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ITEM No.   1
Application Number DA-28/2012
Proposed Development INTERSECTION UPGRADE ROAD WORKS OF GOVERNOR MACQUARIE DRIVE AND MUNDAY STREET, WARWICK FARM
Property Description LOT 1 DP 1040353 AND PORTION OF ROAD RESERVE OF GOVERNOR MACQUARIE DRIVE AND MUNDAY STREET, WARWICK FARM NSW 2170
Applicant SMEC URBAN PTY LTD
Land Owner AUSTRALIAN TURF CLUB LIMITED
Cost of Work $477,000
Recommendation Approval

1. EXECUTIVE SUMMARY

1.1 Reasons for the Report

Pursuant to the requirements of the endorsed Independent Hearing and Assessment Panel (IHAP) Charter and Procedure, the proposal is referred to the IHAP for consideration as the development is located on land dedicated as public road to Liverpool City Council and notification of the application has received 8 objections.

1.2 The proposal

The development application (DA) seeks consent for intersection upgrade road works of Governor Macquarie Drive and Munday Street, Warwick Farm.

1.3 The site

The subject site is identified as Lot 1 in DP 1040353 and portion of road reserve of Governor Macquarie Drive and Munday Street, Warwick Farm.

1.4 Issues

- Consideration of the DA concurrently with planning proposal; and
- Road traffic impacts

1.5 Exhibition of the proposal

The development application was advertised for fourteen days from 10 August 2011 to 25 August 2011. A total of eight submissions were received with respect of the proposed development.

The issues raised within the submissions which are of relevance to this application primarily relate to traffic and safety impacts. The issues raised have been assessed in detail in accordance with the relevant planning controls and are satisfactorily addressed within the submitted documentation and plans.
1.6 Conclusion

Following detailed assessment of the proposal and consideration of the issues raised in the submissions, it is considered that the proposal is an appropriate and acceptable form of infrastructure development for the locality. The proposed development, being for upgrade of existing intersection of Munday Street / Governor Macquarie Drive, would meet growing demand for traffic infrastructure and improve existing traffic conditions within the immediate locality and the surrounding region, and contribute to provision of pedestrian and bike travel paths. It is thus recommended that the application be approved subject to the imposition of relevant conditions.

2. SITE DESCRIPTION AND LOCALITY

2.1 The Site

The subject site is identified as Lot 1 in DP 1040353 and portion of road reserve of Governor Macquarie Drive and Munday Street, Warwick Farm.

Figure 1: Aerial photograph of Site
The subject site is comprised of the existing Governor Macquarie Drive and Munday Street road reserves located at the intersection of the two roads, extending to Stroud Avenue to the west, and midway between Hope Street and Shore Street to the south-east.

The surrounding area comprises a mix of residential, industrial, and public/private recreation facilities. Located to the north of the intersection works is the Warwick Farm Racecourse and to the south of the intersection is an established horse stables precinct with associated residential dwellings. To the west of the intersection is the site known as the “Munday Street” site for which LLEP 2008 Amendment No.18 was gazetted on 9 December 2011 to enable land use for zone B5 Business Development. To the east of the intersection is the Warwick Farm Racecourse carpark facility on the northern side of Governor Macquarie Drive and the Sydney Water Liverpool Sewage Treatment Plan on the southern side of Governor Macquarie Drive.

3. DETAILS OF THE PROPOSAL

The development application seeks consent for intersection upgrade road works of Governor Macquarie Drive and Munday Street, Warwick Farm.

Specific components of the proposal are outlined in detail below:

- Installation of signalised intersection in accordance with Austroads and RMS Traffic Signal Design Manual and Australian Standards;
- Pedestrian crossings across each junction of Governor Macquarie Drive and Munday Street;
- Munday Street west approach configured with a minimum 80m left turn lane, a continuous right turn lane and one exit lane.
- Governor Macquarie Drive north approach configured with a minimum 90m right turn bay, a continuous through lane and one exit lane.
- Governor Macquarie Drive south approach configured with a minimum 80m left turn lane, a continuous through lane and one exit lane. The exit lane transitions rather than becoming a right turn lane at Hume Highway.
- Traffic lanes on GMD having a minimum width of 3.5m for kerb side lanes and 3.0m for all other lanes.
- Relocation of existing water, telephone, and electricity services as necessary and the provision of stormwater drainage, kerb and gutter.
- Plant and equipment to be used includes: Excavator, Trucks, Bulldozers, Graders, Rollers, Water tankers, and Paver.

Construction process:

- Partial demolition of Governor Macquarie Drive.
- Construction of an 80m left turn lane, a continuous right turn lane and one exit lane along Munday Street west approach.
- Construction of a 90m right turn bay, a continuous through lane and one exit lane along Governor Macquarie Drive north approach.
- Construction of an 80m left turn lane, a continuous through lane and one exit lane along Governor Macquarie Drive south approach.
- Construction of traffic signals.
- Working hours: Monday to Friday: 7.00am to 6.00pm, Saturday: 8.00am to 1.00pm

The applicant indicates that the works would be completed within approximately 2 months after commencement subject to working conditions and restrictions to construction hours to manage
traffic flows.

4. PLANNING PROPOSALS

Munday Street Site Re-zoning

Liverpool Local Environmental Plan 2008 Amendment No.18 (Munday Street Site) was gazetted on 9 December 2011. The amendment rezoned land bounded by Munday Street, Manning Street, Warwick Street, Hume Highway and Governor Macquarie Drive from RE2 Private Recreation and R2 Low Density Recreation to B5 Business Development. Part of the amendment also removed the Warwick Farm Conservation Area from Schedule 5 of Liverpool Local Environmental Plan 2008.

The planning proposal is accompanied by a Voluntary Planning Agreement (VPA) between the landowner Australian Turf Club (ATC) and Liverpool City Council for Munday Street Warwick Farm (Lot 1 in DP 1162276) which stipulates development contributions on the terms set out in the agreement and traffic improvements comprising intersection upgrade of Munday Street / Governor Macquarie Drive. It is noted that prior to this agreement, the land owner also dedicated certain land to Council for purposes of future road widening, being a portion of land along the north-eastern boundary of the “Munday Street” site comprising 1477sqm as approved under Development Consent DA-416/2011.

The traffic improvements identified within the VPA included the following:

- Provide new traffic lights at Munday Street / Governor Macquarie Drive
- Provide 80m new left turn lane from Munday Street to Governor Macquarie Drive
- Provide 80m new left turn lane from Governor Macquarie Drive to Munday Street

The current application incorporates the abovementioned works as outlined within the VPA.

Warwick Farm Racecourse and Coopers Paddock Re-zoning

Liverpool Local Environmental Plan 2008 Amendment No. 14 (Coopers Paddock and Inglis Site) was gazetted on 17 August 2012. The amendment rezoned certain land at Warwick Farm south of Governor Macquarie Drive from RE2 Private Recreation to RE1 Public Recreation, E2 Environment Conservation and IN1 General Industrial as well as permitting “Stock and Sale yards” as a permitted use with the RE2 Private Recreation zone.

The planning proposal is accompanied by a Voluntary Planning Agreement (VPA) between the landowner Australian Turf Club (ATC) and Liverpool City Council which include public works and land dedication comprising remediation and management of certain land, relocation and reconstruction of part of Governor Macquarie Drive and traffic improvements.

A number of the traffic improvements relate to 2.5 metre wide bike/pedestrian paths to be provided along the northern side of the Governor Macquarie Drive carriageway from William Long Bridge to the Hume Highway, within dedicated land along the foreshore, within the industrial zoned land, and finally from Munday Street to Warwick Farm Railway Station.

