

-
- (1) Council consents to the Assignment, acting reasonably;
 - (2) the proposed assignee enters into an document to the satisfaction of Council under which the assignee agrees to be bound by the terms of this document; and
 - (3) the Developer is not in breach of any terms of this document.

10 Review and amendment

10.1 Negotiation of review

If either party requests a review of the whole or any part of this document then the parties must use their best endeavours, acting in good faith, to review this document in accordance with that request.

10.2 Amendment to be in writing

If the parties agree to amend this document as a result of a review conducted under clause 10.1 then any such amendment must be made:

- (1) in writing signed by both parties;
- (2) in accordance with the Act, or any Regulations in force under the Act.

11 Dispute resolution

11.1 Notice of Dispute

If a party believes that there is a dispute in respect of this document (**Dispute**) then:

- (1) that party must give notice (**Dispute Notice**) in writing to the other party stating that there is a Dispute; and
- (2) the Dispute Notice must outline:
 - (a) what the party believes the dispute to be;
 - (b) what the party wants to achieve;
 - (c) what the party believes will settle the Dispute; and
 - (d) who will be the party's representatives to negotiate the dispute.

11.2 Consultation between the Representatives

Within fifteen (15) Business Days of a notice served in accordance with clause 11.1(1) the representatives (**Representatives**) of each of the parties must meet in order to resolve the Dispute.

11.3 Exclusivity of dispute resolution procedure

- (1) Both parties must adhere to the dispute resolution procedure set out in this document.
- (2) The only time that either party may depart from the dispute resolution procedure set out in this clause is when urgent interlocutory relief is required to restrain a breach or threatened breach of this document.

11.4 Settlement of Dispute

If the parties cannot resolve the Dispute after adhering to the dispute resolution procedure set out in this document then either party may seek any other avenues available to it in order to resolve the Dispute.

12 Position of Council

12.1 Consent authority

The parties acknowledge that Council is a consent authority with statutory rights and obligations pursuant to the terms of the Planning Legislation.

12.2 Document does not fetter discretion

This document is not intended to operate to fetter, in any unlawful manner:

- (1) the power of Council to make any Law; or
- (2) the exercise by Council of any statutory power or discretion,
(Discretion).

12.3 Severance of provisions

- (1) No provision of this document is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this document is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the parties agree:
 - (a) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 12 is substantially satisfied;
 - (b) in the event that paragraph (1)(a) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this document has full force and effect; and
 - (c) to endeavour to satisfy the common objectives of the parties on relation to the provision of this document which is held to be an unlawful fetter to the extent that it is possible having regard to the relevant court judgment.
- (2) Where the Law permits Council to contract out of a provision of that Law or gives Council power to exercise a Discretion, then if Council has in this document contracted out of a provision or exercised a Discretion under this document, then to the extent of this document is not to be taken to be inconsistent with the Law.

12.4 No obligations

Nothing in this document will be deemed to impose any obligation on Council to exercise any of its functions under the Act in relation to the Development Consent, the Land or the Development in a certain manner.

13 Confidentiality

13.1 Document not Confidential

The terms of this document are not confidential and this document may be treated as a public document and exhibited or reported without restriction by any party.

13.2 Other Confidential Information

- (1) The parties acknowledge that:
 - (a) Confidential Information may have been supplied to some or all of the parties in the negotiations leading up to the making of this document; and
 - (b) The parties may disclose to each other further Confidential Information in connection with the subject matter of this document.
 - (c) Subject to paragraphs (2) and (3), each party agrees:
 - (i) not to disclose any Confidential Information received before or after the making of this document to any person without the prior written consent of the party who supplied the Confidential Information; or
 - (ii) to take all reasonable steps to ensure all Confidential Information received before or after the making of this document is kept confidential and protected against unauthorised use and access.
- (2) A party may disclose Confidential Information in the following circumstances:
 - (a) in order to comply with the Law, or the requirements of any Authority; or
 - (b) to any of their employees, consultants, advisers, financiers or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers or contractors undertake to keep the information confidential.
- (3) The obligations of confidentiality under this clause do not extend to information which is public knowledge other than as a result of a breach of this clause.

14 GST**14.1 Defined GST terms**

Defined terms used in this clause 14 have the meaning ascribed to them in the GST Law.

14.2 GST to be added to amounts payable

- (1) If GST is payable on a Taxable Supply made under, by reference to or in connection with this document, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration.
- (2) This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.
- (3) Unless otherwise expressly stated, prices or other sums payable or Consideration to be provided under or in accordance with this document are exclusive of GST.

14.3 GST obligations to survive termination

This clause 14 will continue to apply after the expiration or earlier termination of this document.

15 Default in performance

15.1 Events of Default

The Developer commits an **Event of Default** if:

- (1) it breaches a term of this document; or
- (2) fails to comply with the terms and conditions of the Development Consent.

15.2 Consequences of Events of Default

Where the Developer commits an Event of Default, Council may serve a notice on the Developer requiring the relevant breach to be rectified within ten (10) business days of the date of that notice.

15.3 No restriction on rights

The rights vested in Council pursuant to clause 15.2 do not prevent Council from exercising any other rights that it may possess at law.

15.4 Termination

This document terminates in the event Council serves notice on the Developer terminating this document where the Developer has failed to comply with a notice issued in accordance with 15.2.

15.5 Consequence of termination

Upon termination of this document:

- (1) all future rights and obligations of the parties are discharged; and
- (2) all pre-existing rights and obligations of the parties continue to subsist.

