

## Greater Sydney, Place and Infrastructure

IRF20/3881

### Gateway determination report

<b>LGA</b>	Liverpool
<b>PPA</b>	Liverpool Council
<b>NAME</b>	Liverpool LEP Draft Amendment 81 – 240 Governor Macquarie Drive, Warwick Farm (500 homes, 5,000m <sup>2</sup> GFA retail/commercial space)
<b>NUMBER</b>	PP_2020_LPOOL_001_00
<b>LEP TO BE AMENDED</b>	Liverpool LEP 2008
<b>ADDRESS</b>	240 Governor Macquarie Drive, Warwick Farm
<b>DESCRIPTION</b>	Lot 1 DP 1162276 and parts of Manning and Munday Streets, Warwick Farm.
<b>RECEIVED</b>	13 March 2020, additional information received on: 31/3/20; 20/4/20; 5/5/20; and, 24/6/20
<b>FILE NO.</b>	IRF20/3881
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required.
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 1. INTRODUCTION

### 1.1 Description of planning proposal

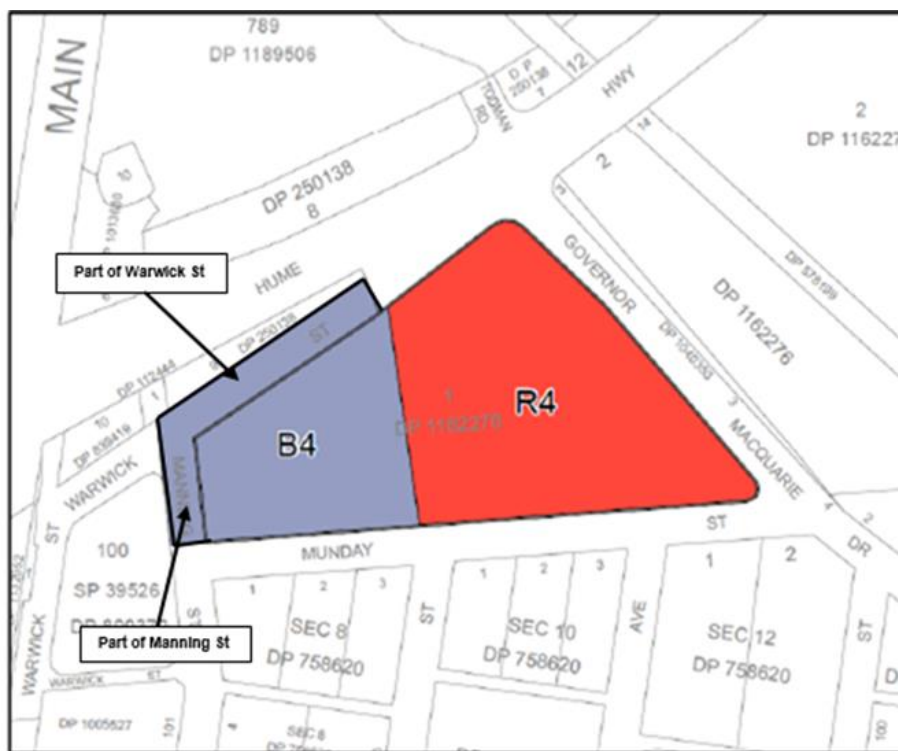
The planning proposal (**Attachment A**) seeks to amend Liverpool Local Environmental Plan (LEP) 2008 by rezoning 240 Governor Macquarie Drive, Warwick Farm, and part of Manning and Munday Streets (Figure 1 over), from B5 Business Development to part B4 Mixed Use and part R4 High Density Residential Zones (Figure 2 over).

The planning proposal envisages a mixed use retail and residential development to enable a Gross Floor Area (GFA) of approximately 58,000m<sup>2</sup> or 500 dwellings; 5,000m<sup>2</sup> GFA of retail and commercial floor space; and, 7,000m<sup>2</sup> of open space (not including internal roads).

The planning proposal is accompanied by a traffic report; urban design report; community benefit report; preliminary flood assessment; and, a local voluntary planning agreement (VPA) offer.



### Figure 1 – Subject site and surrounds



### Figure 2 – Proposed zones

## 1.2 Site and Proposal History

The site was rezoned from part RE2 Private Recreation and part R2 Low Density Residential to B5 Business Development in 2011.

At the time, Liverpool Council (Council) considered a B5 zoning was the most appropriate zone to avoid conflict with the surrounding land uses, i.e. equestrian, residential and industrial uses, as well as, recognising the demand for bulky goods retailing in the area; the adequacy of the road network; and, the site's ability to provide large floor plates.

Since the rezoning, there have been development approvals for industrial and equestrian uses in the area - predominantly in the Warwick Farm Horse Training Precinct to the south of the site.

A development application for a Masters' Home Improvement Store on the site was approved by the then Sydney West Joint Regional Planning Panel on 28 February 2013. The development did not proceed and the site remains vacant.

### 1.2.1 Planning proposal 2015

A previous planning proposal for the site was lodged with Council and subsequently forwarded for rezoning review as Council had not indicated its support within 90 days.

The proposal sought to rezone the site from B5 Business Development to part R4 High Density Residential and part B4 Mixed Use with a proposed maximum height of 100m (approximately 28 storeys) and an Floor Space Ratio (FSR) of 3.5:1. This proposal anticipated to provide for 950 dwellings, including 50 key worker/affordable dwellings and 125 permanent jobs based on a 5,000m<sup>2</sup> retail GFA.

On 5 February 2018, the Sydney Western City Planning Panel (the Panel) determined that the proposal, although holds strategic merit, did not demonstrate site-specific merit on the basis of excessive height and scale, which was deemed to be inappropriate for the location.

