meaning of Words

- 29.1 In this Licence:

“we, us, our” means Port Stephens Council and Newcastle City Council and, where relevant, includes Our Representative; and

“you or your” means a person described in Item 2 and, where relevant, includes your Employee or Agent.

29.2 The following definitions apply unless the context requires otherwise:

“Airport Site” means the civil airport facility known as “Newcastle Airport” located on the following parcels of land: Lot 11 of DP 844528, Lot 102 of DP 873511, Lot 103 of DP 873512, Lot 41 of DP 1045602, Lot 42 of DP 1045602, Lot 43 of DP 1045602, Lot 1 of DP 854099 and Lot 21 of DP 1053667;

“Approval” means any approval, consent, permission, licence or authority acquired by law or an Authority;

“Authorised Services” means the operation of your Vehicle for the purposes of:

- (a) picking up passengers, parcels or baggage from the Airport Site; or
- (b) dropping off passengers, parcels or baggage from the Airport Site;

“Authority” means any government, semi-government, local government, statutory, public, ministerial, administrative or judicial authority, body or organisation;

“Annual Licence Fee” means the amount set out in Item 8;

“Car Park” means the car park identified in the plan attached to Part Four;

“Car Park Card” means a card or other identification issued by Our Representative which allows a particular Vehicle to have access to the Car Park for the purpose of performing the Authorised Services;

“Common Areas” means those parts of the Terminal which we intend for common use;

“Designated Area” means the area for vehicles to stand to Pick Up passengers identified in the plan attached to Part Four;

“Drop Off” means temporarily stopping to set down a person from the Vehicle;

“Drop Off Site” means the area for Vehicles to stand to Drop Off passengers identified in the plan attached to Part Four;

“Headlease” means the lease between Newcastle City Council, Port Stephens Council and the Commonwealth of Australia over the Airport Site;

“Head Landlord” means the Commonwealth of Australia;

“Item” means an item in the Licence;

“Licence” means Part 1: Details Page, Part 2: Memorandum of Licence, Part 3: Special Conditions, Part 4: Designated Area and Drop Off Site, Part 5: Execution Page;

“Month” means a calendar month;

"Our Employees and Agents" means our employees, subcontractors and agents;

"Our Representative" means Newcastle Airport Limited ACN 060 254 542;

"Pick Up" means temporarily stopping to allow a person waiting at the Designated Area to enter the Vehicle;

"Road" means the road system at the Airport Site that we intend for common use;

"Terminal" means the Newcastle Airport Terminal located on the Airport Site;

"Vehicle" means buses and private hire vehicles as defined by the *Passenger Transport Act 1990*, or any other vehicle approved by us by the issue of an Access Card;

"Vehicle Identification Card" means a card or other identification issued by Our Representative which allows a particular Vehicle to have access to the Roads, the Car Park, the Designated Area and Drop Off Site for the purpose of performing the Authorised Services;

"Westpac Indicator Lending Rate" means the rate ordinarily charged by Westpac Bank on overdraft current accounts (or the nearest equivalent) not exceeding \$50,000 for customers having the same credit rating as us. A certificate issued to us and signed by the manager or assistant manager of that Bank is prima facie evidence of the Westpac Indicator Lending Rate;

"Year" means the period of 12 months commencing on the Commencement Date and on each anniversary of the Commencement Date; and

"Your Employees and Agents" means your employees, agents, customers, contractors (for example, your drivers), sub-contractors, consultants, trustees and other persons on the Airport Site with your express or implied consent or invitation.

Newcastle Airport Access Licence

PART THREE

SPECIAL CONDITIONS

These special conditions are part of Licence Agreement between **Port Stephens Council, Newcastle City Council** and **the Licensee**.

1. Your additional obligations

1.1 You may not:

- (a) store or use inflammable, volatile or explosive substances at the Airport Site;
- (b) do anything that interferes with or overloads the Airport Site's facilities or services or use them for anything other than for their intended purpose; or
- (c) do anything to contaminate, pollute or increase toxicity in the Airport Site or its environment.

2. Security

2.1 You acknowledge that the Commonwealth of Australia has certain stringent security requirements for the Terminal and the Airport and that we have certain obligations in this regard. You agree to:

- (a) if required by us (or any person authorised by the Commonwealth) arrange security clearances for Your Employees and Agents; and
- (b) ensure Your Employees and Agents wear staff identification required from time to time by Us or any relevant authority; and
- (c) comply with, and ensure that Your Employees and Agents comply with, all directions, instructions and procedures from time to time promulgated by Us or any other competent person relating to security.

3. Access to Airport Site

3.1 If we decide there is an emergency, we may stop you and Your Employees and Agents from entering the Airport Site at any time.