The bike/pedestrian path identified to be constructed from Munday Street to Warwick Farm Railway station falls within the development site of the works proposed under this application, accordingly, it is appropriate to include this specific work as a condition of consent.
5. OTHER ROAD WORKS DA

A separate development application has been lodged under DA-27/2012 for proposed realignment and reconstruction of a portion of Governor Macquarie Drive at Lot 1 Governor Macquarie Drive, Chipping Norton. This application is under assessment to be determined under delegation.

6. STATUTORY CONSIDERATIONS

6.1 Zoning

The subject land is located within the RE2 Private Recreation zone under the provisions of Liverpool Local Environmental Plan 2008 (LLEP 2008).

The proposed development is identified as Roads which is a permissible land use within the RE2 zone. The land use is defined as follows:

Road means a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road.

An extract from the LLEP 2008 – zoning map is provided below:
6.2 Relevant matters for consideration

The following Environmental Planning Instruments (EPI’s), Development Control Plan and Codes or Policies are relevant to this application:

- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP);
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55);
- Liverpool Local Environmental Plan 2008;
- Liverpool Development Control Plan 2008, specifically:
  o Part 1.1 – General Controls for all development
  o Part 1.2 – Controls for all development

7. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation as follows:

7.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument

(a) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP)

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining a development application (Clause 8 and Clause 9) is provided below:

<table>
<thead>
<tr>
<th>Clause 8 General Principles</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>When this Part applies the following must be taken into account:</td>
<td>Planning principles are to be applied when a consent authority determines a development application.</td>
</tr>
<tr>
<td>(a) the aims, objectives and planning principles of this plan.</td>
<td>The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries. The proposed development will not adversely affect the environmental quality of the catchment subject to adequate mitigation measures.</td>
</tr>
<tr>
<td>(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas.</td>
<td>Drainage is proposed to be designed in accordance with Council's codes and policies, with engineering details to be submitted and approved prior to the</td>
</tr>
</tbody>
</table>
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries.

The proposal is not considered to result in adverse effects on adjacent or downstream local government areas.

(d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments).

The cumulative impact of the proposed development has been considered. The proposed road works will not adversely affect the environmental quality of the catchment or its tributaries.

(e) the Georges River Catchment Regional Planning Strategy (prepared by, and available from the offices of, the Department of Urban Affairs and Planning).

The cumulative impact of the proposed development has been considered against the relevant plans of management and best practice guidelines. The development is considered to have minimal impact with implementation of erosion control and stormwater management systems.

(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice.

The Sydney Metropolitan Catchment Action Plan (CAP) aims to focus investment on sustainable management of the natural resources that underpin the landscape of the Sydney Metropolitan Catchment region. The proposed development is not in conflict with the identified targets of the CAP.

(g) whether there are any feasible alternatives to the development or other proposal concerned.

The development is situated within an area already developed for urban land use and deemed suitable for the current proposal.

**Clause 9 Specific Principles**

<table>
<thead>
<tr>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning principles are to be applied when a consent authority determines a development application.</td>
</tr>
<tr>
<td>An acid sulfate soil management plan is not required for the proposed development.</td>
</tr>
<tr>
<td>No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.</td>
</tr>
<tr>
<td>A Cumulative Flood Impact Assessment dated 12 April 2012 has been prepared for a number of development proposals within the Warwick Farm Racecourse precinct, which includes the road works proposed</td>
</tr>
</tbody>
</table>
under this application. The report results generally show a slight reduction in the 100 year flood levels immediately upstream of Governor Macquarie Drive. Apart from this reduction, all other areas generally showed no appreciable change in flood levels. Subject to this report, the development will not have an adverse impact on flood effects, with some actual minor reductions in flood levels. It has also been shown that the development can be undertaken with no loss of flood storage.

(4) Industrial discharges
Not applicable.

(5) Land degradation
Land degradation processes have been avoided where possible, and minimised through management plans.

(6) On-site sewage management
Not applicable.

(7) River-related uses
Not applicable.

(8) Sewer overflows
Not applicable.

(9) Urban/stormwater runoff
Drainage is proposed to be designed in accordance with Council’s codes and policies, with engineering details to be submitted and approved prior to the release of any Construction Certificate. Measures are to be implemented to minimise any potential impacts of runoff on streams within the Catchment.

(10) Urban development areas
Not within an Urban Release Area.

(11) Vegetated buffer areas
Not applicable.

(12) Water quality and river flows
A Waste Management Plan has been submitted as part of the proposal.

(13) Wetlands
Not applicable.

It is considered that the proposal satisfies the provisions of the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP).

(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The subject land has been used continuously for the purposes of public road. The land is not listed as being affected by a land use referred to in Table 1 of the contaminated land planning guidelines and does not involve development for the purpose of residential development or other sensitive land uses, as such the proposal is not in conflict with the aims and objectives of SEPP 55. The site is therefore considered suitable for the proposed development.
(c) Liverpool Local Environmental Plan 2008 (LLEP 2008)

**Land Use Zone**

The subject land is located within the RE2 Private Recreation zone under the provisions of Liverpool Local Environmental Plan 2008 (LLEP 2008).

The proposed development is classified as a “Road” under the LLEP 2008, which is defined as “a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road” which is a permissible land use within the RE2 zone.

The objectives of the RE2 Private Recreation zone are as follows:

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To enable land uses that are compatible with, and complimentary to, recreational uses.

The development is consistent with the objectives of the RE2 Private Recreation zone for the following reasons:

- The development facilitates an upgraded intersection at a primary location being the junction of Governor Macquarie Drive and Munday Street, which will improve access to nearby recreational land;
- The development is situated within the existing road reserve and therefore will not detract from availability of land for purposes of recreational and compatible land uses;
- The proposed road works will not result in unreasonable impacts to the built or natural environment, and adequate measures are in place to mitigate erosion and sediment control including waste management during and after works.
- The road works are both compatible and complimentary to both existing and potential future recreational uses within the locality by virtue of the provision of enhanced access and mobility within the precinct.

Therefore, it is considered that the proposal satisfies the relevant objectives of the RE2 Private Recreation zone.

**Clause 7.7 Acid Sulfate Soils**

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The land is identified as being affected by 

- **Class 5 Acid Sulfate Soils**, however the works are not identified as works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Accordingly, the works do not trigger the requirement for an acid sulphate soils management plan.

**Clause 7.8 Flood Planning**

The subject land is identified as being medium risk flood affected according to Councils GIS mapping. This clause therefore requires consideration of the following:
Development consent must not be granted to development on flood prone land (other than development for the purposes of residential accommodation) unless the consent authority is satisfied that the development:

(a) will not adversely affect flood behaviour and increase the potential for flooding to detrimentally affect other development or properties, and

(b) will not significantly alter flow distributions and velocities to the detriment of other properties or the environment, and

(c) will enable the safe occupation and evacuation of the land, and

(d) will not have a significant detrimental affect on the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of any riverbank or watercourse, and

(e) will not be likely to result in unsustainable social and economic costs to the flood affected community or general community as a consequence of flooding, and

(f) if located in the floodway, will be compatible with the flow of flood waters and with any flood hazard on that floodway.

A Cumulative Flood Impact Assessment dated 12 April 2012 has been prepared for a number of development proposals within the Warwick Farm Racecourse precinct, which includes the road works proposed under this application. The report results generally show a slight reduction in the 100 year flood levels immediately upstream of Governor Macquarie Drive. Apart from this reduction, all other areas generally showed no appreciable change in flood levels. Subject to this report, the development will not have an adverse impact on flood effects, with some actual minor reductions in flood levels. It has also been shown that the development can be undertaken with no loss of flood storage. Accordingly, the proposed road works are considered satisfactory with respect of this clause.