The Panel further advised that the issues arising from the heavy vehicular traffic on Munday Street and the flood affectation of the area would need to be resolved before any future rezoning. The Panel's decision is at **Attachment E1**.

### 1.2.2 Revised planning proposal 2018

A revised planning proposal for 830 dwellings was lodged with Council in July 2018, seeking to rezone the site to part R4 High Density Residential and part B4 Mixed Use, with a maximum height of 50m and an FSR of 3:1.

Council's report to the Local Planning Panel (LPP) dated 24 June 2019 (**Attachment H1**) recommended the proposal not proceed to Gateway. The LPP advised that 'while the strategic policy context of the site might be uncertain given the elected Council's decision not to endorse the Greater Sydney Commission Place Strategy, the planning proposal must be assessed against the place strategy and district plan as they presently stand. The planning proposal does not have strategic merit having regard to the place strategy' (**Attachment H2**).

As Council did not indicate its support within 90 days, the planning proposal was referred to the Panel. On 13 September 2019, the Panel determined that the proposal should not be submitted for Gateway determination because the proposal

did not demonstrate site and strategic merit. The Panel's decision is at **Attachment E2**.

In summary, the Panel acknowledged the reduced height and scale of the proposal and noted:

- the proposal is inconsistent with the important strategic position of the Planning Priority W10 of the *Western City District Plan*: retaining, managing and safeguarding industrial and urban services land from competing pressures, especially residential and mixed-use zones;
- the proposal seeks to rezone employment generating land to potentially a noncompatible residential/mixed use zone, that would result in a loss of industrial and urban services land, and that there is no employment lands study to provide guidance in this regard;
- the Warwick Farm Precinct is located within the Liverpool Collaboration Area; and the Liverpool Collaboration Area Place Strategy (Place Strategy) (September 2018), identified Warwick Farm as higher order employment land that supports health related activities; advanced manufacturing; mid-tech and education facilities;
- it agreed with Council's assessment that heavy vehicular traffic on Munday Street and flood affectation were 'significant issues' that would need to be resolved before any future zoning, and that a detailed flood impact study has not been prepared for the proposal;
- the Place Strategy identifies the need for an integrated transport strategy and Georges River flood study to be prepared to address capacity and viability of infrastructure to support future growth with the Collaboration Area; and
- there is no demonstrated urgency or need to rezone the site for additional housing supply given the extent of available land closer to the CBD for housing development.

#### 1.2.3 Council resolution to proceed with the proposal irrespective of the recommendation by the Planning Panel

Following the Panel's decision for the planning proposal not to be submitted for a Gateway determination, Council obtained legal advice which confirmed that the Panel's determination did not prevent Council from reconsidering the planning proposal and if it chooses, endorsing the planning proposal and forwarding it to the Department of Planning, Industry and Environment (the Department).

On 11 December 2019, Council endorsed the planning proposal to be submitted for a Gateway determination with a reduced yield of 500 dwellings and an FSR of 2:1 (as opposed to 830 dwellings and an FSR of 3:1). The various supporting studies were not updated to reflect the current proposal, however Council requested that detailed traffic modelling, an economic impact assessment, a noise mitigation strategy and a site specific Development Control Plan (DCP) be included as Gateway conditions to be satisfied prior to public exhibition.

### **1.3 Site description and surrounding area**

The site (including roads) is a 3.31ha in area; cleared of vegetation; and currently vacant.



The site is located approximately 1.5km from the Liverpool City Centre and Liverpool Hospital. Warwick Farm Railway Station is 100 metres to the west with direct connections to Liverpool, Sydney and Parramatta CBDs.

The site is bounded by Manning, Warwick and Munday Streets. The Hume Highway T-intersection with Governor Macquarie Drive is at the northern corner of the site. The Hume Highway is the main east-west access route through Warwick Farm and Liverpool with several major regional bus routes. Munday Street is a busy transport route for the industrial areas to the south towards Georges River.

Sappho Road Bulky Goods Precinct is located to the north of the site across The Hume Highway; Warwick Farm Racecourse is to the east; Warwick Farm Horse Training Precinct (industrial and equestrian uses) is to the south; and residential flats (to 15 storeys) and open space are to the west.

#### **1.4 Existing planning controls**

The site is zoned B5 Business Development under Liverpool LEP 2008. The subject land includes part of Manning and Warwick Streets, also zoned B5. The minimum lot size is 2 ha and the height of building control is 15m and the FSR is 0.75:1.

The B5 zone allows a variety of land uses, such as: hotel and motel accommodation, hardware and building supplies, office premises, passenger transport facilities, warehouse or distribution centres, timber yards and storage premises. Residential accommodation is not a permissible use in the zone.

#### **1.5 Summary of recommendation**

The planning proposal is not supported, and it is recommended that the proposal does not proceed as there is insufficient strategic merit. The inconsistency with the Greater Sydney Region Plan and Western City District Plan to review and manage industrial and urban services land remains unresolved.

The planning proposal is also considered premature ahead of the finalisation of a structure plan for the broader Warwick Farm Precinct and supporting precinct-wide studies. Although the proposal is generally aligned to Council's Local Strategic Planning Statement (LSPS), the site is within the Warwick Farm Precinct and Council has not yet finalised planning for this precinct. The Department considers that for clarity, the Warwick Farm Structure Plan and its associated studies should inform the appropriate land use zones and proposed controls for the site, given the site is within the Warwick Farm precinct.

In the Liverpool Collaboration Place Strategy (Place Strategy), the Greater Sydney Commission (GSC) also recommended that to "establish the capacity and viability of land and infrastructure to support the future growth scenarios" the following studies should be completed:

- Georges River flood study;
- floodplain constraints categorisation study (led by Liverpool City Council) and a flood evacuation study (led by State Emergency Service); and
- integrated transport strategy (led by Transport for NSW/Roads and Maritime Services).