16 Miscellaneous

16.1 Obligation to act in good faith

The parties must at all times:

- (1) cooperate and use their best endeavours to profitably and professionally give effect to their rights and obligations set out in this document;
- (2) not unreasonably delay any action, approval, direction, determination or decision which is required of them;
- (3) make approvals or decisions that are required of them in good faith and in a manner consistent with the completion of the transactions set out in this document; and
- (4) be just and faithful in their activities and dealings with the other parties.

16.2 Legal costs

The Developer agrees to:

- (1) pay or reimburse the reasonable legal costs and disbursements of Council of the negotiation, preparation and execution of this document;

-
- (2) pay the reasonable legal costs and disbursements referred to in paragraph (1) within fourteen (14) days of receipt of a tax invoice from Council; and
 - (3) pay or reimburse the legal costs and disbursements of Council arising from the ongoing administration and enforcement of this document including any breach or default by the Developer of its obligations under this document.

17 Administrative provisions

17.1 Notices

- (1) Any notice, consent or other communication under this document must be in writing and signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:
 - (a) delivered to that person's address;
 - (b) sent by pre-paid mail to that person's address; or
 - (c) transmitted by facsimile or other electronic means to that person's address.
- (2) A notice given to a person in accordance with this clause is treated as having been given and received:
 - (a) if delivered to a person's address, on the day of delivery if a Business Day, otherwise on the next Business Day;
 - (b) if sent by pre-paid mail, on the third Business Day after posting; and
 - (c) if transmitted by facsimile or other electronic means to a person's address and a correct and complete transmission report is received, on the day of transmission if a Business Day, otherwise on the next Business Day.
- (3) For the purpose of this clause the address of a person is the address set out in this document or another address of which that person may from time to time give notice to each other person.

17.2 Entire agreement

This document is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this document.

17.3 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

17.4 Cooperation

Each party must sign, execute and deliver all agreements, documents, instruments and act reasonably and effectively to carry out and give full effect to this document and the rights and obligations of the parties under it.

17.5 Counterparts

This document may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

17.6 Amendment

This document may only be amended or supplemented in writing signed by the parties.

17.7 Unenforceability

Any provision of this document which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.

17.8 Power of Attorney

Each attorney who executes this document on behalf of a party declares that the attorney has no notice of:

- (1) the revocation or suspension of the power of attorney by the grantor; or
- (2) the death of the grantor.

17.9 Governing law

The law in force in the State of New South Wales governs this document. The parties:

- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this document; and
 - (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.
-

**Schedule 1:
Defined terms and interpretation**

Part 1 – Definitions

Act	means the <i>Environmental Planning and Assessment Act 1979</i> (NSW).
Assign or Assignment	as the context requires refers to any assignment, sale, transfer, disposition, declaration of trust over or other assignment of a legal and/or beneficial interest.
Authority	means (as appropriate) any: <ol style="list-style-type: none"> (1) federal, state or local government; (2) department of any federal, state or local government; (3) any court or administrative tribunal; or (4) statutory corporation or regulatory body.
Confidential Information	means any information and all other knowledge at any time disclosed (whether in writing and orally) by the parties to each other, or acquired by the parties in relation to the other's activities or services which is not already in the public domain and which: <ol style="list-style-type: none"> (1) is by its nature confidential; (2) is designated, or marked, or stipulated by either party as confidential (whether in writing or otherwise); (3) any party knows or ought to know is confidential; or (4) is information which may be reasonably considered to be of a confidential nature.
Development	means the Development proposed to be undertaken by the Developer on the Land as described in the Development Application.
Development Application	means Development Application No 590/2012 lodged with Council by the Developer, as modified from time to time.
Development Consent	means a development consent issued under the Act for the Development.
GST Law	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and any other Act or regulation relating to the imposition or administration of the GST.
Land	means the land contained in certificate of title folio identifier 266/2475 and known as Flynn Avenue, Middleton Grange.
Law	means all legislation, regulations, by-laws, common law and other binding order made by any Authority.

Monetary Contribution	means \$31,804.00.
Planning Legislation	means the Act, the <i>Local Government Act 1993</i> (NSW) and the <i>Roads Act 1993</i> (NSW).
Subdivision Certificate	means any subdivision certificate for the Development issued under section 109C(1)(d) of the Act.

Part 2 - Interpretational Rules

clauses, annexures and schedules	a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document.
reference to statutes	a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
singular includes plural	the singular includes the plural and vice versa.
person	the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association or any government agency.
executors, administrators, successors	a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns.
dollars	Australian dollars, dollars, \$ or A\$ is a reference to the lawful currency of Australia.
calculation of time	if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
reference to a day	a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
accounting terms	an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.
reference to a group of persons	a group of persons or things is a reference to any two or more of them jointly and to each of them individually.
meaning not limited	the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
next day	if an act under this document to be done by a party on or by a given day is done after 4.30pm on that day, it is taken to be done on the next day.
next Business Day	if an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

time of day	time is a reference to Sydney time.
headings	headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.
agreement	a reference to any agreement, deed or instrument includes the same as varied, supplemented, novated or replaced from time to time.