7.2 Section 79C(1)(a)(ii) - Any Draft Environmental Planning Instrument

No draft environmental planning instruments apply to the site.

7.3 Section 79C(1)(a)(iii) - Provisions of any Development Control Plan

Liverpool Development Control Plan 2008 applies to the site and the development. Parts 1.1 and 1.2 of the DCP apply to all development. Assessment against the controls contained within Liverpool DCP 2008 are outlined in the table below:

<table>
<thead>
<tr>
<th>Standard</th>
<th>Requirement</th>
<th>Proposed</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 2 Tree Preservation</td>
<td>Applies to the protection of trees that contribute to the Liverpool LGA and the protection of significant vegetation.</td>
<td>No tree removal proposed.</td>
<td>N/A</td>
</tr>
<tr>
<td>Clause 3 Landscaping and incorporation of existing trees</td>
<td>Landscaping planting shall be principally comprised of native species. Provide an integrated streetscape appearance with an appropriate mix of canopy trees, shrubs and ground cover in appropriate locations having regard to</td>
<td>Not applicable as the proposal incorporates road works only.</td>
<td>N/A</td>
</tr>
<tr>
<td>Clause 4 Bushland and Fauna Habitat Preservation</td>
<td>Applies generally to specific zones.</td>
<td>Not applicable to the subject land.</td>
<td>N/A</td>
</tr>
<tr>
<td>Clause 5 Bush Fire Risk</td>
<td>Applies generally to bushfire prone land and land that requires bushfire hazard reduction.</td>
<td>The subject land is not identified as being bushfire prone land.</td>
<td>N/A</td>
</tr>
<tr>
<td>Clause 6 Water Cycle Management</td>
<td>Stormwater drainage concept plan required to be submitted.</td>
<td>Drainage is proposed to be designed in accordance with Councils codes and policies, with engineering details to be submitted and approved prior to the release of any Construction Certificate.</td>
<td>Yes</td>
</tr>
<tr>
<td>Clause 7 Development near Creeks and Rivers</td>
<td>Applies to land that may impact upon a watercourse or the removal of riparian vegetation.</td>
<td>The subject site is not located in close proximity to a creek or river.</td>
<td>N/A</td>
</tr>
<tr>
<td>Clause 8 Erosion and Sediment Control</td>
<td>Soil and water management plan or erosion and sediment control plan required to be submitted.</td>
<td>Erosion and sediment control is proposed in accordance with Councils codes and policies, with engineering details to be submitted and approved prior to the release of any Construction Certificate.</td>
<td>Yes</td>
</tr>
<tr>
<td>Clause 9 Flooding Risk</td>
<td>Applies to flood prone land.</td>
<td>A Cumulative Flood Impact Assessment dated 12 April 2012 has been prepared for a number of development proposals within the Warwick Farm Racecourse precinct, which includes the road works proposed under this application. The report results generally show a slight reduction in the 100 year flood levels immediately upstream of Governor Macquarie Drive. Apart from this reduction, all other areas generally showed no appreciable change in flood levels. Subject to this report, the development will not have an adverse impact on flood effects, with some actual minor reductions in flood levels. It has also been shown that the development can be undertaken with no loss of flood storage.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Accordingly, the proposed road works are considered satisfactory with respect of this clause.

| Clause 10 | Contamination Land Risk | Applies to potential or actual contamination or known past or current specific land uses. | The subject land is not identified as being of potential or known contamination risk. | N/A |
| Clause 11 | Salinity Risk | Salinity management plan required for high risk activities in salinity affected areas. | The development does not trigger the requirement for a salinity management plan | N/A |
| Clause 12 | Acid Sulphate Soils | Applies to land with potential acid sulphate soils. | The land is identified as being affected by *Class 5 Acid Sulfate Soils*, however the works are not identified as works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land. Accordingly, the works do not trigger the requirement for an acid sulphate soils management plan. | Yes |
| Clause 13 | Weeds | Weed management strategy required to be submitted if site contains native weeds. | The site does not contain weeds. | N/A |
| Clause 14 | Demolition of Existing Developments | Demolition to comply with AS2601-1991. | The proposal involves the demolition of the existing dwelling and outbuildings as part of the proposal. Appropriate conditions have been imposed to address demolition process. | Yes |
| Clause 15 | On-site sewerage disposal | Applies to land with no access to reticulated sewer system. | The subject land has access to services. | N/A |
| Clause 16 | Aboriginal Archeology | Applies to land identified as having known or potential Aboriginal archaeological significance. | The subject land is not identified as having any Aboriginal archaeological significance. | N/A |
| Clause 17 | Heritage | Applies to heritage items of land in the vicinity of a heritage site, conservation area or archaeological site. | The subject land is not identified as having any heritage significance nor is located within a heritage conservation area. | N/A |
| Clause 18 | Advertising | Development to be notified / advertised. | The development application was advertised in accordance | Yes |
with the DCP. Submissions are addressed in detail further within this report.

| Clause 6 | Landfill | Requirements for any cutting or filling of land. | Minimal filling and cutting of land will be required. Appropriate conditions of consent will be imposed to ensure any cut or fill of land is carried out in accordance with Council requirements. | Yes |
| Clause 7 | Waste Disposal and re-use facilities | Waste Management Plan required for all developments. | Waste Management Plan provided. Conditions of consent will be imposed to ensure compliance with the Waste Management Plan. | Yes |

As outlined in the table above, the proposal is generally consistent with the controls prescribed by the relevant components of LDCP 2008.

7.4 Section 79C(1)(a)(iv) – The Regulations

The EP&A Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). Conditions of consent have been imposed requiring applicable aspects of construction to be in compliance with the BCA.

7.5 Section 79C(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

The proposal will have minimal impact on the natural and built environment as the works comprise upgrade of an intersection within an existing road reserve and thus will not significantly alter the existing built form. No trees or significant vegetation are proposed to be removed as part of this development and there are no significant natural characteristics of the subject land that would be unreasonably affected by the proposal. Potential impacts are discussed in further detail as follows:

Traffic

Existing traffic conditions are identified within the Traffic Impact Assessment prepared by Stapleton Transportation & Planning dated August 2010 which are described as follows:

Existing and short-term traffic conditions
- The local traffic network is currently operating at a poor level of service, specifically as a result of constraints in the western portion of Governor Macquarie Drive at the intersections with the Hume Highway, and with Munday Street. Both intersections currently operate at a Level of Service “F” during one or both commuter peak periods.
- General annual increases in traffic flows in the sub-regional network will further exacerbate these capacity constraints regardless of the Proposal, such that both the identified Governor Macquarie Drive intersections will operate at LoS “F” over extended morning and evening peak periods, and capacity will be also exceeded at the downstream intersection of the Hume Highway & Mannix Parade & Remembrance Avenue.
Capacity upgrades are therefore required to accommodate existing and future traffic flows regardless of the Proposal.

The report outlined a number of options for the upgrade of intersections which would yield best results in consideration of traffic flows and the overall local traffic network. The report indicates the following measures specifically for the intersection of Munday Street and Governor Macquarie Drive:

Network Upgrades
- Sub-regional upgrades are required to [primarily] accommodate existing traffic flows and average annual traffic flow increases, and as such would necessarily also be required to accommodate the additional traffic generated by the Proposal.
- STAP has examined a number of options for the upgrade of the key intersections along the Hume Hwy and along Governor Macquarie Drive, options which would provide for 2020 traffic flows (including proposed rezoning traffic flows) by appropriately reducing average delays, increasing capacity and improving overall level of service through the traffic network to and beyond 2020.
- Notwithstanding the existing requirement for upgrades regardless of the Proposal, it is in the opinion of STAP appropriate that the AJC provide a proportion of costs towards these sub-regional upgrade works. The details of this contribution will be determined in consultation between the AJC, Liverpool Council and the RTA, and will likely primarily comprise the provision of AJC land in Governor Macquarie Drive and in the Hume Highway to provide for the upgrades. Any such contribution could form part of a Voluntary Planning Agreement.