Insufficient justification has been provided to demonstrate its alignment with the Council's LSPS and the supporting draft strategies or studies to implement the LSPS. Council has a draft Local Housing Strategy and a draft Liverpool Industrial

and Employment Strategy prepared, and it is reasonable that the proposal also needs to demonstrate its alignment with these documents given it has been prepared to support and implement the LSPS. It is inadequate for the proposal to rely on the LSPS statement alone for the broader Warwick Farm Precinct, that justifies the rezoning of the site for a 'mix of uses' without the structure plan or updated supporting technical studies being finalised.

As such, the subject planning proposal is considered premature and should not proceed based on a number of unresolved matters.

## **2. PROPOSAL**

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### **2.1 Objectives or intended outcomes**

The objectives and intended outcomes are to facilitate the development of the site for approximately 500 dwellings and provision of approximately 5,000m<sup>2</sup> of retail and commercial floor space on the site. Additional information provided by Council confirmed that the proposal will provide 7,000m<sup>2</sup> of open space (not including internal roads) on the site.

### **2.2 Explanation of provisions and mapping**

The proposal seeks to amend the Liverpool LEP 2008 as follows:

- rezone 240 Governor Macquarie Drive (2.93ha) from B5 Business Development to part R4 High Density Residential and part B4 Mixed Use;
- rezone part of Warwick and Manning Streets (3780m<sup>2</sup>) from B5 Business Development to B4 Mixed Use;
- increase the height of building (HOB) from 15m to 50m (15 storeys);
- increase the floor space ratio (FSR) from 0.75:1 to 2:1 across the site;
- reduce the minimum lot size applying to the site from 2ha to 1,000m<sup>2</sup>; and,
- add a site-specific clause which would enable development of the site to access bonus FSR provisions equivalent to Clause 4.4 (2B) of Liverpool LEP 2008 to a maximum FSR of 3:1.

**Department Comment:** The planning proposal fails to clearly identify that parts of Warwick and Manning Streets (3,780m<sup>2</sup>) are subject to the rezoning proposal.

#### **2.2.1 Urban Design Report**

The urban design report prepared by SJB Urban (June 2018) (**Attachment A2**) addresses a mix of buildings ranging between 4 - 15 storeys, including 7 x 15 storey towers to accommodate approximately 830 dwellings on 2 - 4 storey podiums (Figure 3). The planning controls proposed in the urban design report are based on the 2018 planning proposal, that is, a maximum height of buildings of 50m, FSR of 3:1, approximately 830 dwellings and provision of 7,000m<sup>2</sup> of open space land on the site.

The report states the building envelope layout has been prepared considering the requirements in the Apartment Design Guide (ADG) in terms of orientation, solar access and building footprints, that facilitate natural cross-flow ventilation; avoid adverse shadow impacts on surrounding land; and, provides building separation for visual and acoustic privacy.



**Figure 3 – Proposed massing/building layout**

Ground floor retail uses are identified (above), such as a supermarket and smaller retail offerings, seeking to activate the north-south plaza.

The key feature of the proposed masterplan layout is the series of connected plazas and parks, with public amenities integrating with the surrounding street grid and the Warwick Farm Train Station. The civic plaza will be publicly accessible from Warwick Street (Figures 4 and 5) with similar public open spaces along Governor Macquarie Drive. The concept also includes communal open spaces as internal courtyard areas.

The proposed main access to the site is via a loop road with access from Munday Street. The loop road is to provide basement access/parking for the residential dwellings as well as servicing for the proposed commercial/retail uses to the western portion of the site.

The shadow analysis identified shadows affecting the existing development to the south but states that the building layout design/massing would ensure only short periods of overshadowing and significant direct sunlight between the buildings.

The proposed open spaces on the northern side will receive solar access between 11am and 2pm during winter solstice. Council considered that the proposal does not result in an unacceptable solar access impacts to surrounding residential properties or the proposed public open spaces.