**Schedule 2:
Requirements under section 93F of the Act**

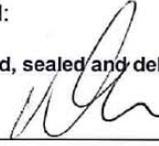
Requirement under the Act	This Planning Agreement
<p>Planning instrument and/or development application – (Section 93F(1) of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a Development Application.</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) No</p> <p>(b) Yes</p> <p>(c) No</p>
<p>Description of land to which this document applies – (Section 93F(3)(a) of the Act)</p>	<p>the land contained in certificate of title folio identifier 266/2475 and known as Flynn Avenue, Middleton Grange.</p>
<p>Description of change to the environmental planning instrument to which this document applies – (Section 93F(3)(b) of the Act)</p>	<p>Not applicable.</p>
<p>Application of section 94 of the Act – (Section 93F(3)(d) of the Act)</p>	<p>Refer to clause 4 of the Planning Agreement.</p>
<p>Applicability of section 94A of the Act – (Section 93F(3)(d) of the Act)</p>	<p>Refer to clause 4 of the Planning Agreement.</p>
<p>Consideration of benefits under this document if section 94 applies – (Section 93F(3)(e) of the Act)</p>	<p>Refer to clause 4 of the Planning Agreement.</p>
<p>Mechanism for Dispute resolution – (Section 93F(3)(f) of the Act)</p>	<p>Refer to clause 11 of the Planning Agreement.</p>
<p>Enforcement of this document (Section 93F(3)(g))</p>	<p>Refer to clause 5 and 9 of the Planning Agreement.</p>
<p>No obligation to grant consent or exercise functions – (Section 93F(3)(9))</p>	<p>Refer to clause 12 of the Planning Agreement.</p>

Execution page

Executed as a deed

Dated:

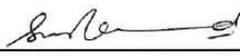
Signed, sealed and delivered by the Developer in the presence of:



Witness (Signature)

DOMENIC UKIHO

Name of Witness (Print Name)

Developer (Signature)

SUSHIL K. ANAND

Name of Developer (Print Name) ^{Agent}
Six central and P/L

MADHU LAL

Signed, sealed and delivered by Liverpool City Council by its duly constituted Attorney [insert name] pursuant to the registered Power of Attorney Book [insert details] No [insert details] in the presence of:

Witness (Signature)

Attorney (Signature)

Name of Witness (Print Name)

Name of Attorney (Print Name)

LIVERPOOL CITY COUNCIL

CITY PLANNING REPORT

ORDINARY MEETING

28/11/2012

ITEM NO:	PLAN 08	FILE NO:	2011/5948
SUBJECT:	ADOPTION OF LIVERPOOL DEVELOPMENT CONTROL PLAN 2008 AMENDMENT NO 8 - WARWICK FARM EAST		
COMMUNITY STRATEGIC PLAN REFERENCE:	DECISION MAKING PROCESSES ARE TRANSPARENT AND THE COMMUNITY HAS OPPORTUNITIES TO BE INVOLVED		

EXECUTIVE SUMMARY:

In accordance with Council's resolution dated 25 June 2012, and the recommendations of the Strategic Review of the Warwick Farm Horse Training Precinct, Council publicly exhibited an amendment to Liverpool Development Control Plan 2008 (LDCP 2008) from 12 September to 12 October 2012.

The subject amendment, Draft Amendment No.8 Warwick Farm East, acknowledges the sensitive and mixed range of existing land uses in the precinct and seeks to provide provisions to minimise the potential impacts that arise as a result of future development.

The purpose of this report is to inform the Council of the submissions arising out of the public exhibition of the draft amendment.

It is recommended that Council adopt the amendments as discussed in this report to closer regulate future development in the area.

DETAILED REPORT:

The main purpose of this report is to inform Council of the outcomes of the public exhibition of draft DCP amendment 8 - Warwick Farm East.

Draft amendment 8 seeks to better manage development of the land within the Warwick Farm East precinct. The aims of the draft controls are to provide guidelines for all development within the precinct to consider when preparing development applications. It is noted that these controls cannot be applied retrospectively to existing approved uses and therefore will only impact on new developments with view to mitigating future impacts.

Subject site

The subject area of the proposed DCP amendment is shown in Figure 1 (below). The area includes the land at Warwick Farm east of the rail line including the land bound by the Hume Highway, Governor Macquarie Drive, west of the Sydney Water lands and north of the Georges River. The subject area also includes Rosedale Park and the Industrial Lands at Priddle and Scrivener Streets.