The report further addresses access and mobility and identifies the need for shared pedestrian and cycle network upgrade and provision of links from Warwick Farm Station and the broader pedestrian/cycle network.

The report provides the following recommendations for this intersection:

For the intersection of Munday Street & Area G, STAP has examined the access intersections for other similar sites and future traffic volumes and determined that a priority intersection would be appropriate.

To provide appropriate levels of service for existing, future average increase and Proposal traffic, new and upgraded intersections will be required and – as shown in the analysis in Sections 4 above – good levels of service can be provided beyond 2020. The issue of course will relate to costs and the acquisition of land, though there is obviously an excellent opportunity presented by the rezoning proposals as the AJC owns much of the land required for the upgrades (regardless of the Proposal).

The development application was referred to the Roads and Maritime Services (RMS) on 4 August 2011 for review and approval as part of the Liverpool LLEP Amendment No. 18 and pursuant to lodgement of the current application. Council received comments from RMS on 7 May 2012 providing their approval of the concept plans subject to conditions:

RMS has reviewed the submitted drawings (strategic layout) of the proposed signalised intersection of Munday Street / Governor Macquarie Drive (Ref: 77276.01.M56-56) and advises that RMS will grant “in principal” approval to the proposed strategic layout of the intersection subject to the following requirements. (Refer to attached draft conditions of consent for detailed RMS conditions).
Furthermore, Councils Traffic Engineers have considered the proposed intersection upgrade and provided the following comments:

*The proposed (Traffic Control Signals) TCS has been assessed by the RMS with appropriate intersection performance analysis for future traffic conditions.*

Assessment of the proposed TCS and associated road works has been carried out in accordance with Austroads Traffic Management Practice and RMS Road Design Guide. The intersection configuration is as shown in drawings prepared by Smec Urban sheets 77276.01.M54 – M55.

*The intersection treatment requires land dedication of approximately 16sqm from the north eastern corner of the Munday Street site. This land should be dedicated as public road prior to the issue of a construction certificate for the proposed works.*

*The construction and approval of traffic signals requires RMS approval of the detailed design and project management. This requires the developer to enter into a Works Authorisation Deed as outlined in the RMS letter dated 3 February 2012.*

*Council’s Traffic Section supports the proposed TCS, subject to the RMS conditions.*

It is also noted that Council has resolved at the Traffic Committee Meeting of 27 July 2011 and Council Meeting of 22 August 2011 to reduce the speed limit within the training precinct from 60km/h to 50km/h as well as introducing 1.6m wide speed cushions. This is to include a review within six months to assess the effectiveness of the traffic changes.

In consideration of the above, the proposal is considered to improve the overall local traffic network by virtue of the improved traffic flow and safety as a result of the installation of traffic control signals and appropriate direction of traffic. The upgrade would provide enhanced mobility and access to existing and future recreational land uses.

The submitted Statement of Environmental Effects acknowledges the potential for traffic disruption for the duration of road works and in this regard have outlined the following mitigation measures:

*Construction works would be managed having regard to the RTA’s Traffic Control at Worksites Manual (2003) and (AS1742.3 – Manual of Uniform Traffic Control Devices (2002). This would include the following:*

- Movement of construction vehicles and plant would be managed by a construction traffic management plan to minimize impacts on local traffic.
- A pictorial record and notes on the condition of construction vehicles routes would be undertaken prior to the commencement of work, to ensure that construction traffic does not result in a degradation of the road surface to the detriment of all road users.
- The contractor would be required to erect warning signage for approaching vehicles for the duration of the contract.
- The construction contractor would consult with the council in relation to appropriate permits should road closure(s) be required for the transportation of material during construction for any oversized loads.
- All directly affected landholders (including Stable operators) would be notified prior to commencement of construction activities. Access to properties would be maintained, in consultation with individual landholders.
Any public transport requirements would be discussed with the relevant parties prior to construction to develop appropriate management measures during construction.

Delay management strategies would be developed to minimize disruption to local and through-traffic (including pedestrian, cyclist and equine movements) and maintain access to affected properties and land during construction. Consultation with emergency services would be undertaken in this regard.

Noise

The proposed works are expected to generate increased noise levels for the duration of construction works, as a result of machinery and equipment used to demolish and reconstruct the road, in addition to potential vibration from construction activities. The Statement of Environmental Effects outlines the following measures to minimise potential impacts:

- A Noise and Vibration Management Plan would be prepared prior to the commencement of works and would form the noise and vibration section of the EMP. The Plan would apply best management practice, such as the planning of noisy activities for parts of the day when they would have the least impact. The Plan would contain the following:
  - For works performed outside of the standard working hours, the procedure contained in the RTA’s Environmental Noise Management Manual Practice Note vii – Roadworks Outside of Normal Working Hours would be followed;
  - The requirement that a line of communication between the local community and Project Management be established prior to construction;
  - The RTA’s Environmental Noise Management Manual (in particular Section 5) would be applied in the development of any noise management strategies; and
- Residents, including equine stables management for stables located within the stables precinct, would be consulted regarding the proposed works prior to their commencement.
- Construction timetabling, in particular for works outside standard hours, to minimize noise (and vibration) impacts.
- Ensuring equipment is operated in the correct manner as well as shutting down equipment when not in use.

Therefore it is considered that the proposal will not adversely impact upon the natural and built environment for the reasons outlined in this report.

(b) Social Impacts and Economic Impacts

The proposed development would provide an increased level of access and mobility for the local and regional traffic network. In this regard, the proposed infrastructure improvements would result in positive social and economic impacts for the locality and surrounds.

7.6 Section 79C(1)(c) – The Suitability of the Site for the Development

The subject site is considered suitable for the proposed development as the proposed intersection upgrade works are situated within the existing road reserve therefore the site is capable of facilitating for the infrastructure improvements.
7.7 Section 79C(1)(d) – Any submissions made in relation to the Development

(a) Internal / External Referrals

The following comments have been received as a result of internal and external referrals:

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>COMMENTS</th>
</tr>
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<tbody>
<tr>
<td>Property Officer</td>
<td>No referral comments from Property Services.</td>
</tr>
<tr>
<td>Development Engineer</td>
<td>Refer to RMS in principal approval letter and their conditions imposed. Approve subject to standard and special conditions.</td>
</tr>
<tr>
<td>Traffic Engineer</td>
<td>The proposed (Traffic Control Signals) TCS has been assessed by the RMS with appropriate intersection performance analysis for future traffic conditions.</td>
</tr>
<tr>
<td></td>
<td>Assessment of the proposed TCS and associated road works has been carried out in accordance with Austroads Traffic Management Practice and RMS Road Design Guide. The intersection configuration is as shown in drawings prepared by Smec Urban sheets 77276.01.M54 – M55.</td>
</tr>
<tr>
<td></td>
<td>The intersection treatment requires land dedication of approximately 16sqm from the north eastern corner of the Munday Street site. This land should be dedicated as public road prior to the issue of a construction certificate for the proposed works.</td>
</tr>
<tr>
<td></td>
<td>The construction and approval of traffic signals requires RMS approval of the detailed design and project management. This requires the developer to enter into a Works Authorisation Deed as outlined in the RMS letter dated 3 February 2012.</td>
</tr>
<tr>
<td></td>
<td>Council’s Traffic Section supports the proposed TCS, subject to the RMS conditions.</td>
</tr>
<tr>
<td>Flood Engineer</td>
<td>The proposed intersection upgrade shall predominantly maintain the existing road levels and preserve the existing drainage regime in the vicinity. The proposed development is supported subject to fulfilling flood related developments controls.</td>
</tr>
<tr>
<td>Heritage Officer</td>
<td>The impact on the adjacent heritage listed item (i.e. the Racecourse) would be minimal given that there already exists an intersection and the upgrade to this intersection would have no further impact than what has already occurred in the past.</td>
</tr>
<tr>
<td></td>
<td>The Statement of Environmental Effects advises that the subject site is already operating as an intersection so it is unlikely that Aboriginal heritage items will be found, and therefore it is considered that Aboriginal heritage is unlikely to be impacted.</td>
</tr>
<tr>
<td>Roads and Maritime Services</td>
<td>RMS has reviewed the submitted drawings (strategic</td>
</tr>
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</table>
(RMS) layout) of the proposed signalised intersection of Munday Street / Governor Macquarie Drive (Ref: 77276.01.M56-56) and advises that RMS will grant “in principal” approval to the proposed strategic layout of the intersection subject to the following requirements. (Refer to attached draft conditions of consent for detailed RMS conditions).