Figure 4 – Illustrative masterplan concept

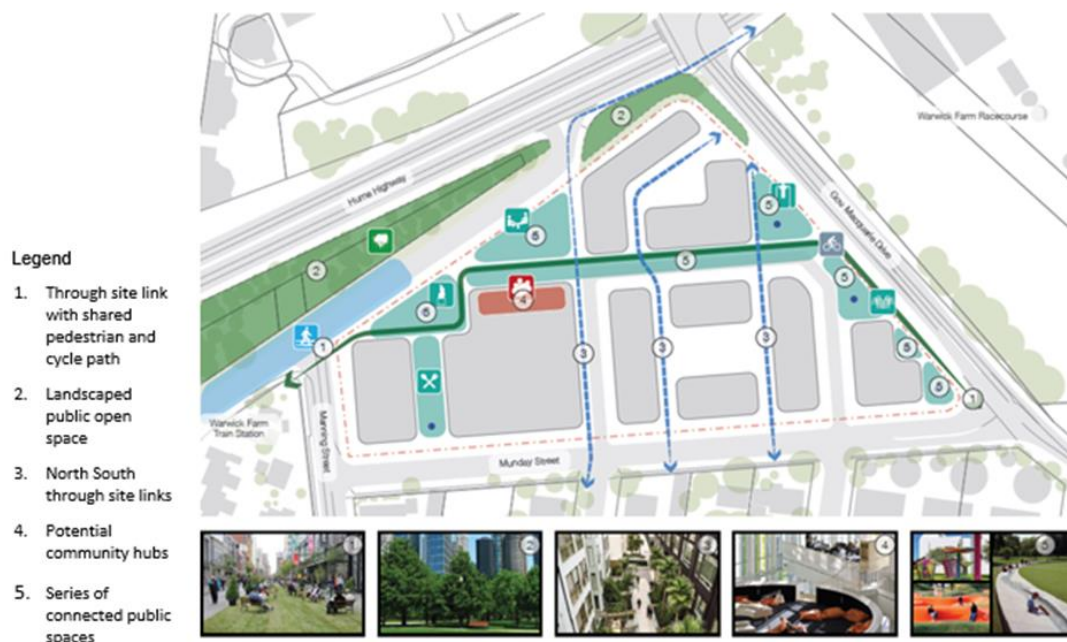


Figure 5 – Through site links

The solar insolation analysis demonstrates most of the buildings will receive direct sunlight, exceeding the SEPP 65 requirement for 70% of apartment living rooms to receive 2 hours of sunlight between 11am and 2pm during winter solstice.

The study highlights that the proposal will provide public benefits, including improved connectivity between the railway station and the racecourse, green link, footpaths, public art, retail/commercial activities for the nearby community.

**Department Comment:** The urban design report does not reflect the revised planning proposal and is considered inadequate to support the proposal in its current form.

Further, the shadow diagrams in the urban design report (**Attachment A2** - page 34) are not clear in showing the extent of shadow cast on the existing development to



the south, and whether these buildings will receive sufficient direct sunlight during winter solstice.

The urban design report has not addressed the dwelling yield adopted by Council and whether sunlight access during winter solstice is appropriate for the development to the south.

### 2.2.2 Community Benefit Analysis

The supporting community benefit analysis (**Attachment A3**) was based on the 2018 planning proposal with a yield of 830 dwellings. A summary of the community benefits for the proposal recommended in the report include:

- 5% Affordable rental housing;
- reinforcing a sense of place for Warwick Farm near the rail station;
- creation of a central node and gathering spaces;
- 0.7ha publicly accessible open space area in landscape and urban plaza form; and
- improved pedestrian connectivity and amenity through and across the site.

Council has advised that as part of the previous voluntary planning agreement (VPA), between the former owners and Council, some roadworks and intersection upgrades, such as The Hume Highway and Governor Macquarie Drive intersection have been completed. Council has resolved that Council's CEO negotiate a revised VPA with the proponent.

### 2.2.3 Preliminary Flood Assessment

The preliminary flood assessment was prepared in October 2015 (**Attachment A4**). The report identified the site as being affected by flooding from the Georges River, and to a lesser extent, Cabramatta Creek to the north. The assessment is a review of the onsite flood investigations and modelling carried out between 2005 and 2009 for the previously proposed Masters' development.

The assessment identified that the site is not affected by the 20-year flood but would be inundated by the 100-year flood at Reduced Level (RL) 8.4m Australian Height Datum (AHD) and is classified as being a "medium flood risk" with inundation depth between 0.2m and 0.6m.

The assessment states that the subject site is part of the flood storage area and any filling on the site will reduce the available flood storage volume and potentially increase flood levels within the area. The concept layout includes an evacuation route to the north. Proposed cut and fill earthworks will provide compensatory excavation on-site, which will result in no loss in flood storage from the development.

In summary, the flood study confirmed that the likely flood impacts on the site can be managed without any loss of flood storage area on the site, and future development on the site can comply with the controls in the Liverpool DCP 2008.

Council has advised that the previous flood study, in support of the Masters' development, has demonstrated the ability of the site to manage flood risk. Further, satisfactory flood planning levels can be achieved, basement openings can be protected and evacuation routes implemented.

**Department Comment:** The proposal fails to be supported by an updated flood study to address the current planning proposal. Although the Department notes that

1% Annual Exceedance Probability (AEP) flood level is the basis of development controls for residential and commercial development across the Local Government Area (LGA), site specific flood risk and evacuation has not been adequately addressed to support the proposal proceeding.

The preliminary flood assessment supported the 2015 planning proposal, which sought to rezone the site to accommodate a potential of 950 dwellings and 5,000m<sup>2</sup> retail/commercial floor space. There is consequently a need for a revised flood study that will address the subject planning proposal and changing external conditions as a result of the Warwick Farm Structure Plan that may influence the onsite response to flood affectation and arrangements to manage onsite flood risk. In this regard, the Liverpool Collaboration Area Place Strategy states that any future design and planning works for the Collaboration Area's east (i.e. Munday Street Precinct) needs to be underpinned by detailed, validated flooding investigations to deliver confidence that flood risk is appropriately addressed.

The place strategy also recommends the completion of the following to establish the capacity and viability of land and infrastructure to support the future growth scenarios:

- Georges River flood study;
- a floodplain constraints categorisation study; and
- flood evacuation study.

In contrast to the Place Strategy, Council's report in relation to the Warwick Farm Structure Plan (26 August 2020) notes that the primary objective of the Georges River flood study was to develop a flood model with new flood modelling techniques (2D TUFLOW model) to assess the impacts on flood behaviour due to recent developments that have occurred within Liverpool and Bankstown catchment areas since 2004. The report discusses that the 1% AEP (or 1 in 100 year) flood levels in the new model are generally consistent with the currently adopted flood levels (the Georges River Floodplain Risk Management Study and Plan 2004 - FRMP), and that Council will continue to use the adopted flood levels in the Georges River FRMP 2004, until the review of the FRMP is completed and adopted by councils (anticipated 2022 – 23 financial year).

#### 2.2.4 Traffic Report

The proposal is supported by a 2018 traffic report (**Attachment A5**) which reviewed the traffic aspects of the 2018 planning proposal. The review was based on an indicative yield of 3,836m<sup>2</sup> commercial and 1,200m<sup>2</sup> supermarket floor areas and 823 residential dwellings.