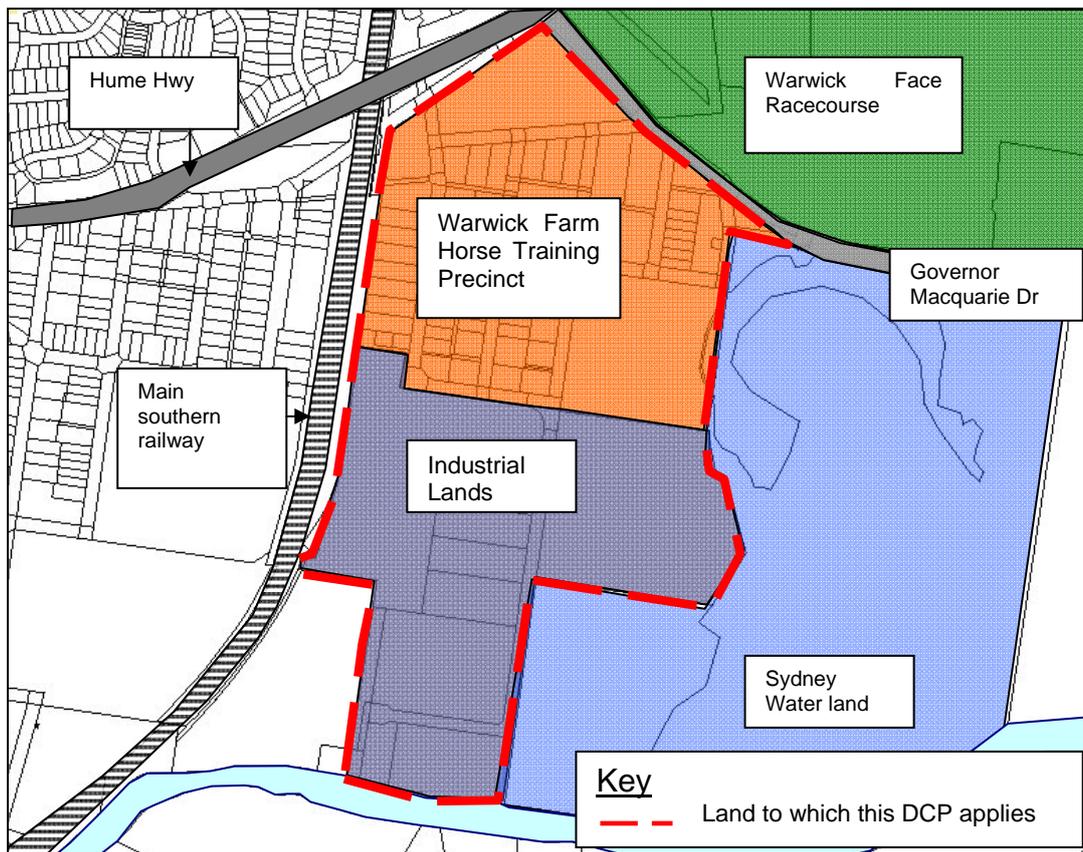


Figure 1 – Land to which this DCP applies

Background

The Warwick Farm Racecourse has been in operation since 1889 and is a major sporting facility that serves a regional catchment. The suburb of Warwick Farm (East) has long been associated with the horse racing industry and a large number of residential properties contain horse stabling. The residential portion of the Warwick Farm Training Precinct allows for development directly related to the horse racing industry, including stables, veterinary and equestrian services and racehorse training in combination with residential uses. Horse racing and associated activities are major tourist attractions and provide recreational areas and employment for the community.

The Warwick Farm Horse Training Precinct provides a concentration of horse racing facilities and services, including training facilities, horse stables and accommodation for persons engaged in horse racing activities and associated services.

In the 1970s the State government permitted industrial development to the south of the Warwick Farm Horse Training Precinct, which has resulted in a unique situation where residential developments, the equine industry and industrial development is in close proximity and using the same road network.

The Strategic Review of the Warwick Farm Horse Training Precinct (Strategic Review)

Council resolved at its meeting of 17 October 2011, to undertake a strategic review of the Warwick Farm Horse Training Precinct to investigate land use conflicts, traffic safety, pedestrian safety and to receive a further report detailing the outcomes of the strategic review.

At its meeting held on 19 December 2011, Council considered a report outlining the first stage of the Strategic Review and resolved to receive a further report detailing the outcomes of the community consultation process and possible solutions to the issues in the horse training and industrial precinct of Warwick Farm.

At its meeting held on 25 June 2012, Council resolved to adopt the Strategic Review which included a number of recommendations associated with reducing the conflicts within the precinct. The recommendations of that review are listed below (Figure 2).

<p>That Council:</p> <ol style="list-style-type: none"> 1. Receives a further report which responds to the issues and suggestions in the report tabled by Mr Mauro Poletti. 2. Adopts the Warwick Farm Strategic Review and actions the recommendations of the review. 3. Notes the outcomes of the community consultation. 4. Prepares a Local Area Traffic Management Plan that will address parking issues, speed limits, signage, truck driver training and the possible bypass road. 5. Prepares an amendment to the Liverpool Development Control Plan 2008 to introduce controls which address land use conflicts between horse trainers, residential and industrial land uses. 6. Continues to provide enforcement and manage inappropriate activities, and operation of business outside of conditions of consent within the Warwick Farm Training Precinct. 7. Prepares and sends a letter to Liverpool Police requesting increase policing of speed limits within the Warwick Farm Training Precinct, in particular Manning and Munday Streets. 8. Notes that additional community consultation will occur with the exhibition of the draft amendment to the Development Control Plan and the Local Area Traffic Management Plan. <p>On being put to the meeting the amendment was declared CARRIED.</p> <p>The amendment became the motion and the motion was CARRIED.</p> <p>Councillors voted unanimously for this motion.</p>
--

Figure 2 – Recommendations from the Strategic Review

Actions Completed To Date

Council officers have undertaken the following actions as a result of the above list of recommendations;

1. At the Council meeting 23 July 2012, Council received a report responding to issues raised by Mr Mauro Poletti.
2. At the meeting of 25 June 2012 Council adopted the Warwick Farm Strategic Review, no further action was required.
3. Council noted the outcomes of the community consultation as part of the Strategic Review, no further action was required.
4. Council has initiated the first stages of the Local Area Traffic Management (LATM) Plan. The first stages are to be considered by the Local Traffic Committee (LTC) and will be reported to Council early next year. Features of the LATM were discussed at the LTC meeting on 7 November 2012.
5. This report is provided to evaluate issues arising out of the public exhibition of the draft amendment to LDCP 2008.
6. Council Enforcement Officers continue to provide patrols of the area, targeting both illegal parking and breaches in relation to use. Targeted enforcement has occurred with external agencies i.e. Police, RMS and Department of Fair Trading. A number of investigations are pending legal action.
7. On 12 July 2012 Council sent a letter to Liverpool Police requesting increased policing of speed limits within the Warwick Farm Training Precinct. Council are advised that increased policing of speed limits has occurred as a result of Council's letter.
8. Council has publicly exhibited the draft amendment to the LDCP 2008 and this report outlines comments received. In regards to the LATM refer to dot point 4 above.