(b) Community Consultation

The development application has been advertised in accordance with Liverpool Development Control Plan 2008, Part 1.1. This included a notice placed on site and an advertisement in the local paper.

The development application was advertised for fourteen days from 10 August 2011 to 25 August 2011. A total of eight submissions were received with respect of the proposed development.

The issues raised within the submissions include:

Traffic impacts:
- Significant traffic impacts to local residents;
- Sufficient traffic planning has not occurred to address current traffic issues;
- Management plan for Governor Macquarie Drive should be prepared;
- Scrivener Street traffic to be routed on water board land at back of Rosedale oval;
- Four lane upgrade of Governor Macquarie Drive should be deferred and monies spent on re-routing industrial traffic to and from Scrivener Street;
- Substantial congestion exists around the site;
- Risk of horses, increased noise, and traffic causing major accidents;
- The section of Governor Macquarie Drive above the horse tunnel in Hope Street is not wide enough to accommodate the proposed road works;
- The footpath would have to be removed and will be dangerous to cross Governor Macquarie Drive;
- Noise above tunnel could cause serious accidents with horses and strappers;
- Road works could cause congestion;
- Horses walking on walking machines could see large trucks and cause accidents;
- Munday Street intersection requires a safe width shared user path for pedestrian / cyclists to be constructed on the eastern side of Governor Macquarie Drive;
- Munday Street intersection upgrade to include bicycle lanterns crossing points to / from the shared path;
- Provide slightly wider piece of land so the trees can be maintained as a centre piece and the road widened on the western side creating entrance into Warwick Farm;
- Increase in traffic flow will be exacerbated by being funnelled into the dual lane (1 x north and south) William Long Bridge and there appears to be no consideration in this or other DA’s or VPA’s as to how eventual expansion of this bridge will be funded.

Traffic impacts have been canvassed in detail earlier within this report. The proposal is accompanied by a Traffic Impact Assessment and has been considered by the Roads and Maritime Services (RMS) and Councils Traffic Engineer. The intersection upgrade is considered to be an appropriate treatment for the subject portion of road and will be designed and implemented to ensure minimal disruption and in accordance with RMS guidelines, Councils code and policies, and relevant Australian Standards.
General concerns:

- Development not to be considered in isolation;
- All the rezoning and building DA’s strongly opposed by residents;
- Development has no benefit to the community;
- Council is dealing with DA’s and rezoning in a piecemeal fashion;
- Scrivener Street industrial use expanding at an uncontrolled rate;
- Application cannot be considered until rezoning of Munday Street site and DA-1321/2011 for proposed home improvement centre are approved;
- Character of entire precinct will be drastically and irrevocably destroyed by felling of trees along Governor Macquarie Drive;
- Concerns regarding use of the triangular site (Munday Street site) and removing housing in the precinct.

The development application has been assessed in concurrence with a number of applications submitted with Council for development within the Warwick Farm Racecourse precinct. The proposed road upgrade will provide for traffic improvements to the immediate locality and regional road network and therefore is of benefit to the community. There are no tree removals or significant vegetation to be impacted upon by the current proposal.

It is noted that trees are proposed to be removed as part of a separate development application currently being considered by Council.

Issues raised relating to re-zoning applications and subsequent development for the Munday Street site are being dealt with under separate applications.

7.8 Section 79C(1)(e) – The Public Interest

The proposed infrastructure is necessary to meet growing demand for improved traffic access and mobility servicing the immediate locality and regional road network. In this regard, it is considered that the proposal is in the public interest.

8. CONCLUSION

The application has been assessed having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, and the relevant Environmental Planning Instruments including the applicable State Environmental Planning Policies (Infrastructure) 2007, Liverpool Local Environment Plan 2008, Liverpool Development Control Plan 2008, and the relevant codes and policies of Council.

The proposed development is generally consistent with the standards contained within Liverpool LEP 2008 and Liverpool DCP 2008 and is a permissible land use for the subject site.

The proposed development, being for upgrade of existing intersection of Munday Street / Governor Macquarie Drive, would meet growing demand for traffic infrastructure and improve existing traffic conditions within the immediate locality and the surrounding region, and contribute to provision of pedestrian and bike travel paths.

Following detailed assessment of the proposal and consideration of the issues raised in the submissions, the development application has been assessed on its merits and is considered satisfactory. Accordingly it is recommended that the development application be approved subject to the attached conditions of consent.
8.1 RECOMMENDATION

1. That Council approve Development Application DA-28/2012 for intersection upgrade road works of Governor Macquarie Drive and Munday Street, Warwick Farm at Lot 1 in DP 1040353 and portion of road reserve of Governor Macquarie Drive and Munday Street, Warwick Farm, subject to the attached draft conditions of consent.

2. That any persons who made a submission be notified of Council's decision.
9. ATTACHMENTS

9.1 Plans of the proposal
9.2 Recommended conditions of consent
LIVERPOOL CITY COUNCIL
INDEPENDENT HEARING & ASSESSMENT PANEL REPORT
2011

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## ATTACHMENT 7.2 DRAFT CONDITIONS

### DEFINITIONS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>AEP</td>
<td>Annual Exceedance Probability</td>
</tr>
<tr>
<td>BCA</td>
<td>Building Code of Australia</td>
</tr>
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<td>Council</td>
<td>Liverpool City Council</td>
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<tr>
<td>DCP</td>
<td>Liverpool Development Control Plan 2008</td>
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<td>DECC</td>
<td>Department of Environment and Climate Change</td>
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<tr>
<td>CC</td>
<td>Construction Certificate</td>
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<tr>
<td>1% AEP Flood</td>
<td>The 1 in 100 year flood</td>
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<tr>
<td>EP&amp;A Act</td>
<td>Environmental Planning and Assessment Act 1979</td>
</tr>
<tr>
<td>EP&amp;A Regulation</td>
<td>Environmental Planning and Assessment Regulation 2000</td>
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<tr>
<td>LPI Service</td>
<td>Land and Property Information Service</td>
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<tr>
<td>OC</td>
<td>Occupation Certificate</td>
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<tr>
<td>PCA</td>
<td>Principal Certifying Authority</td>
</tr>
<tr>
<td>RTA</td>
<td>Roads and Traffic Authority</td>
</tr>
</tbody>
</table>
A. THE DEVELOPMENT

Approved Plans

1. Development the subject of this determination notice must be carried out strictly in accordance with the following plans/reports marked as follows:

   (b) Cumulative flood impact assessment report Ref: J1207_L1.doc dated 12 April 2012 prepared by FloodMit Pty Ltd.

except where modified by the undermentioned conditions.

B. PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Construction Certificate by the Principal Certifying Authority:

Fee Payments

2. Unless otherwise prescribed by this consent, all relevant fees or charges must be paid. Where Council does not collect these payments, copies of receipts must be provided. For the calculation of payments such as Long Service Levy, the payment must be based on the value specified with the Development Application/Construction Certificate.

   The following fees are applicable and payable:

   (a) Damage Inspection Fee – relevant where the cost of building work is $20,000 or more.
   (b) Fee associated with Application for Permit to Carry Out Work Within a Road, Park and Drainage Reserve.
   (c) Long Service Levy – based on 0.35% of the cost of building work where the costing of the CC is $25,000 or more.

   These fees are reviewed annually and will be calculated accordingly.

3. All fees associated with a road opening permit required for the connection, extension or amplification of any services within Council’s road reserve must be paid to Council and receipts provided to the PCA. A separate form must be submitted in conjunction with payment of the fees. The fees include the standard road opening permit fee and any restoration fees that may be required as a result of the works.

   Security for Cost of Damage and Completion of Public Work

4. Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:
(a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,

(b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,

(c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security is to be for an amount that is the greater of $5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

(a) cash deposit with the Council, or

(b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within 6 years of the date of issue of the subdivision certificate for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1996.

Dilapidation Report

5. A dilapidation report is to be undertaken. This shall include clear photos and descriptions of all existing Council infrastructure adjacent to the subject site. A copy of the dilapidation report shall be submitted to Council.

Site Development Work

6. Site development work in the form of excavation, underpinning or shoring works must not take place, until such time as a CC has been issued.

7. All aspects of construction shall comply with the applicable Performance Requirements of the National Construction Code. Compliance with the Performance Requirements can only be achieved by:

(a) Complying with the Deemed to Satisfy Provisions; or
(b) Formulating an Alternative Solution, which complies with the Performance Requirements or is shown to be at least equivalent to the Deemed to Satisfy Provision, or a combination of (a) and (b).

Notification

8. The certifying authority must advise Council, in writing of:

(a) The name and contractor licence number of the licensee who has contracted to do or intends to do the work, or

(b) The name and permit of the owner-builder who intends to do the work.

If these arrangements are changed, or if a contact is entered into for the work to be done by a different licensee, Council must be immediately informed.
Permit to Carry out Works

9. A separate application for a permit to carry out works must be issued by Council for—

(a) A Permit to carry out works in Council’s road reserve, pursuant to Section 138 of the Roads Act, 1993. The work(s) in the existing road reserve requiring a Council Section 138 permit are/is road and stormwater construction in Governor Macquarie Drive and Munday Street.

Stormwater

10. Stormwater is to be collected within the site and conveyed in a pipeline to the appropriate point of discharge as directed by Council and as detailed on the approved plans.

11. A stormwater drainage plan, including hydraulic calculations based on a 1 in 5 year storm (ARI), is required. The plan must show how the stormwater generated by this site, and other inter-allotment overland flow water entering onto this site, is to be collected within the site and conveyed in a suitable pipeline to the most appropriate point of discharge as advised by Council.

This plan shall also show existing and proposed surface contours within the site and along its boundaries with immediately adjacent properties, and shall define overland flow paths for storms which exceed the capacity of the underground pipe system.

The applicant is to contact Council to determine maximum allowable discharge from site. (Council engineers to nominate maximum discharge flow from site). If drainage investigations reveal that downstream drainage pipes are not capable of catering for the discharge, then Council requires the design and construction of an on-site detention system. This is to be designed in accordance with Council’s On Site Detention Policy.

Public Road Design/Construction Within Road Reserve Areas

12. All roads are to be designed to be graded in such a manner as to provide continuous surface drainage flow paths to appropriate points of discharge. In this context, these are to be into their roads or swales, as appropriate, connecting into the major trunk drainage system.

13. Erosion and sediment control measures shall be designed in accordance with the requirements of Liverpool DCP and Council specifications, and to the satisfaction of the PCA. Approved measures shall be implemented prior to commencement and maintained during construction and until all disturbed areas have been revegetated and established to the satisfaction of the PCA.

14. The applicant is to provide a road lighting design plan for the development with due consideration given to all areas operating characteristics, proposed traffic management devices and intersections including all works within the road reserve and adjoining public spaces. The applicant shall request from Council’s Transport Planning Section, the appropriate lighting subcategories required for the development. The lighting subcategory provided to the applicant from
Council will be consistent with the requirements of Australian Standard AS/NZS 1158 – Road Lighting.

The design shall be prepared by a level 3 service provider (listing of accredited providers may be obtained from the Ministry of Energy and Utilities, telephone 9901 8916).

On completion of the road lighting design plans, the plans and a schedule of annual charges shall be forwarded to Council’s Transport Planning Section for their acceptance of the ongoing maintenance charges. These plans shall include a statement by the designer certifying that the design meets Council’s specification and all requirements of AS/NZS 1158. CC’s for the development shall not be issued prior to Council providing this letter of acceptance.

This letter of acceptance and approved plans shall then be submitted to Integral Energy for their approval and certification for connection to their public lighting network.

Subdivision Certificate/OC shall not be issued prior to Council receiving a compliance certificate from Integral Energy stating that the applicant has made the necessary arrangements with Integral Energy for the provision of the approved public lighting works.

15. Engineering plans will be required defining all physical works necessary on the site and adjacent to it. These plans are to be approved by Council under a Section 138 Permit to carry out works in the road reserve.

(a) These plans must satisfy the following requirements:
   (i) Council’s current Design and Construction specification for subdivisions
       (as amended), and supplementary code,
   (ii) Council’s Trunk Drainage Scheme(s)
   (iii) Council’s Development Control Plans,
   (iv) All proposed road and drainage works must adequately match existing infrastructure

(b) These plans must incorporate the following:
   (i) A geotechnical report forming the basis of a road pavement design to be approved by Council’s Pavement Engineer.
   (ii) A geotechnical report identifying any contamination on the site, the chemicals present, and proposed remediation required
   (iii) A drainage study identifying the location and design required of any drainage channel, or detention basin.

16. Prior to the issue of a Section 138 Permit, all drainage pipes within the road reserve must be inspected using a CCTV camera by an experienced operator. Inspections are to be in accordance with the Conduit Inspection Reporting Code of Australia WSA 05-2006. Viewing and assessing of the video footage is to be undertaken by the Consulting Engineer and a certified report including the video footage is to be prepared and submitted to Council.

17. There shall be no net loss of floodplain storage volume below the 1% Annual Exceedance Probability (AEP) flood. This includes but is not limited to a balanced cut and fill below the 1% AEP flood.
18. Existing local drainage regime shall be maintained. The proposed intersection upgrade shall predominantly maintain the existing road levels and the road within 1% AEP flood extent shall not be filled above the existing levels.

19. The developer is to fully fund the design and construction of the traffic signals and associated road works at no cost to Council or the RMS.

20. The developer is to enter into a Major Works Authorisation Deed for the design and construction of the intersection upgrade.

21. Prior to the issue of a construction certificate for the road works not covered by the Major Works Authorisation Deed, the developer is to submit detailed design of all works required under the approved concept plan to the RMS with a copy to Council for approval.

22. The developer is to submit a sign and line marking drawing to Councils Local Traffic Committee for approval prior to installation.

23. The developer is to submit a Construction Traffic Management Plan (CTMP) prepared by a qualified person to regulate traffic during construction works. The CTMP is to ensure that a single lane is provided in each direction along Governor Macquarie Drive as well as right and left turn bays into Munday Street. The CTMP is also to include appropriate arrangement to minimise traffic impact to through traffic (in particular road works along Governor Macquarie Drive which would affect through traffic is not to be carried out during peak traffic hours being 7:30am to 9:30am and 3:30pm to 6:00pm).