3.2 If the Commonwealth of Australia decides to prevent access to the Airport Site for any reason you and Your Employees and Agents must not enter the Airport Site.

3.3 Without limiting clause 13.2 of the Licence, you release us from any action, demand, loss or damage for any damage, loss or cost suffered by you or Your Employees and Agents as a result of the closure of the Airport Site pursuant to this clause.

4. Relocation

- 4.1 We may relocate, replace or repair the Roads, the Car Park, the Designated Area and/or the Drop Off Site at our discretion at any time without paying you compensation.

5. No Guarantee of Trade

- 5.1 You represent and warrant that us and Our Employees and Agents have not made any guarantee or warranty about the value of trade or the volume of trade or passenger numbers, visitors or airline employees which you might reasonably expect now or in the future in conducting your business from the Airport Site.

6. Pre paid parking – Card system

- 6.1 You will pay a bond to the amount of \$30 to access NAL's specified car park as identified in the plan attached to Part 4. This bond will allow you to receive the first two (2) hours of parking free of charge, thereafter normal car parking rates will apply and be deducted automatically from the bonded amount.

Bonds must be paid before any licence is granted to you.

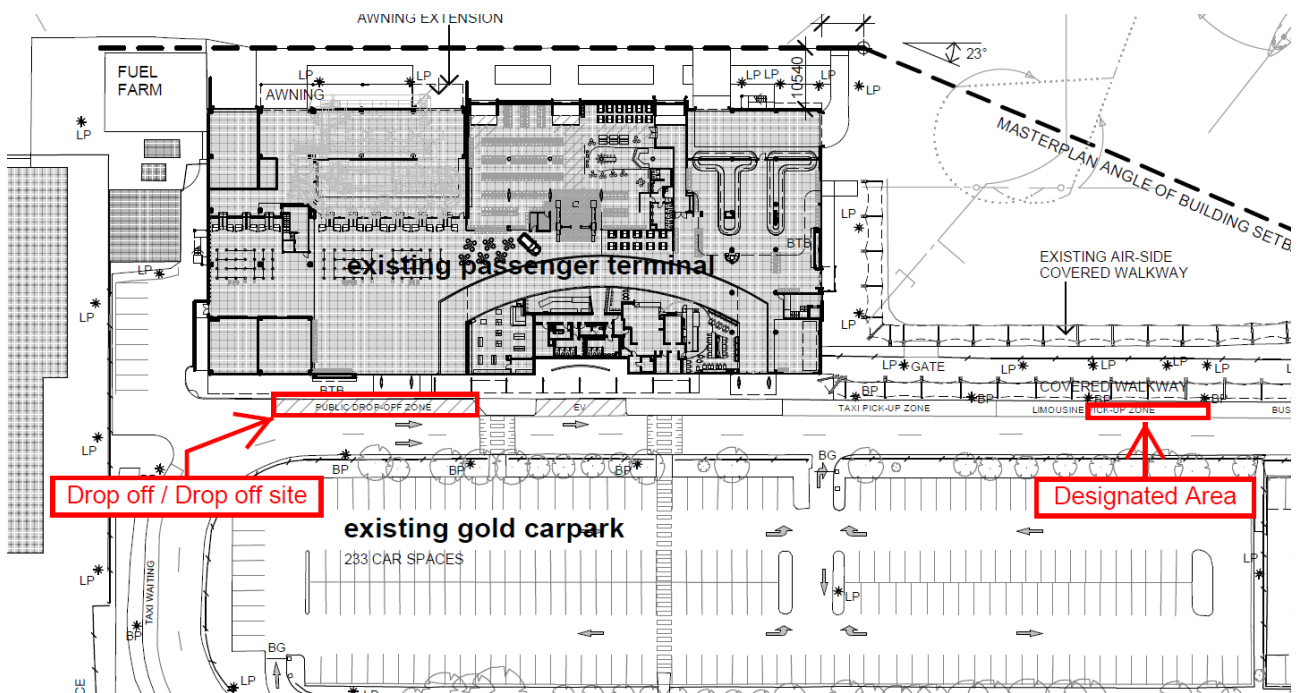
The use of each prepaid car parking card will be tracked by NAL and must not be assigned, loaned, shared with any other person / operator other than those companies and their staff who are directly involved with this licence. Any misuse or fraudulent use of the car park card will lead to termination as per Part K of this licence.