Alternative Road Access

Council resolved at its meeting on 29 August 2011 to investigate an alternative road access to industrial properties around the horse training precinct.

The results of the investigation were reported to the 26 March 2012 Council meeting. It was found that the cost of the alternative road access was too expensive for Council to fund. In accordance with Resolution 1 (of that meeting) the General Manager wrote to three State Ministers being The Hon Duncan Gay, MLC, Minister for Roads and Ports, The Hon Gladys Berejiklian MP, Minister for Transport, and The Hon George Souris MP, Minister for Tourism, Major Events, Hospitality and Racing and the Premier of NSW The Hon Barry O'Farrell.

On 10 September 2012, Council received a letter from The Hon Duncan Gay stating Transport for NSW is unable to contribute funding for the by-pass road. It was stated however that Council should apply for funding through both State and Federal funding schemes. These have been considered by Council's engineering staff.

Background to Draft Liverpool Development Control Plan (Amendment No 8)

As part of the public consultation of the Strategic Review a number of themes were raised regarding the land use conflicts, these included:

- Pedestrian and horse safety due to large traffic volumes;
- Driver behaviour, including speeding and dangerous driving;
- Amenity issues, particularly excessive noise;
- On street parking related to Warwick Farm Station and the industrial area; and
- Properties operating outside their conditions of consent.

As a result of the submissions received during the public consultation of the Strategic Review the recommendation below was supported by Council on 25 June 2012.

It is the recommendation of this review that the following actions be taken:

1. *Prepare an amendment to the Liverpool Development Control Plan 2008 to address land use conflicts between horse trainers, residential and industrial land uses.*

The draft amendment to the Liverpool Development Control Plan 2008 will include guidelines for driver behaviour for all professional vehicle drivers entering the precinct, guidelines for hours of operation for properties in the area, guidelines for equine development proposals.

In accordance with the above resolution, draft development controls were prepared and placed on public exhibition (attachment 2).

Draft Development Controls

The draft controls have been developed to address the main concerns that arose as part of the public consultation of the Strategic Review. The draft controls have been categorised into *General Controls* which apply to all development applications as well as controls specific for particular zones.

The draft amendment includes controls relating to:

- Noise impacts (proposed developments must comply with NSW Environmental and Protection Authority Noise Criteria);
- Submission requirements (all developments must outline their proposed operation including mechanical operations, hours of operation, deliveries and vehicle movements);
- All developments must submit an Environmental Management Plan;
- Restricted Hours of Operation (including deliveries); and
- Driver Behaviour Guidelines and Training.

The draft controls will not resolve the existing land use conflicts within the precinct; they will however provide controls that will reduce the impacts of new development on the amenity of the residential area and equine industry.

The LATM plan will make recommendations to address the existing traffic conflicts in the area.

Community Consultation

LDCP 2008 (Draft Amendment No. 8) was publicly exhibited for 30 days, from 12 September to 12 October 2012.

A written notice of the public exhibition was placed in the local newspaper and on Council's website. The public exhibition material was also made available for viewing at Liverpool City Council (including Council's website) and Liverpool City Library. Council staff were available to answer customer enquiries over the phone or in person.

Public Exhibition outcomes

Written submissions

Council received four submissions during the public exhibition period while another three submissions were received after the exhibition period closed. The three late submissions have been included within the public submission table and addressed as part of this report. The main issues are listed below;

- Restricted hours are inappropriate on land zoned for industrial purposes;
- The proposed controls are inconsistent with the Draft Subregional Strategy;
- A bypass road could resolve the longstanding land use conflicts;
- The draft DCP controls are short term solutions;
- The traffic problem is a Work, Health and Safety issue for the equine industry; and
- Hours of operation should be further restricted on Sundays.

A summary of Council's responses to the issues are summarised in Table 1.

Table 1 – Response to Issues raised

Issue	Restricted hours are inappropriate on land zoned for industrial purposes
Council Comment	The draft development controls for the precinct are aimed at limiting the impact of future development on the residential receivers and equine industry by restricting the hours of operation and deliveries. It is acknowledged within the report that the controls cannot be applied retrospectively to valid development consents. It is also noted that these are DCP controls and can be varied with justification. Council would consider on a case by case basis specific mitigation measures as part of a development assessment process.
Issue	The proposed controls are inconsistent with the Draft Subregional Strategy because this is a Category 1 industrial Precinct and should be allowed to develop.
Council Comment	The Subregional Strategy states that the site does have poor vehicle access. The subregional strategy fails to state that the vehicles travelling to the industrial precinct must do so through a residential zone including an equine industry. Due to the existing land use conflicts and safety issues council has drafted controls that attempt to limit the impacts from future development.
Issue	A bypass road could resolve the longstanding land use conflicts

Comment	Council investigated an alternative road access for industrial properties around the horse training precinct. The results of the investigation were reported to the Council meeting of 26 March 2012. The investigation found that the cost of the alternative road access was too expensive for Council to fund. Council is investigating a LATM plan which will recommend improvements to the local areas.
Issue	The draft DCP controls are short term solutions
Comment	The draft development controls for the precinct are aimed at limiting the impact of future developments on the residential and equine industry by proposing a number of controls. The controls address noise, hours of operation and deliver, etc with a view to mitigating impacts.
Issue	The traffic problem is a Work, Health and Safety issue for the equine industry
Comment	Agreed, the draft development controls for the precinct are aimed at limiting the impact of future developments on horse training precinct. A Local Area Traffic Management plan is being drafted, with one of the objectives of the plan is to improve safety and reduce the current conflicts.
Issue	Hours of operation should be further restricted on Sundays
Comment	The restriction of hours of operation aim to limit the impact of future developments on the residential and equine industry. The DCP proposes operation between 8am - 6pm, allowing reasonable access to the industrial uses and is consistent with the provisions of the NSW Industrial Noise Policy.