24. The intersection upgrade is to include reconstruction or resurfacing subject to pavement assessment of the carriage way as shown drawing no. 77276.01.M37 sheet 1 prepared by Smec Urban.

25. The developer is to advertise in the local newspaper of the construction and program for the proposed works with contact details for any traffic concerns.

Roads and Maritime Services (RMS) requirements

26. The median width in Governor Macquarie Drive on the eastern side shall be a minimum of 1.5 metres where a signal post is located.

27. The turning lane for the right turn out of Munday Street is not required.

28. The proposed signalised intersection shall be designed and constructed in accordance with Austroads, RMS’s supplements, RMS’s Traffic Signal Design Manual and other Australian Standards and endorsed by a suitably qualified chartered Engineer (i.e. who is registered with the Institute of Engineers, Australia).

The certified copies of traffic signal design and civil plans as well as swept path analyses shall be submitted to RMS for consideration and approval prior to the release of the first Construction Certificate for any development on the Lot 1 of DP 1040353, Munday Street, Warwick Farm by the Principal Certifying Authority (PCA) and commencement of any road works

RMS fees for administration, plan checking, signal works inspection and project management shall be paid by the developer prior to the commencement of
works. An upfront ten (10) year maintenance fee (payable to RMS) will apply to the new signalised intersection.

The developer will be required to enter into a Major Works Authorisation Deed (WAD) for the abovementioned traffic signal and civil works. The Works Authorisation Deed (WAD) will need to be executed prior to RMS assessment of the detailed traffic signal design plans. The Construction Certificate shall not be released by the Principal Certifying Authority (PCA) until such time the WAD is executed.

The proposed traffic signals shall be fully constructed and operational prior to the release of the Occupation Certificate for any development on the Lot 1 of DP 1040353, Munday Street, Warwick Farm.

29. Land dedication along Hume Highway for an additional right turn lane and a left turn lane in Hume Highway into Governor Macquarie Drive should be completed prior to the abovementioned WAD being executed with the evidence being submitted to RMS’s satisfaction.

30. The proposed boundary adjustment on Munday Street illustrated in blue colour on the submitted drawings requires consultation between ATC and Masters. This minor boundary adjustment is necessary to cater for the swept path of B-doubles. The WAD for the roadworks on Munday Street shall not be executed and the DA for Masters site shall not be determined until such time that this boundary adjustment is dedicated as public road.

31. All works associated with the proposal shall be at no cost to RMS.

C. PRIOR TO WORKS COMMENCING

The following conditions are to be complied with or addressed prior to works commencing on the subject site/s:

32. Detailed engineering plans and specifications relating to the work shall be endorsed with a CC, in accordance with Section 81A of the EP&A Act, and a copy submitted to Council, with payment of any relevant fees.

33. Detailed engineering plans, pavement design and specifications shall be endorsed with a Section 138 Permit to carry out works in the road reserve.

34. All fees and bonds required for the Section 138 Permit shall be paid in full by the developer.

Notification/Principal Certifying Authority

35. The applicant shall advise Council of the name, address and contact number of the Accredited Certifier, in accordance with Section 81A of the Act.

36. The PCA must advise Council of the intended date to commence work which is the subject of this consent by completing a notice of commencement of building works or subdivision works form, available from Council’s Customer Service Centre. A minimum period of two (2) working days notice must be given.
37. Written notice of intention shall be given to the owner of the adjoining allotments of land, outlining the particulars of the proposed work, which involves:

(a) Any excavation, below the base of the footings of a building on an adjoining allotment of land.
(b) The notice shall be given seven (7) days prior to the commencement of work.

38. In the event the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the following is to be undertaken at full cost to the developer:

(a) Protect and support the adjoining premises from possible damage from the excavation, and
(b) where necessary, underpin the adjoining premises to prevent any such damage.

Facilities

39. Toilet facilities must be available or provided at the adjoining ATC owned site and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

(a) be a standard flushing toilet connected to a public sewer, or
(b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
(c) be a temporary chemical closet approved under the Local Government Act 1993.

Construction Requirements

40. The applicant / builder shall be responsible to report to the Council any damage to Council's footpath and road carriageway as a consequence of demolition or excavation or building activities or delivery / departure of materials associated with this site. The damage shall be reported to Council as soon as the damage becomes apparent to the builder / site manager. Arrangements to the satisfaction of Council are to be made for making safe by temporary repairs to the public way until permanent restoration and repair can be organised with Council.

Site Notice Board

41. A sign must be erected in a prominent position on the premises on which work is to be carried out. The sign is to be maintained during work, and removed at the completion of work. The sign must state:

(a) The name, address and telephone number of the principal certifying authority for the work; and
(b) The name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
(c) Unauthorised entry to the premises is prohibited.
Environmental Management

42. An Environmental Management Plan (EMP) shall be developed and submitted to the Principal Certifying Authority for approval. The EMP shall provide a comprehensive and complete action and implementation plan to ensure that the anthropological and natural environment is not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:

(a) Measures to control noise emissions from the site;
(b) Measures to suppress odours and dust emissions;
(c) Selection of traffic routes to minimise residential noise intrusions;
(d) Soil and sediment control measures;
(e) Measures to identify hazardous and industrial wastes and the procedures for removal and disposal including asbestos; and
(f) Community consultation.

43. Adequate soil and sediment control measures shall be installed and maintained. Furthermore, suitable site practices shall be adopted to ensure that only clean and unpolluted waters are permitted to enter Council’s stormwater drainage system during construction/demolition. Measures must include, as a minimum:

(a) Siltation fencing;
(b) Protection of the public stormwater system; and
(c) Site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

D. DURING CONSTRUCTION

The following conditions are to be complied with or addressed during construction:

Hours of Construction Work and Deliveries

44. Construction work/civil work/demolition work, including the delivery of materials, is only permitted on the site between the hours of 7:00am to 6:00pm Monday to Saturday. No work will be permitted on Sundays or Public Holidays, unless otherwise approved by Council. Road works along Governor Macquarie Drive which would affect through traffic is not to be carried out during peak traffic hours being 7:30am to 9:30am and 3:30pm to 6:00pm.

Demolition Work

45. All demolition work is to be carried out in accordance with the requirements of AS 2601. Demolition is to be carried out strictly in accordance with the approved procedures and work plan.

46. The development, including construction, shall not result in any increase in sediment deposition into any water body, wetland, bushland or environmentally significant land.
Traffic Management

47. All works within the road reserve are to be at the applicant cost and all signage is to be in accordance with the RTA’s Traffic Control at Worksites Manual and the RTA’s interim Guide to Signs and Markings.

48. If a works zone is required, an application must be made to Council’s Transport Planning section. The application is to indicate the exact location required and the applicable fee is to be included. If parking restrictions are in place, an application to have the restrictions moved, will need to be made.

49. Notice must be given to Council’s Transport Planning section of any interruption to pedestrian or vehicular traffic within the road reserve, caused by the construction of this development. A Traffic Control Plan, prepared by an accredited practitioner must be submitted for approval, 48 hours to prior to implementation. This includes temporary closures for delivery of materials, concrete pours etc.

50. Applications must be made to Council’s Transport Planning section for any road closures. The applicant is to include a Traffic Control Plan, prepared by a suitably qualified person, which is to include the date and times of closures and any other relevant information.

Waste Management Plan

51. The Waste Management Plan submitted to and approved by Council must be adhered to at all times throughout all stages of the development. Supporting documentation (receipts/dockets) of waste/recycling/disposal methods carried out, is to be kept and must be produced upon the request of Council or any other authorised officer.

