

Newcastle Airport Access Licence

DRAFT

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 31 and when you are
reading the Licence you should refer to Clause 31.

Newcastle Airport Access Licence

PART ONE

DETAILS PAGE

Items

1. **LICENSOR:** Newcastle Airport Pty Limited ABN 30 060 254 542
Level 1 (east), Terminal Building, Williamtown Drive,
Williamtown, New South Wales
2. **LICENCEE:** Name: (Insert)
Address: (Insert)
3. **PERMITTED USE:** The provision of Authorised Services by the
Vehicles described in Item 12 (or such other
Vehicles that we allow you to use at the Airport Site
during the Term in accordance with clause 5.2).
4. **HOURS OF ACCESS:** 6.00 am till the later of 10.00 pm or 45 minutes after
the last scheduled flight lands
5. **TERM OF LICENCE:** The Licence operates on an annual basis.
6. **COMMENCEMENT DATE:** (Insert)
7. **TERMINATION DATE:** (Insert)
8. **LICENCE FEE:** \$330.00 plus GST per annum per Vehicle
9. **FREE HOURS PER DAY IN
CAR PARK:** 2 hours in Long Stay Saver car park
10. **GUARANTORS:** Not applicable
11. **BOND** Not applicable
12. **VEHICLES**
Vehicle One Registration: (Insert)
Vehicle Two Registration: (Insert)
Vehicle Three Registration: (Insert)
Vehicle Four Registration: (Insert)

Newcastle Airport Access Licence

PART TWO

LICENCE MEMORANDUM CONTENTS PAGE

Part A:	Grant of Licence
Part B:	Length of Licence
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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, Holding Area, and Pick Up and Drop Off Zones 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. You must not use any Vehicles at the Airport Site except the ones specified in Item 12 until we have issued you with a Vehicle Identification Card and a Car Park Card in accordance with clause 5.2.
- 1.2 You must not use, or allow to be used, the Roads, Car Park, Holding Area, or Pick Up and Drop Off Zones 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, Holding Area and Pick Up and Drop Off Zones.
- 1.4 You acknowledge and agree that:
 - (a) this Licence is dependent on the existence and continuance of the Headlease; and
 - (b) the rights and obligations of the parties under this Licence are in many respects governed by and subject to our compliance with the Headlease.
- 1.5 Where we notify you of the obligations imposed on us in the Headlease:
 - (a) you agree to perform and observe these obligations as far as they relate to your use and occupation of any part of the Airport Site; and
 - (b) you must not do, or omit to do anything, that would put us in breach of the Headlease.
- 1.6 Where we notify you that some activity requires the Head Landlord's consent under the Headlease, you agree not to carry out that activity without us first obtaining the Head Landlord's consent for that activity.
- 1.7 You must forward to us copies of notices or correspondence from the Head Landlord or from any Authority relating to breaches of the Headlease or any other matter in connection with your use of the Airport Site within 7 days of receipt of such notices or correspondence.

Part B: Length of Licence

2. Starting and Ending

- 2.1 The Licence operates on an annual basis. Either party can terminate the Licence on one month's notice in writing ending.

Part C: Licence Fee

3. Payment in Advance

- 3.1 You must pay us the Licence Fee on an annual basis in advance without set off, deduction or counterclaim.
- 3.2 The Licence and Licence fee will be reviewed and reissued on an annual basis.

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

4. Payment of GST

- 4.1 The Licence Fee is exclusive of GST. In respect of any liability we have for GST under this Licence, including for the 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 Cards

5. Rules Relating to your Vehicle Identification Card

- 5.1 We will issue you with a Vehicle Identification Card for each of your Vehicles listed in Item 12 on the date you return this executed Licence to us and the annual fee is paid.
- 5.2 If you want to use Vehicles at the Airport Site in addition to the ones listed in Item 12 you must obtain our consent to use the additional Vehicles at the Airport Site. If we consent to you using additional vehicles at the Airport Site, we will issue you with a Vehicle Identification Card for the additional Vehicles after you have paid the Licence Fee for that Vehicle in accordance with clause 3.1.
- 5.3 We will issue only one Vehicle Identification Card per Vehicle. You are responsible for the safe keeping of the Vehicle Identification Card and are liable for any unauthorised use of it. You must tell us immediately if the Vehicle Identification 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.
- 5.4 You must display your Vehicle Identification Card on the windscreen of the vehicle in a place clearly visible to passengers and Airport Operations Staff. You must display your Vehicle Identification Card to us on request. If you do not display your Vehicle Identification Card to us on request, we can require you or Your Employees and Agents to leave the Airport Site.
- 5.5 All Vehicle Identification Cards remain our property and are not transferable. You must not loan or share your Vehicle Identification Card to anyone else or dispose of it (other than by returning it to us).
- 5.6 We are entitled to revoke any Vehicle Identification Card if we are satisfied that it has been improperly used, tampered with, mutilated or otherwise altered.
- 5.7 The Car Park Card gives you access to the Long Stay Saver Car Park without additional charge for the amount of hours per day set out in Item 9. After the expiry of the hours in Item 9 in a one day period you must pay our standard car park charges. The Car Park Card 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.