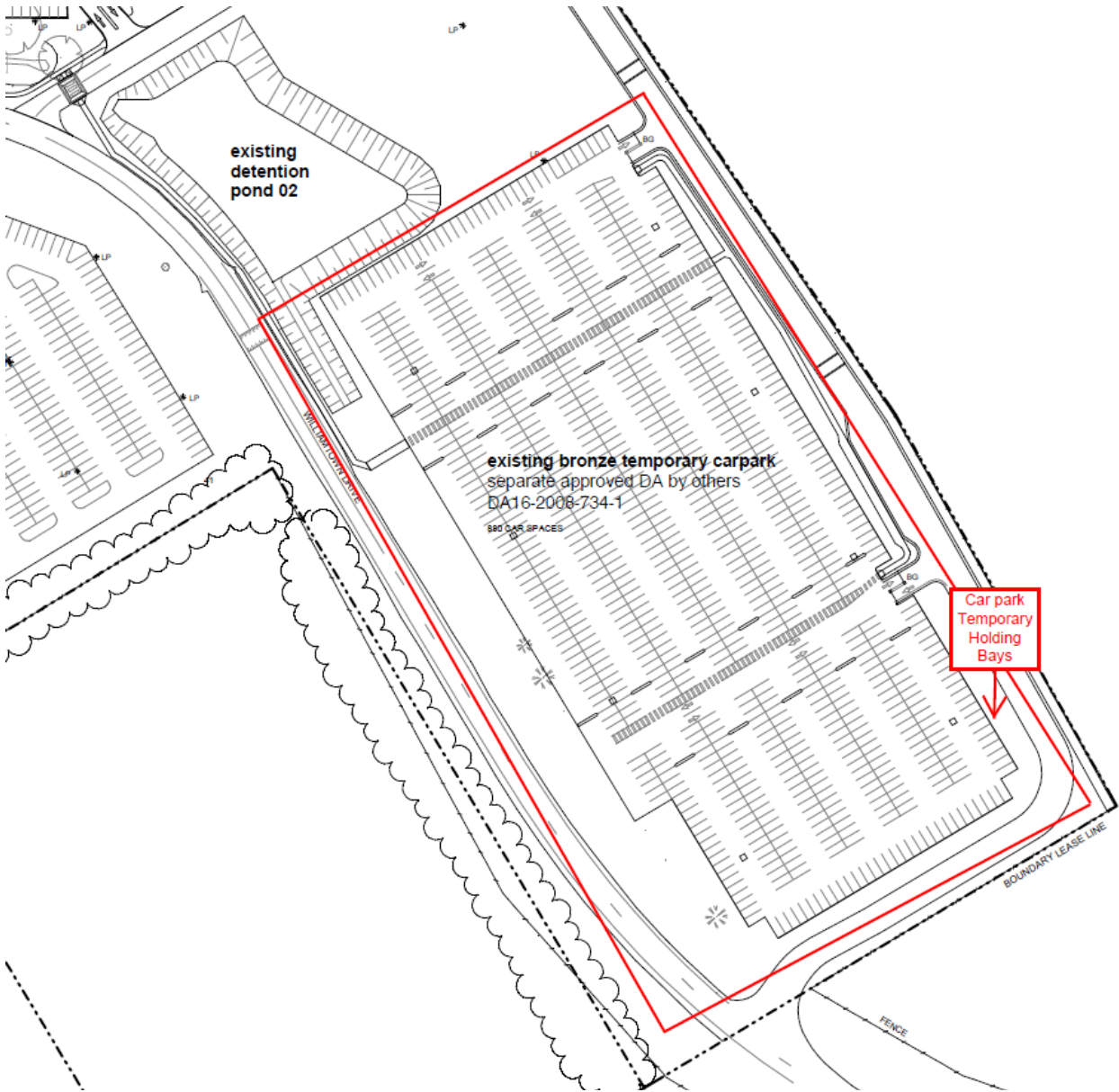
Newcastle Airport Access Licence PART FOUR

DESIGNATED AREA, DROP OFF SITE AND CAR PARK

(NB: This location may change at the discretion of NAL)

Licence Agreement between Port Stephens Council, Newcastle City Council, the Licensee and the Guarantor.





**Newcastle Airport Access Licence
PART FIVE**

EXECUTION PAGE

EXECUTED AS AN AGREEMENT

DATE:

EXECUTED by **NEWCASTLE AIRPORT LIMITED ACN 060 254 542** pursuant to s.127 of the Corporations Act 2001 as the duly constituted delegate of Newcastle City Council and Port Stephens Council in the presence of:

.....
Secretary
Print Name:

.....
Director
Print Name:

SIGNED, SEALED AND DELIVERED by an authorised representative of **THE LICENSEE** in the presence of:

.....
Signature of Witness

.....
Signature of Licensee

.....
Name of Witness

.....
Name of Licensee

SIGNED, SEALED AND DELIVERED by **THE GUARANTOR** in the presence of:

.....
Signature of Witness

.....
Signature of Guarantor

.....
Name of Witness

.....
Name of Guarantor