The report states that the proposed development will have similar traffic generation to the previously proposed Masters' development and the surrounding transport network can accommodate the projected increase associated with the proposal.

The report concludes that the agreed road works and dedication of land, in association with the previous Masters' development VPA for the site, are appropriate for the proposed development.

Council advises that Munday Street is the only dedicated heavy vehicle access road into the precinct and experiences heavy vehicle movements with conflicts arising with the use of horse stabling facilities, residential development and the industrial development to the south.

Council has requested that a Gateway determination condition be imposed that requires detailed traffic modelling for the proposal.

**Department Comment:** The subject proposal's supporting traffic report does not address the planning proposal, or strategic work being undertaken by Transport for NSW (TfNSW) and Council for a proposed alternate bypass road, nor detailed traffic modelling to inform the adequacy of the existing intersections, as well as, the need for intersection improvements.

The Department understands that the place-based future transport strategy for the Liverpool Collaboration Area is still being finalised. The study identifies Governor Macquarie Drive as the major movement corridor providing access to the Collaboration Area from the north-east and as a link to the Hume Highway. The need to design and deliver a Munday Street bypass road is one of the priorities of the study, to remove existing heavy vehicle movements on Munday Street.

Liverpool Council and TfNSW are also preparing an integrated transport strategy for the Collaboration Area, which is expected to be finalised in September 2020.

The Department notes that the Warwick Farm Structure plan being prepared by Council is investigating two potential routes for the Manning Street bypass. This bypass will divert heavy vehicles around the precinct, to and from Governor Macquarie Drive. Council's report for the Warwick Farm Structure Plan note "the provision of the Manning Street bypass road, as an infrastructure improvement, in addition to proposed widening of Governor Macquarie Drive and the development of additional shared paths, will effectively mitigate traffic impacts."

The supporting traffic study is inadequate and further traffic work is required, in consultation with TfNSW (RMS) at a minimum, to align the proposal to the findings of relevant traffic studies underway, such as the integrated transport strategy.

#### 2.2.5 Voluntary Planning Agreement

Council advises that the proponent has prepared an offer to enter into a local voluntary planning agreement (VPA) (**Attachment A6**).

Council advises that the VPA will involve:

- funding for appropriate road works including public domain improvements - including street trees and landscaping; pedestrian and bicycle access to and from the site and Warwick Farm Railway Station and north and south of the Hume Highway;
- provision of 5% of the dwelling yield as affordable housing to be managed as affordable rental housing by a community housing provider; and
- providing a retail/commercial space in the development for a period of 5 years at a reduced commercial rent for a community organisation/s to be agreed between the proponent and Council.

### **3. NEED FOR THE PLANNING PROPOSAL**

The proposal seeks to increase the permissible residential density and allow some commercial floorspace on the site.

The planning proposal is the best and most appropriate means to achieve the intended outcomes. However, the proposal fails to demonstrate the strategic merit and it is considered premature to proceed with the proposal ahead of the finalisation

of the broader Warwick Farm Precinct Structure Plan and supporting precinct wide technical studies.

## **4. STRATEGIC ASSESSMENT**

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### **4.1 Regional/District**

#### **4.1.1 Consistency with the Western City District Plan**

The planning proposal states that it is consistent with the following relevant priorities under the Western City District Plan:

##### *Planning Priority W1 – Planning for a city supported by infrastructure*

- The site is well serviced by public transport infrastructure, with potential to be connected to the Western Sydney Airport through Liverpool/Leppington, as well as, ready access to regional scale services, such as health and education in the Liverpool CBD.

##### *Planning Priority W3 – Providing services and social infrastructure to meet people's changing needs*

- The proposal includes a VPA offer for the provision of affordable rental housing and provides retail services, public and community open spaces and improved pedestrian and bicycle access for future residents.

##### *Planning Priority W4 – Fostering healthy, creative, culturally rich and socially connected communities*

- The retail offering provides employment and services to the existing and future residents, as well as, improvements to the cycling and pedestrian network.

##### *Planning Priority W5 – Providing housing supply, choice and affordability, with access to jobs and services*

- The proposal consists of residential and limited employment land uses (5,000m<sup>2</sup> GFA). The proposal states that the concept design has the capacity to deliver high-quality, high-density living and is supported by an offer to provide 5% of the dwelling yield as affordable rental housing.

##### *Planning Priority W15 – Increasing urban tree canopy cover and delivering green grid connection*

- The planning proposal suitably addresses landscaping opportunities that will facilitate the augmentation of urban tree canopy.

#### **Department Comment:**

Notwithstanding the above, the proposal is inconsistent with the Greater Sydney Regional Plan and the Western City District Plan as the site is B5 zoned, it falls under the category of “review and manage” for industrial and urban services lands under the district plan. District Plan Planning Priority W9 - Growing and strengthening the metropolitan cluster for Liverpool and Actions 51, 52 and 53, require urban services land, in this case – land zoned as B5 zone to be reviewed and managed. As such, the GSC was informally consulted. It was confirmed that B5 zoned land comes under a review and manage category within the Greater Sydney Region Plan (GSRP) and the Western City District Plan.



Further, the planning proposal package does not appear to have addressed Action 42 of the district plan, specifically whether the proposed development:

- protects the commercial core of Liverpool in terms of the scale of development and proposed uses;
- will improve and coordinate transport and other infrastructure to support jobs growth; and
- will assist in developing smart jobs around the health and education precinct.

It was raised whether the proposed B4 zoning should extend across the entire site and if a minimum FSR (1.5 to 2:1) for commercial purposes should be incorporated into the proposal, as this would retain the potential for a substantial employment provision, to ensure consistency with the GSRP and the district plan. The Department considers these issues needs to be adequately addressed and resolved before the proposal can proceed.