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;
- (c) give us any information we require regarding the performance of the Authorised Services at the Airport Site; and
- (d) comply with all the special conditions in Part Three.

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 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 appropriate area of the Pick Up and Drop Off Zones (unless otherwise required by law); or
- (e) Drop Off any person at the Airport Site other than at the appropriate area of the Pick Up and Drop Off Zones (unless otherwise required by law).
- (f) Leave vehicle unattended whilst using the Pick Up or Drop Of Zones

6.4 You acknowledge and agree that you have no exclusive rights in relation to providing the Authorised Services at the Airport Site. We have the right, at all times, to make arrangements with others regarding the provision of the Authorised Services at the Airport Site.

Part G: Other Charges

7. Costs

7.1 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 ANZ 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 directions

- 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 including obtaining approvals, consents or permissions from any Authority relating to these matters.
- 9.2 You must comply with all of our directions and requests in respect of your use of the Airport Site, the Authorised Services and/or this Licence.
- 9.3 You must be authorised under the point to point transport law in NSW.

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 You must not verbally or physically abuse any of Our Employees and 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 the policies of insurance required to be effected under clause 11.2 are held with a reputable insurer.
- 11.4 You must ensure that all the above insurance policies have no exclusions, endorsements or alterations, unless first approved by us in writing.
- 11.5 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.
- 11.6 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 unconditionally and irrevocably indemnify us and Our Employees and Agents against all actions, demands, liability, loss, damage or costs (including legal costs on a full indemnity basis) incurred or suffered directly or indirectly in connection with:
- (a) your acts and omissions or the acts and omissions of Your Employees and Agents; or
 - (b) a breach of this Licence by you; or
 - (c) the use of the Airport Site by you or Your Employees and Agents.
- 13.2 We may enforce an indemnity before incurring an expense. You must pay amounts owed to us under this indemnity on demand.
- 13.3 You release us and agree that we are not liable for any action, demand, liability, loss, damage or cost occurring directly or indirectly in connection with the use of the Airport Site by you or Your Employees and Agents, however caused.
- 13.4 Part I is a continuing obligation and survives transfer, expiry or termination of this Licence.

Part J: Our Obligations and Rights

14. Reservation of Rights

- 14.1 You only have a personal, non-exclusive 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 your compliance with this Licence (including compliance with all of our directions), we will not interfere with your reasonable use and enjoyment of the Roads, the Car Park, the Holding Area and Pick Up and Drop Off Zones at the Airport Site during the Term of this Licence.

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 Holding Area and/or the Pick Up and Drop Off Zones at any time for any reason.
- 15.3 Any consent or approval given by us under this Licence is not effective unless it is in writing.

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; or
- (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 and 3.2 (Licence Fee);
- (c) clause 5 (Rules Relating to Your Access Cards);
- (d) clause 6 (Performance of Authorised Services);
- (e) clause 9 (Compliance with Laws and our directions);
- (f) clause 10 (Use of Airport Site);
- (g) clause 11 (Risk and Insurance);
- (h) clause 13 (Release and Indemnity);

16.3 Without limiting our rights, if this Licence is ended under clause 16.1, we may recover all money payable according to this Licence up to the date this Licence is terminated.

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 your Vehicle Identification Card and remove your Vehicles and any other of your equipment or property from the Airport Site.

Part L: Bond

19. Bond

- 19.1 Not applicable

Part M: Guarantor

20. Liability of Guarantor

- 20.1 Not applicable

Part N: General Matters

21. Notices

- 21.1 A notice required by this Licence must be in writing.

- 21.2 We may serve a notice 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; or
- (iii) emailing it to the email address set out on the details page.

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

22. Assignment

- 22.1 We may assign or otherwise deal with this Licence or a right under this Licence without your consent. If we assign this Licence to a new licensor in accordance with this clause 22, we are released from any further obligations under the Licence on and from the date of assignment of this Licence.

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

22.3 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 22.2 applies to the assignment.

23. Entire Agreement

23.1 This Licence is the entire agreement between the parties concerning the subject matter and supersedes any previous agreement between the parties concerning the subject matter.

24. Governing Law

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

25. Individual and Joint liability

25.1 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.