A full summary of all the submissions raised have been addressed in the Submissions Evaluation Table in Attachment 3.

Conclusion

The Warwick Farm Horse Training Precinct is unique and there is a need to provide development controls within this area in an attempt to limit land use conflicts arising from future development in the area.

All submissions in respect to the draft plan have been assessed. It is considered that the draft controls appropriately address the relevant concerns and manage future development in the area. It is clear from the submissions received that there are ongoing land use conflicts between the Industrial and the horse training precinct.

It is noted that development controls restricting hours of operation in the industrial area do not restrict movement of vehicles on public roads. If conditions of the Warwick Farm Horse Training Precinct were to change (such as an alternative road created) in the future, the controls relating to hours of operation could be reviewed.

It is recommended that Council adopt LDCP 2008 (Amendment No.8) and with the plan to come effective as at the date a notification is placed in a local newspaper.

FINANCIAL IMPLICATIONS:

There are no financial implications arising from the recommendations within this report.

RECOMMENDATION:

That Council:

1. Adopts the amendments to the Liverpool Development Control Plan 2008.
2. Places a notice in the local paper in accordance with Clause 21 of the Environmental Planning and Assessment Regulation 2000 to enact the amendment.

SIGNED BY:

Milan Marecic
Director
City Planning

- Attachments:**
1. Letter from Duncan Gay, Minister for Roads and Ports
 2. Draft LDCP 2008 Am 8
 3. Submissions Evaluation Table

Attachment 1: Letter from Duncan Gay

Office of the Hon. Duncan Gay MLC
 Deputy Leader of Government in the Legislative Council
 Minister for Roads and Ports

Your Ref: 060895.2012
 ML12/03148

Received by

10 SEP 2012

Archives & Records

Ms Julie Hatley
 Acting General Manager
 Liverpool City Council
 Locked Bay 7064
 LIVERPOOL BC NSW 1871

Dear Ms Hatley

Thank you for your letter to the Minister for Roads and Ports requesting funding assistance for the construction of a bypass road to the Warwick Farm Horse Trainer Precinct. The Minister has asked me to respond on his behalf. I note you have also written to the Minister for Transport and I trust you will accept this response to both approaches.

While I understand the specific history and development of the Warwick Farm area and appreciate the task of managing diverse traffic accessing Warwick Farm Racecourse, Warwick Farm Industrial Precinct and nearby Liverpool Hospital, Transport for NSW must assess the delivery of road infrastructure against competing projects across the State.

As you are aware, the management of local roads in the Warwick Farm area rests with Liverpool City Council. This includes the creation, upgrading and extension of bypass roads. Accordingly, Transport for NSW advises it is unable to contribute funding for this proposal.

However, I encourage Council to consider seeking funding assistance through the Local Infrastructure Renewal Scheme, recently announced by the Minister for Local Government, the Hon Don Page MP. Councils with ailing infrastructure will benefit from this five-year \$70 million scheme which pays the first 4 per cent of the interest on significant loans they have taken out to pay for the maintenance of infrastructure projects, including roads.

The Scheme is expected to unlock between \$750 million and \$1 billion in infrastructure spending by local councils in NSW. This will help councils reduce the vast backlog of infrastructure projects in their local communities. The Local Infrastructure Renewal Scheme is administered by the Division of Local Government and further information is available at www.dlg.nsw.gov.au.

Other funding avenues you may well be aware of include assistance available through Federal Financial Assistance Grants and the Roads to Recovery Program. Information on both schemes is available at: www.regional.gov.au/local/assistance.

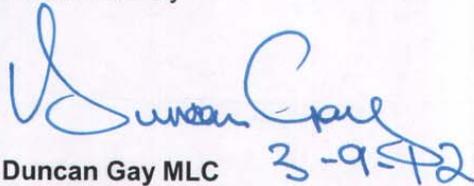
- 2 -

Your Ref: 060895.2012
ML12/03148

Transport Programs and Planning at Transport for NSW has also suggested a number of traffic calming measures for Council's consideration. These include the installation of speed humps, kerb blisters, pedestrian crossings and the reduction of the speed limit to 40 kilometres per hour. As well as improving road safety, these measures would help discourage local road users from using the precinct as a shortcut to the Hume Highway.

I hope this has been of assistance. Should you require more information, please contact Mr Steve Enticott, General Manager, Transport Planning, Transport for NSW, on (02) 8202 2659.

Yours sincerely



Duncan Gay MLC 3-9-12
Deputy Leader of Government in the Legislative Council
Minister for Roads and Ports

Attachment 2 - Draft LDCP 2008, Am 8

DRAFT

Liverpool Development Control Plan 2008 (Draft Amendment No.8)

##. Warwick Farm East

Applies to

This section applies to land as shown outlined in red in Figure X below east of the southern railway and west of Sydney Water's Liverpool Wastewater Treatment Plant at Warwick Farm.