Given the above, the proposal does not give effect to the Western City District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*.

## **4.2 Local**

### **4.2.1 Liverpool Collaboration Area Place Strategy**

The GSC completed the Place Strategy in September 2018, it was not endorsed by Council. The strategy establishes a vision for the Liverpool Collaboration Area which gives effect to the Western City District Plan. The strategy identifies impediments and opportunities to growth, sets priorities for the collaboration area and identifies actions to deliver the vision.

The strategy identified Warwick Farm as a high performing location making significant metropolitan economic contributions, and to achieve sustainable jobs for innovation/research/health and manufacturing to complement with the future needs in the city centre. The boundaries of the precinct and the land subject to the planning proposal are shown in Figure 6.

Two of the four actions for immediate attention in the Place Strategy were an integrated transport strategy and Georges River flood study to be prepared immediately for the area to establish the capacity and viability of land and infrastructure to support the future growth scenarios.

Council and TfNSW have advised the broader integrated transport strategy and the comprehensive flood study are being finalised, to be completed within the year.

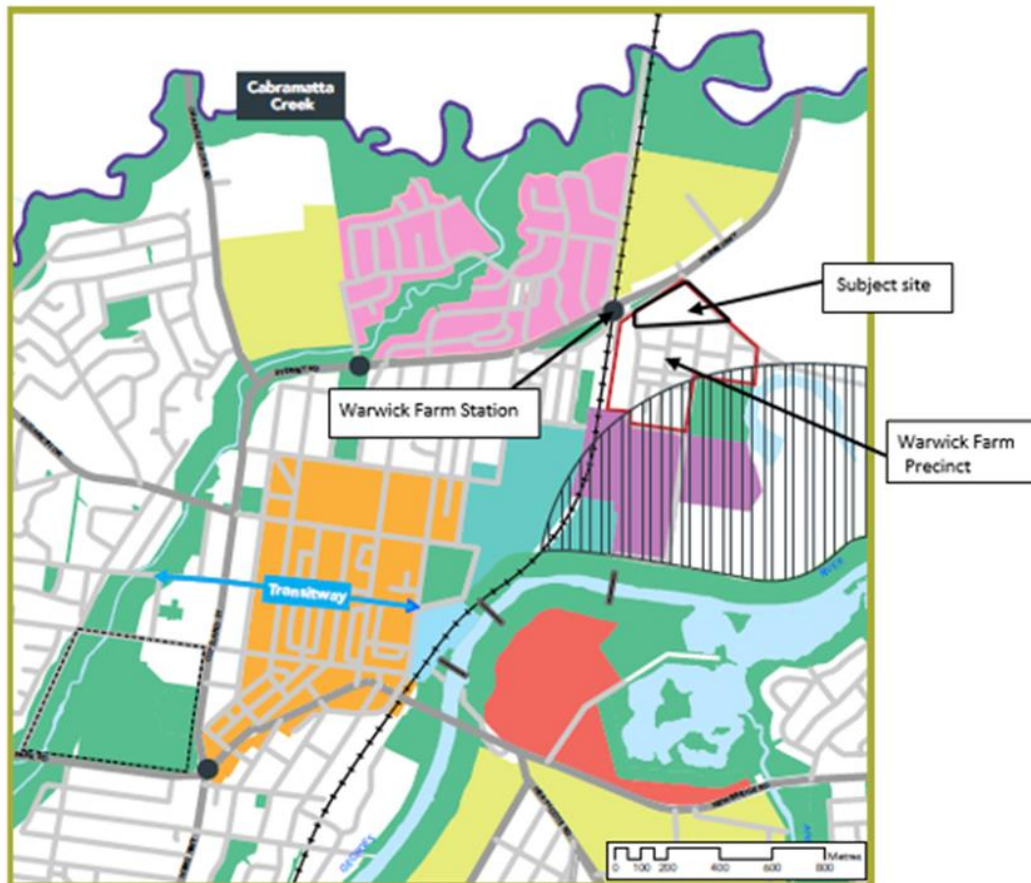


Figure 6: Warwick Farm Precinct

#### 4.2.2 Local Strategic Planning Statement and Warwick Farm Structure Plan

Action 10.2 of the LSPS requires Council to “prepare structure plan and planning proposal to rezone the Warwick Farm racing precinct to a mix of uses, including B4”. This vision for Warwick Farm is inconsistent with the GSC’s adopted Liverpool Place Strategy which identifies the Warwick Farm precinct as innovation, research, health, advanced manufacturing location. Notwithstanding this, the GSC provided Council with a letter of support for the LSPS, confirming its consistency with the Greater Sydney Region Plan and Western City District Plan.

The GSC’s advisory notes in relation to the Warwick Farm Structure Plan (structure plan), advise Council to:

- support the precinct’s role as part of the larger strategic centre and proximity to the adjoining institutions in the Innovation Precinct and the Warwick Farm Racecourse;
- prepare the structure plan to inform the appropriate land use zones; and
- consult with the GSC, DPIE, TfNSW and other relevant State agencies on the preparation of a structure plan.

Council notes the structure plan will determine:

- the appropriate density of development in the precinct, including built form; and
- building typologies including height and floor space ratio development standards for:

- open space, community and recreation facilities to support urban renewal;
- likely traffic and transport upgrades;
- amenity issues;
- flooding considerations; and
- development contributions.