26. Saturdays, Sundays or Public Holidays

26.1 Anything required to be done on a Saturday, Sunday or public holiday in New South Wales may be done on the next Business Day.

27. Employees and Agents

27.1 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.

28. Waiver

28.1 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.

29. Legal costs

29.1 Each party must pay its own costs of negotiating, preparing and executing this Licence.

30. Interpretation

- 30.1 When this Licence requires anything not to be done, this includes not allowing or permitting the thing to be done.
- 30.2 A word or expression in the singular includes the plural - and the plural includes the singular.
- 30.3 A person includes an individual and a corporation.
- 30.4 Examples are descriptive only, and not exhaustive.
- 30.5 No provision of this Licence will be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Licence or the inclusion of the provision in the Licence.
- 30.6 All monetary amounts are in Australian dollars, unless otherwise stated and a reference to payment means payment in Australian dollars.

Part O: Definitions

31. Meaning of Words

- 31.1 In this Licence:

“we”, “us” or “our” means Newcastle Airport Pty Limited ABN 30 060 254 542; and

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

- 31.2 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;

“ANZ Indicator Lending Rate” means the rate ordinarily charged by ANZ 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 ANZ Indicator Lending Rate;

“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 in accordance with this Licence; or
- (b) dropping off passengers in accordance with this Licence;

(c) conducting any Commercial activity to or from or on the Airport Site

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

"Business Day" means a day that is not a Saturday, Sunday or public holiday in Sydney, New South Wales.

"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 us which allows a particular Vehicle to have access to the Car Park for the purpose of performing the Authorised Services;

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

"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;

"Holding Area" means the area for vehicles to temporarily hold as identified in the plan attached to Part Four;

"Item" means an item in the Licence;

"Licence" means Part 1: Details Page, Part 2: Licence Memorandum, Part 3: Special Conditions, Part 4: Holding Area, Pick Up and Drop Off Zones and Car Park, Part 5: Execution Page;

"Licence Fee" means the amount set out in Item 8;

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

"Pick Up" means temporarily stopping to allow and assist a person to enter the Vehicle;

"Pick Up and Drop Off Zones" means the areas for Vehicles to Pick Up and to Drop Off passengers identified in the plan attached to Part Four (please note these areas are separate with the area for Pick Up located at the Arrivals end of the Terminal and the area for Drop Off located at the Departures end of the Terminal);

"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 under clause 5.2;

"Vehicle Identification Card" means a card or other identification issued by us which allows a particular Vehicle to have access to the Roads, the Car Park, the Holding Area and Pick Up and Drop Off Zones for the purpose of performing the Authorised Services; 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.

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PART THREE

SPECIAL CONDITIONS

These special conditions are part of this Licence between Newcastle Airport Pty Limited and the Licensee described in Item 2.

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 Site and that we have certain obligations in this regard. You agree to:

- (a) if required by us (or any person authorised by the Commonwealth of Australia) arrange security clearances for Your Employees and Agents;
- (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 No compensation is payable by us for a denial of access to the Airport Site under this clause.

3.4 Without limiting clause 13.3 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 Holding Area and/or the Pick Up and Drop Off Zones at our discretion at any time without paying you compensation.
- 4.2 Without limiting clause 13.3 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 relocation, replacement or repair of the Roads, Car Park, Holding Area and/or the Pick Up and Drop Off Zones.