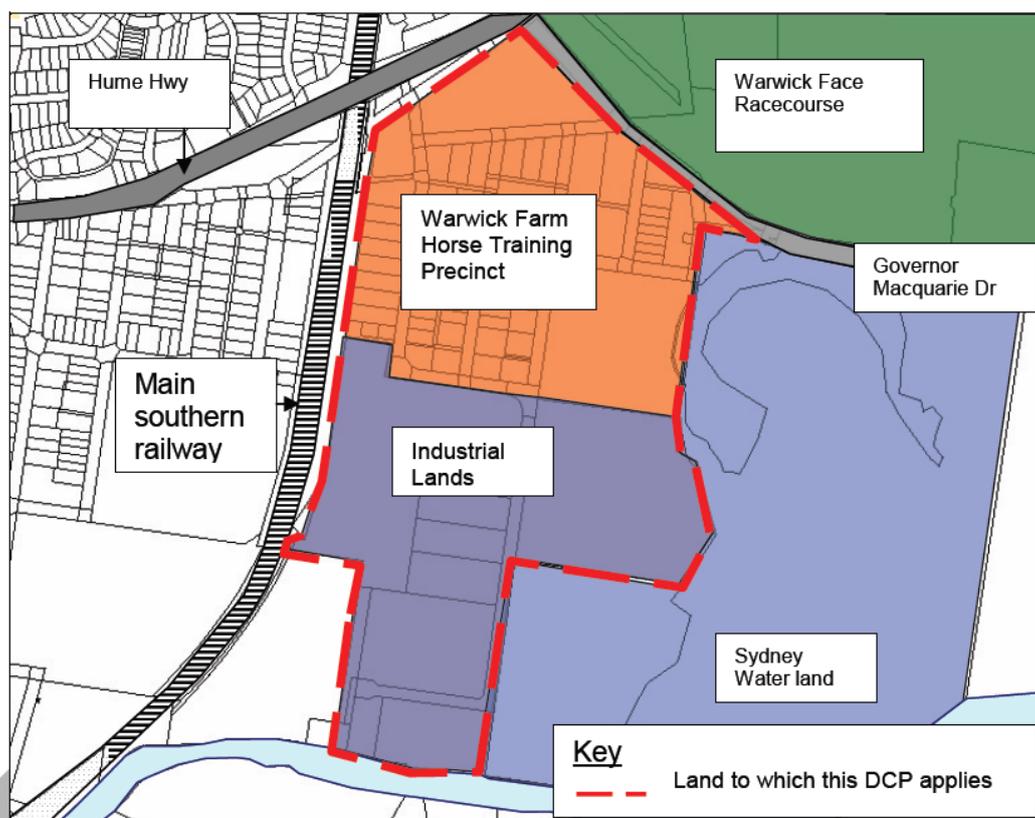


Figure X – Land to which this DCP applies

Background

The Warwick Farm Racecourse has been in operation since 1889 and is a major sporting facility that serves a regional catchment. The suburb of Warwick Farm has long been associated with the horse racing industry and a large number of residential properties have horse stabling on site. The preferred land uses within the Warwick Farm Training Precinct are for development directly related to the horse racing industry, including stables, veterinarian and equestrian services and racehorse training in combination with residential uses. Horse racing and associated activities are major tourist attractions and provide recreational areas and employment for the community.

The Warwick Farm Training Precinct provides a concentration of horse racing facilities and services, including training facilities, horse stables and accommodation for persons engaged in horse racing activities and associated services. It is envisaged that with the Australian Turf Club proposed investment into the race course there will be a positive flow on effect into the training precinct.

In the 1970s the State government permitted industrial development to the south of the Warwick Farm training precinct, which has resulted in a unique situation of residential developments, equine industry and industrial development in close proximity and utilising the same road network.

This part of the DCP provides direction and controls which seek to manage the land use conflicts within this precinct and enable residential developments, the equine industry and industrial and commercial development to co-exist.

Although the land bound by Hume Highway, Governor Macquarie Drive, Munday Street, Manning Street and Warwick Street is zone for commercial purposes it is considered as part of the Warwick Farm Horse Training Precinct for purposes of assessing environmental and amenity impacts.

Objectives

- a) To recognise the significance of the equine industry in this location.
- b) To ensure that the use and development of all land within the area complements residential use of the land and in turn supports the equine industry.
- c) To ensure that negative impacts of neighbouring industrial developments are appropriately managed and that land use conflicts that arise due to the passage of industrial traffic through a residential and equine related area are minimised.

General Controls

1. All proposed developments must comply with applicable NSW Environmental Protection Authority (EPA) noise criteria. Premises must comply with the NSW EPA "NSW Industrial Noise Policy" (or any other applicable policies). This policy specifies recommended noise criterion in order to protect the community from excessive intrusive noise and preserve the amenity of specific land uses.
2. Documentation demonstrating compliance with the above policies and criteria are to be lodged with all applications that are considered to generate noise that may impact on residential properties.
3. Assessment of noise must consider:
 - i. all on site operations, including manoeuvring of vehicles and machinery on site,
 - ii. any noise generated as a result of vehicular movements to or from the site on residential neighbours, and
 - iii. any other noise impacts
4. Details of the proposed operation including, mechanical operations, potential deliveries, vehicle movements, and hours of operation must be provided for all development applications.
5. All proposed developments submitted to Council must submit an Environmental Management Plan (EMP). The EMP shall identify all potential environmental issues on the site and provide a comprehensive and complete action and implementation plan to ensure that nearby residents and the environment are not unacceptably impacted by the proposed development.