The draft structure plan was reported to the LPP on 27 July 2020, who noted that the proposal 'may meet the strategic merit test given the GSC's assurance of Council's Local Strategic Planning Statement' however recommended the planning proposal to implement the structure plan not be submitted for a Gateway determination as the following matters were not considered to be satisfactorily addressed:

- updating of the Flooding Assessment to have regard to the 2020 Georges River Flood Study (BMT, January 2020) and its implications for this site;
- preparation of a development feasibility study having regard to the need for consolidation of fragmented sites, flood mitigation works, open space acquisition, the truck bypass route, pedestrian links across the railway and the proposed development yield;
- a report addressing whether, given the cap of 18,800 additional dwellings for Liverpool Collaboration Area Place Strategy, this site is the optimum location for the provision of additional housing given the constraints of the site including flooding and difficulty of evacuation; and
- further analysis of the potential environmental impacts of the proposed truck bypass route and the changes to ground levels for flood mitigation having regard to vegetation, acid sulfate soils and water table level.

In the Council report accompanying the structure plan (26 August 2020), Council notes Conybeare Morrison International, the consultants who prepared the structure plan, have provided Council with a fee proposal for the preparation of a feasibility study. This study is anticipated to make recommendations on amendments to proposed development standards necessary to ensure the feasibility of the structure plan.

The Department considers that for clarity, the structure plan and its associated studies should inform the appropriate land use zones and proposed controls. The subject planning proposal is premature as it is part of the precinct but has not been prepared with the benefit of the findings of the structure plan or its supporting studies.

#### 4.2.3 Draft Liverpool Local Housing Strategy

Council's draft Local Housing Strategy (LHS) is available online and references both the subject planning proposal and the Warwick Farm structure plan. It is reasonable that before the Department could support the proposal proceeding, that there be adequate commentary on the draft LHS, for example, how does the planning proposal align to matters such as housing diversity, affordability, opportunities and constraints, housing gaps, discussed in the draft LHS. The Department notes that although the site has merit in providing housing, the need for housing in this location has been a longstanding concern.

#### 4.2.4 Draft Liverpool Industrial and Employment Lands Strategy

Similar to above, Councils draft Industrial and Employment Lands Strategy (IELS) is available online. As previously mentioned, Planning Priority W10 (Action 52) of the Western City District Plan requires Council to review and manage industrial and urban services land, in line with the principles for managing industrial and urban services land by safeguarding all industrial zoned land. In the GSC's letter of support for the LSPS, the GSC notes that this should be "as part of Council's Industrial and Employment Lands Strategy".

Given the nature of the current and proposed landuse zones, the Department considers it appropriate that before the proposal can proceed, it is reasonable that the proposal addresses these matters. In particular, the draft IELS contains 'Guiding Criteria for Planning Proposals', which raise relevant considerations which could potentially support this proposal if they were addressed, for example the first three guiding criteria in the draft IELS are:

- any rezoning application is to result in a sustainable increase in jobs,
- rezoning proposals must be supported by an economic study, and
- proposals must be designated to avoid land use conflict.

#### **4.3 Section 9.1 Ministerial Directions**

##### Direction 1.1 Business and Industrial Zones

The direction aims to encourage employment growth in suitable locations; protect existing employment land; and, support the viability of identified strategic centres. This Direction applies to this planning proposal as it affects B5 Business Development zone land.

Council's adopted planning proposal seeks to rezone the eastern part of the site from a business zone to a high density residential zone. The western part retains a business element within the proposed B4 Mixed Use Zone.

In the absence of Warwick Farm Precinct Structure Plan, it is considered premature to proceed with the proposed rezoning which will result in reduction of employment land uses on site and the cumulative impact on the precinct wide economic roles and functions.

Inadequate information or supporting study has been provided to justify the inconsistency with this Direction is of minor significance, hence the inconsistency remains unresolved.

##### Direction 2.6 Remediation of Contaminated Land

The direction seeks to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

Council advises the site has been previously used for residential use prior to the demolition of the dwellings. There are no known uses of the land that would indicate that the site could be contaminated and require further investigation.

It is considered the planning proposal is consistent with the direction.



### Direction 3.1 Residential Zones

The Direction seeks to encourage a variety and choice of housing types to provide for existing and future housing needs. It also seeks to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure. The Direction ensures that the impacts of residential development on the environment and resource lands are minimised.

The Direction applies as the proposal seeks to develop the site for high density residential development.

The proposal is consistent with the direction. The proposal will encourage development providing a variety of housing choice and type, including potential for affordable rental housing in a location with ready access to existing infrastructure and transport services.

### Direction 3.4 Integrating Land Use and Transport

The direction applies to the planning proposal. Under this direction, a planning proposal must include provisions that give effect to and are consistent with the aims, objectives and principle of:

- a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001); and
- b) The right Place for Business and Services – Planning Policy (DUAP 2001).

Central to these two documents is the objective of improving access to housing, jobs and services by walking, cycling and public transport, and the reducing travel demand including the number of trips generated by development and the distance travelled, especially by car.

The planning proposal is consistent with the objectives of this direction. The site is located within 100m of the Warwick Farm Train Station and other public transport services. It is accordingly anticipated that travel demand resulting from the increased residential population will be appropriately accommodated within the terms of this direction.

### Direction 4.1 Acid Sulfate Soils

The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils. The site is located within a Class 5 acid sulfate soils area and appropriate provisions are required in the LEP.

Clause 7.7 *Acid sulfate soils* of the Liverpool LEP aims to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. Development consent is required for the carrying out of works within the class 5 area and requires an acid sulfate soils management plan for proposed works in accordance with the Acid Sulfate Soils Manual.

The planning proposal is accordingly considered to be consistent with the direction.

### Direction 4.3 Flood Prone Land

This direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and that potential flood impacts are considered.

The Department acknowledges that the preliminary flood assessment submitted for the proposal indicates that the likely flood impacts on the site can be managed without any loss of flood storage area on the site, and future development on the site can comply with the controls in the Liverpool DCP 2008.