5. No Guarantee of Trade

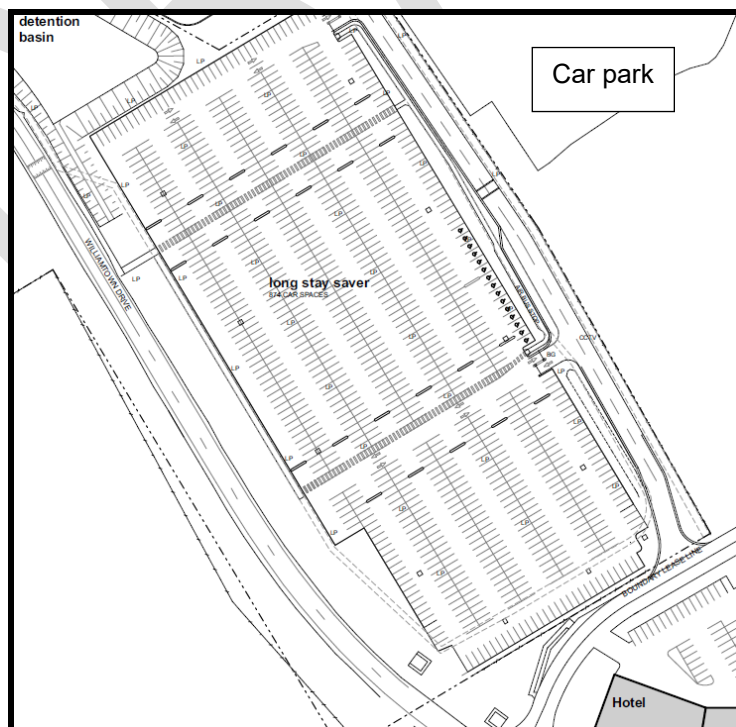
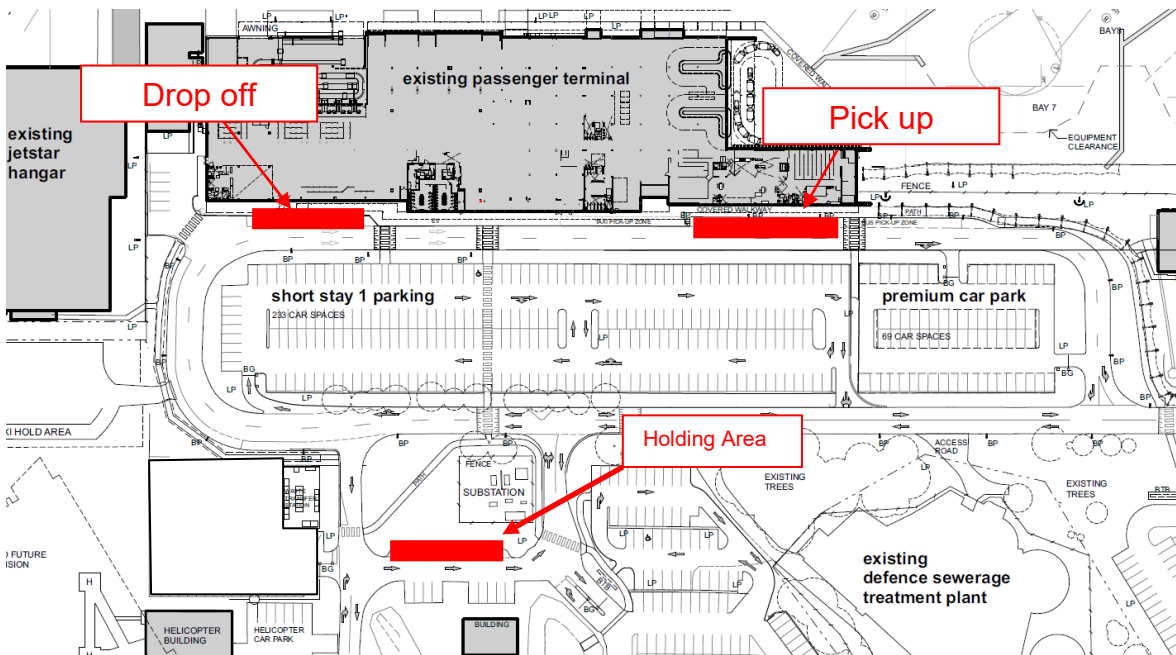
- 5.1 You represent and warrant that us and Our Employees and Agents have not made any guarantee or warranty about the value of trade or the volume of trade or passenger numbers, visitors or airline employees which you might reasonably expect now or in the future in conducting your business from the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

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Newcastle Airport Access Licence PART FOUR

HOLDING AREA, PICK UP AND DROP OFF ZONES AND CAR PARK

(NB: This location may change at our discretion)



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PART FIVE

EXECUTION PAGE

DATED:

EXECUTED AS A DEED

EXECUTED for and on behalf of
**NEWCASTLE AIRPORT PTY
LIMITED ACN 060 254 542** by its duly
authorised delegate in the presence
of:

.....
Signature of witness

.....
Signature of authorised delegate

.....
Full name of witness (print)

.....
Full name and title of authorised
delegate (print)

.....
Address of witness (print)

[Drafting Note: Use this execution clause for sole director companies.]

EXECUTED by **(INSERT COMPANY
AND ACN NUMBER)** in accordance
with section 127 of the Corporations
Act 2001 (Cth) by being signed by the
following officers:

.....
Signature of Sole director/secretary

.....
Name of Sole director/secretary (print)
(please print)

[Drafting Note: Use this execution clause for multiple director companies.]

EXECUTED by **[COMPANY NAME]**
ACN [] in accordance with
section 127 of the *Corporations Act*
2001 (Cth) by being signed by the
following officers:

.....
Signature of director

.....
Signature of director/company
secretary

.....
Name of director
(please print)

.....
Name of director/company secretary
(please print)

[Drafting Note: Use this execution clause for an individual.]

SIGNED by **[NAME]** in the presence
of:

.....
Signature of witness

.....
Signature of **[name]**

.....
Name of witness *(please print)*

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