The EMP should include but not necessarily be limited to the following:-

- i. Measures to control noise emissions from the site (including entering and leaving the site and travelling through the Warwick Farm training area.
- ii. Measures to control odours and dust emissions from the site;
- iii. Discussion of traffic routes to be utilised through the Warwick Farm training area to minimise residential impacts;
- iv. Measures to prevent, contain and divert water run-off from the site from entering Council's stormwater system – details required to be submitted include, wash bay areas (horse, float and truck), location of bunding, gross pollutant traps, disposal of waste, liquid trade waste agreements etc;
- v. Measures to treat water run off from the site to ensure suspended solids and nutrient levels are appropriately controlled.

Note: For minor development such as additions, alterations or swimming pools it will be at Councils discretion if an EMP is required.

Development of Business land north of Munday Street and Industrial Development in Scrivener and Priddle Streets, Warwick Farm

1. The maximum permitted hours of operation (including deliveries) are between the hours of 7am and 6pm Monday to Saturday, and 8am to 6pm Sundays.
2. The Statement of Environmental Effects shall address the zone objectives and DCP objectives for all development. For all applications for development that is considered to generate noise that may impact on residential properties, Council will require the submission of an Acoustic Report.
3. All new development proposed must limit the impacts of their development on existing residents and animal boarding or training establishments (stables). Details of measures undertaken to limit impacts are to be provided for all development applications.
4. For certain development Council may require Driver behaviour guidelines / training to educate drivers of the sensitive nature of the Warwick Farm Training Precinct. Further, a complaints handling procedure is to be implemented and monitored to ensure impacts are appropriately addressed in the operation of the development.

Note: Breaches of conditions of any development consent may lead to the service of Order by the Council, or Prosecution, or any other enforcement permitted action under the provisions of the Environmental Planning and Assessment Act 1979.

Residential / Equine Controls

1. On site employee parking shall be provided for employees on site.
2. Cleaning of trucks and horse floats must be undertaken on private property. Mud, manure, wood shavings or other material are not permitted to flow into the stormwater. Details of water treatment facilities are to be provided as part of the development application.

Note: Controls for Parking of Large trucks and vehicles in residential areas are located in Part 3.8 of Liverpool Development Control Plan 2008.

Attachment 3 - Submissions Evaluation Table

Submission No.	Issues Raised	Comment
1	<p>The proposed planning amendments will allow residential and commercial uses on the land surrounding our site.</p> <p>Any increase in the residential capacity or non industrial uses of the land surrounding our site will be detrimental to our business making Warwick Farm plant an unviable location for our operations or any future expansion or development.</p>	<p>The draft DCP amendment does not alter the existing land uses or propose new land uses.</p> <p>The proposed amendments to the DCP aim to minimise the land use conflicts between the various industrial, residential and equine related land uses at Warwick Farm (east of the railway line).</p> <p>There are no current plans to increase the residential density in the Warwick Farm Training Precinct. The subject draft development controls for the precinct are aimed at limiting the impact of future developments on the residential receivers and equine industry by restricting the hours of operation and deliveries.</p>
2	<p>Restricted hours are inappropriate on land zoned for industrial purposes and are unreasonably restrictive for normal manufacturing purposes.</p>	<p>The draft development controls for the precinct are aimed at limiting the impact of future developments on the residential receivers and equine industry by restricting the hours of operation and deliveries.</p> <p>It is acknowledged that the controls cannot be applied retrospectively to valid development consents. It is also noted that DCP controls can be varied with justification. Giving the sensitivity of this area it is advised that the proposed controls remain and only to be varied if justified as part of a development application. Council would consider on a case by case basis specific mitigation measures as part of a development assessment process.</p>

Submission No.	Issues Raised	Comment
2 (cont)	<p>Many of the businesses require the flexibility of unrestricted hours and operation.</p>	<p>The draft controls cannot be applied retrospectively to valid development consents. The restriction is to be applied to mitigate future negative impacts.</p>
	<p>The proposed controls in the amendment are inconsistent with, and run contrary to, State government objectives for the area expressed in the draft subregional strategy as they will undermine the continued use of the industrial area with the Warwick Farm East precinct for industrial and employment generating uses.</p>	<p>The draft development controls for the precinct are aimed at limiting the impact of future developments on the residential / equine industry by proposing a number of controls including the restriction on hours of operation and deliveries.</p> <p>The controls are precinct specific and have been developed to address the concerns of the local residents.</p>
	<p>With significant limitations on operation hours within this industrial area potential future businesses will not be able to operate effectively. This will result in large employment generations vacating the area and due to operational restrictions, new industrial businesses being unlikely to establish operations in the area. The resulting loss of employment in the area goes against the aims and intentions of the Draft Subregional Strategy, that is to retain the area as strategic employment lands.</p>	<p>The draft development controls for the precinct are aimed at limiting the impact of future developments on the residential / equine industry by proposing a number of controls including the restriction on hours of operation and deliveries.</p> <p>It is acknowledged that the controls cannot be applied retrospectively to valid development consents. It is also noted that DCP controls can be varied with justification. Giving the sensitivity of this area it is advised that the proposed controls remain and only to be varied if justified as part of a development application. Council would consider on a case by case basis specific mitigation measures as part of a development assessment process.</p> <p>The restriction reflects existing land use conflicts and responds to resident concerns. Further the restrictions in</p>