While this is the case, the preliminary flood assessment supported the 2015 planning proposal, which sought to rezone the site to accommodate a potential of 950 dwellings and 5,000m<sup>2</sup> retail/commercial floor space. As mentioned above, there is therefore a need for a revised flood study that will address the subject planning proposal as well as the changing external conditions as a result of the structure plan that may influence the onsite response to flood affectation and arrangements to manage onsite flood risk.

This will allow further consideration to be given to ensure the consistency of the planning proposal with the direction.

#### Direction 6.3 Site Specific Provisions

The objective of the direction is to discourage unnecessarily restrictive site-specific planning controls.

The planning proposal seeks to introduce to site-specific provisions that:

- designate the subject site as “Area 12”, via an amendment to the LLEP 2008 FSR map; and
- introduce a site-specific clause for a floor space bonus to apply to development of the subject site, similar to Clause 4.4 (2B) of the Liverpool Local Environmental Plan (LLEP) 2008 (up to 3:1) as per Council resolution of 11 December 2019.

The proposed site-specific provision is a mechanism for floor space bonus to encourage the site to develop to appropriate potential. Therefore, the proposal's inconsistency with this direction is of minor significance.

#### **4.4 State environmental planning policies (SEPPs)**

##### State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

The provisions of SEPP 65 and the Apartment Design Guide (ADG) will apply to any future residential flat buildings on the site facilitated by the planning proposal.

The Urban Design Report advises that the ADG relating to building separation, solar access, ventilation, and open space provision have been considered in the development of the concept plan for the site. The envelopes are readily capable of accommodating buildings able to satisfy the amenity requirements of the ADG. Should the proposal proceed, detailed assessment of compliance with the SEPP can be considered by Council at DA stage.

## **5. SITE-SPECIFIC ASSESSMENT**

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### **5.1 Social**

The planning proposal states that there are public benefits associated with creating a new mixed-use development at the subject site. The proposal will deliver public domain improvements, public and community open spaces, jobs and homes in close proximity to Liverpool CBD, and a railway station with safe and direct pedestrian access.

## **5.2 Environmental**

There are no areas of bushland located on the site, and the site is devoid of any significant vegetation.

The site is affected by flooding from the Georges River, and to a lesser extent Cabramatta Creek to the north, and is classified as being a “medium flood risk” with inundation depth between 0.2m and 0.6m. Flooding considerations have been discussed earlier in this report.

## **5.3 Economic**

The strategies that are applicable to the site: the GSRP; Western City District Plan; and the Liverpool Collaboration Area Place Strategy, refer to the need to support employment productivity and to protect and safeguard ‘urban services’ land.

As mentioned previously in this report, the Department understands Council is intending to undertake a feasibility study to make recommendations to ensure the feasibility of the structure plan, which incorporates the subject site. It is reasonable that this proposal should be informed by the findings of that feasibility study and the proposal is premature at this stage.

## **5.4 Infrastructure**

The site is located within 100m of Warwick Farm Train Station and associated public transport services. Council advises that a VPA is being negotiated with the proponent for the delivery of road and intersection improvements along Warwick Farm, Governor Macquarie Drive and Hume Highway.

## **6. CONSULTATION**

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Consultation is not required as the proposal is not recommended to proceed.

## **7. TIME FRAME**

No timeframe is required as the proposal is not recommended to proceed.

## **8. LOCAL PLAN-MAKING AUTHORITY**

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There is no requirement to appoint a local plan-making authority as it is not recommended for the proposal to proceed.

## **9. CONCLUSION**

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It is recommended that the delegate of the Minister determines that the planning proposal should not proceed as there is insufficient strategic merit. The proposal was submitted ahead of the finalisation of the Warwick Farm Precinct structure plan and is considered premature.

Although the proposal may have site specific merit, progression of the proposal at its current form, however, is not supported for the following reasons:

- the inconsistency with the GSRP and the District Plan remains unresolved;
- the site-specific studies accompanying the proposal reflect earlier iterations of the proposal planning which were not supported;
- the concerns of the Local Planning Panel have not been adequately addressed in the proposal;

- the proposal has not been informed by, or addresses the strategies that are being prepared to implement Council's LSPS such as Council's draft Local Housing Strategy and draft Industrial and Employment Lands Strategy;
- the proposal has not been informed by, or addresses the Warwick Farm Structure Plan and its supporting investigations (such as the feasibility study, resolution of heavy vehicular traffic on Munday Street);
- the proposal has not been informed by the studies (or justified why it is not necessary to first carry out and consider the findings of those studies) noted in the GSC's Collaboration Area – Liverpool Place Strategy as “immediate imperatives” to “establish the capacity and viability of land and infrastructure to support the future growth scenarios”; and
- the proposal does not adequately address the relevant considerations for implementing the LSPS provided in the GSC's letter of support, which relate directly to the Warwick Farm Precinct. In particular that Council (in developing the Warwick Farm Structure Plan) “should support the precinct's role as part of the larger Strategic Centre and proximity to the adjoining institutions in the Innovation Precinct and the Warwick Farm Racecourse.”

The above matters are necessary to resolve longstanding concerns over the site, and necessary to inform the structure plan (and therefore the subject site), and the proposed controls such as land uses and density of development for the precinct.

It is therefore recommended that the proposal does not proceed, and Council be advised a fresh planning proposal would be considered that satisfactorily addresses these matters.

## 10. RECOMMENDATION

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It is recommended that for the reasons noted above, the delegate of the Minister determine that the planning proposal should not proceed and provide Council with advice on necessary investigation and justification required before resubmitting the proposal for a Gateway determination.



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