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11 April 2016

By email and express post

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Dear Sir / Madam

Development Application No. 333/2015 and JRPP Reference No. 2015SYW089
Development Application for the construction and use of 4 warehouse facilities, associated internal access roads and car parking
Property: 200 Governor Macquarie Drive, Warwick Farm NSW

Stockland Development Pty Ltd (**Stockland**) has submitted a Development Application No. 333/2015 (**DA**), which is scheduled for the meeting of the Sydney West Joint Regional Planning Panel (**Panel**) on 13 April 2016.

The DA was most recently considered at the meeting of the Panel on 10 March 2016. Liverpool City Council's (**Council**) Assessment Report recommended approval of the DA on that occasion, however determination of the DA was deferred by the Panel.

Since 10 March 2016, Council has prepared revised draft conditions of consent to the DA (**Draft Conditions**). We confirm that Stockland is prepared to accept all of the Draft Conditions, with the exception of Draft Conditions 5 and 133 which are the subject of this submission.

1 Draft Condition 5

- 1.1 The Panel is aware of the '*Planning Agreement – Inglis, Coopers Paddock, Warwick Farm*' (**VPA**) which provides for the dedication of certain land and the carrying out of specified road upgrade works. The VPA is registered on the title of the subject land.
- 1.2 Stockland's only concern with draft condition 5 relates to timing of work comprising management of the 'Designated Land', namely the land at the eastern part of the site zoned RE 1. The Designated Land has not yet been dedicated to Council and the VPA

requires management of that land (in the form of maintenance and work) for the ensuing 3 years.

- 1.3 It is inappropriate for that ongoing maintenance and work obligation to be required to be completed prior to the issue of an occupation certificate for the development. This is the effect of Draft Condition 5, as it presently requires all of the 'works' listed in Schedule 3 of the VPA (including the management of the Designated Land) to be undertaken prior to the issue of any occupation certificate for the development.
- 1.4 The obligation to carry out the management works remains unaltered, as it is a contractual obligation imposed under the VPA.
- 1.5 Schedule 3 of the VPA includes in Table 1 a list of "Works". Stockland agrees that all of the items in Table 1, other than the management obligation concerning Designated Land, are appropriate to be the subject of condition 5. The exception is item 2 in that Table, which we reproduce below:

Item No	Item of Work	Description	Time for Completion
2	Management of the Designated Land	Carry out the program of works and maintenance as specified in the Vegetation Management Plan approved by Council.	Three (3) years from the dedication of the Designated Land to Council.

- 1.6 Stockland requests that Draft Condition 5 be amended as follows:

*5. ~~All~~ The works listed in **Items 1 and 3 – 5B of Part 1** to Schedule 3, of the Voluntary Planning Agreement executed by Australian Turf Club Limited and Liverpool City Council (Document No. 65 35 4369 JRT) or any subsequent amendments to the abovementioned Voluntary Planning Agreement, must be completed prior to the issue of any Occupation Certificate.*

2 Draft condition 133

- 2.1 For the reasons set out below, we submit that the trial period component of condition 133 is unjustified and should be deleted.
- 2.2 However, Stockland is mindful of Council's desire to ensure that the predicted noise levels are in fact achieved once the development is operational. To provide Council with evidence that this is the case, Stockland would be willing to accept a further condition which requires Stockland to commission acoustic certification testing from an appropriately qualified acoustic consultant, to be conducted within 6 months after the development commences operation and submitted to Council, to demonstrate that operational noise levels comply with the relevant noise level criteria.
- 2.3 The only technical evidence concerning acoustic impacts of the proposed development is the evidence provided by Acoustic Logic, on behalf of Stockland. The report entitled 'Noise Impact Assessment' dated 23 April 2015 which accompanied the DA:
 - (1) formulates operational noise objectives for the development based on the applicable criteria (EPA Industrial Noise Policy, the NSW Road Noise Policy, and the Environmental Criteria for Road Traffic Noise);

- (2) records the results of both long term attended monitoring as well as short term attended noise measurements; and
 - (3) demonstrates that the proposed development will comfortably comply with those objectives in that:
 - (a) in relation to vehicle noise emissions, the predicted noise level at the 'worst case noise receiver' (being a potentially affected residence) is well below the criteria at day, evening and night;
 - (b) in relation to sleep disturbance, the predicted noise level at the worst affected residence is below the 'sleep emergence level', which indicates that there is minimal potential for sleep arousal to occur; and
 - (c) in relation to internal activities within the warehouse closest to residents (Warehouse 4), the predicted noise level for the nearest residential receiver is predicted to be significantly below the noise emission criteria at day, evening and night.
 - (4) Accordingly, Acoustic Logic conclude that "noise impacts from the general operation of the facility will not have a significant detrimental impact on the residents within the vicinity of the site".
- 2.4 The site is separated from the nearest residential receiver by a distance of approximately 200 metres, within which there is a densely vegetated environmental buffer area.
 - 2.5 Council's DCP 2008 provides in Part 7, Section 9 that "*development which would have an adverse impact on adjoining or nearby residential areas*" will be conditioned with restricted hours of operation.
 - 2.6 There is no technical evidence before Council or the Panel to suggest that the opinions expressed by Acoustic Logic are inaccurate or unreliable, and no justification in the Assessment Report or Supplementary Assessment Report for the imposition of restricted hours (which is the effect of proposed condition 133).
 - 2.7 In our respectful submission, there is no basis upon which Council or the Panel could reasonably conclude that the proposed application would have an adverse impact on adjoining or nearby residential areas.
 - 2.8 Accordingly, we submit that there is no reasonable basis for Council or the Panel to impose a condition which authorises 24/7 operation of the development for a 'trial' period of 12 months and which requires submission of a further application to authorise continuation of 24/7 operating hours thereafter. Given the acoustic assessment which is before the Panel, the imposition of a requirement to submit a further application within the first 12 months of operation to maintain the 24/7 operating hours, is onerous and unjustified.
 - 2.9 We request that condition 133 be deleted except for the first sentence. Condition 134, which establishes appropriate noise performance criteria, should remain. As set out in paragraph 0 above, Stockland is willing to accept the imposition of a further condition which requires acoustic certification within 6 months of the development commencing operation, to demonstrate compliance with the criteria in condition 134.

We propose to address these matters in further detail in oral submissions at the next meeting of the Panel on 13 April 2016, together with Stockland's consultant team.

Yours faithfully

A handwritten signature in dark ink, appearing to read "Tony D'Addona", with a long horizontal flourish extending to the right.

Tony D'Addona
General Manager
Logistics & Business Parks