Note: Any non-compliance with this requirement will result in penalties being issued.

Aboriginal Relics/Artefacts

52. Construction and excavation work shall immediately cease should a relic or Aboriginal artefact be discovered or exposed, and a qualified archaeological consultant shall be notified and consulted.

53. If a relic or potential Aboriginal artefact is discovered or located, the Heritage Council must be notified of the location of the relic or Aboriginal artefact within a reasonable time, in accordance with the s146 of the NSW Heritage Act.

Erosion Control

54. All disturbed areas shall be progressively stabilised and/or revegetated so that no areas remain exposed to potential erosion damage for a period of greater than 14 days.

55. Sediment and erosion control measures are to be adequately maintained during the works until the establishment of grass.

56. Vehicular access to the site shall be controlled through the installation of wash down bays or shaker ramps to prevent tracking of sediment or dirt onto
adjoining roadways. Where any sediment is deposited on adjoining roadways is shall be removed by means other than washing. All material is to be removed as soon as possible and the collected material is to be disposed of in a manner which will prevent its mobilisation.

Water Quality

57. All topsoil, sand, aggregate, spoil or any other material shall be stored clear of any drainage line, easement, water body, stormwater drain, footpath, kerb or road surface and there shall be measures in place in accordance with the approved erosion and sediment control plan.

E. PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions are to be complied with or addressed prior to issue of a Subdivision Certificate by Council:

Linen Plans and 88B Instruments

58. In order to enable a Subdivision Certificate to be issued for submission to the LPI Service, the applicant is required to lodge a separate application along with one (1) original and ten (10) copies of the proposed plan of subdivision and one (1) original and two (2) copies of the proposed 88b instrument if required.

59. The applicant shall pay the standard fee for purpose of subdivision certificate administration of plan checking and release.

60. The final plan of subdivision must be supported by an 88B instrument to the approval of Council. The 88B instrument shall properly reflect the requirements of the conditions of development consent, the plans forming part of the consent, and Councils standards, codes and policy’s. Part 2 of the 88B instrument shall contain a provision that any easements, right of ways or covenants shall not be extinguished or altered without the written consent of Council.

F. CONDITIONS RELATING TO USE

61. Any part of the new road including verges and footpaths constructed over private property must be dedicated as public road reserve prior to opening the road to public and/or pedestrian traffic.

62. Prior to Council accepting the constructed works all drainage pipes within the road reserve must be inspected using a CCTV camera by an experienced operator at the completion of works. Inspections are to be in accordance with the Conduit Inspection Reporting Code of Australia WSA 05-2006. Viewing and assessing of the video footage is to be undertaken by the Consulting Engineer and a certified report including the video footage is to be prepared and submitted to Council. Any defects arising as a result of the construction activities shall rectified by the developer to the satisfaction of Council.
63. Prior to Council accepting the constructed works any rectification works required by Council regarding the condition of Council infrastructure shall be undertaken, at full cost to the developer.

64. Prior to Council accepting the constructed works, two (2) copies, both marked up in red of a “Work As Executed” drawing must be submitted to and approved by Council identifying all features of the physical works as set out in Council’s specification for subdivision (as amended). These are to be accompanied by a bill of quantities for the works carried out.

65. Prior to Council accepting the constructed works the road widening on Munday Street shall be dedicated as public road.

66. All required service adjustments are to be arranged by the developer and are at full cost to the developer.

G. ADVISORY

a) If you are dissatisfied with this notice of determination or the conditions contained within this notice of determination, Section 82A of the Environmental Planning and Assessment Act 1979 gives you the right to request a review of the determination within 6 months after the date on which the application is taken to have been determined.

b) If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which the application is taken to have been determined.

c) In accordance with Section 95 of the Environmental Planning and Assessment Act 1979, unless otherwise stated by a condition of this consent, this consent will lapse unless the development is commenced within two (2) years of the date of this notice.

d) The Planning Assessment Commission has not conducted a review of the application.

e) These conditions are imposed to control development, having regard to Section 79C of the Environmental Planning and Assessment Act 1979.

f) The approval of this application does not imply or infer compliance with the Disability Discrimination Act and that the developer should investigate their liability under the Act.

g) The requirements of all authorities including the Environmental Protection Authority and the Work Cover Authority shall be met in regards to the operation of the building.

h) “DIAL BEFORE YOU DIG” DIAL 1100
Before any excavation work starts, contractors and others should phone “Dial Before You Dig” service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
i) The Liverpool City Council Local Government area soils and ground water may be subject to varying levels of Salinity. Whilst Council may require applicants to obtain Salinity reports relating to some developments, no assessment may be made by Council in that regard. Soil and ground water salinity levels can change over time due to varying factors. It is recommended that all applicants make their own independent inquiries as to appropriate protection against the current and future potential affect of Salinity to ensure the ongoing structural integrity of any work undertaken. Liverpool City Council will not accept any liability for damage occurring to any construction of any type affected by soil and or ground water Salinity.

j) The cost of any necessary adjustments to utility mains and services shall be borne by the applicant.

k) Care shall be taken by the applicant and the applicant’s agents to prevent any damage to adjoining properties. The applicant or the applicant’s agents may be liable to pay compensation to any adjoining owner if, due to construction works, damage is caused to such an adjoining property.
<table>
<thead>
<tr>
<th>ITEM No:</th>
<th>1</th>
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<tbody>
<tr>
<td>APPLICATION NUMBER:</td>
<td>DA-28/2012</td>
</tr>
<tr>
<td>SUBJECT:</td>
<td>INTERSECTION UPGRADE ROAD WORKS OF GOVERNOR MACQUARIE DRIVE AND MUNDAY STREET, WARWICK FARM</td>
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<tr>
<td>LOCATION:</td>
<td>LOT 1 DP 1040353 AND PORTION OF ROAD RESERVE OF GOVERNOR MACQUARIE DRIVE AND MUNDAY STREET, WARWICK FARM NSW 2170</td>
</tr>
<tr>
<td>OWNER:</td>
<td>AUSTRALIAN TURF CLUB LIMITED</td>
</tr>
<tr>
<td>APPLICANT:</td>
<td>SMEC URBAN PTY LTD</td>
</tr>
<tr>
<td>AUTHOR:</td>
<td>MAYA ELNAZER</td>
</tr>
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</table>

**ISSUES RELATED TO THE APPLICATION**

The Panel agrees with the recommendation of Council’s assessment to approve the construction of the proposed intersection. The purpose of the intersection upgrade is to assist the flow of traffic to and from the Hume Highway. The Panel noted that the works are already included in two VPA agreements as mentioned in the Council report.

The Panel heard the concerns of the community that the equine industry and residences were adversely impacted by the traffic generated by the industrial estate. The objectors were of the view that the proposed intersection upgrade would not alleviate the problem of industrial traffic accessing the industrial estate through the residential and equine areas. The traffic engineer for the applicant clearly stated that this issue was not taken into consideration. His instructions were to facilitate the flow of traffic to and from the Hume Highway.

The proposed intersection does not take into account any conflict between the industrial estate and the residential/equine industry area. The conflict is manifest by large trucks driving through the residential/equine area to access the industrial area. There is a further potential conflict between the new commercial development in the Masters area which will egress on to Munday Street adjacent to a portion of the existing residential and equine area. This will compound the existing conflict between the industrial and residential areas.

**VOTING NUMBERS: 4 - 0**
RECOMMENDATION OF PANEL:

The Panel recommends that:

a. The application is approved as per the recommendation of the planning report.
<table>
<thead>
<tr>
<th>ITEM NO:</th>
<th>IHAP 02</th>
<th>FILE NO:</th>
<th>DA-787/2005/B</th>
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<tr>
<td>SUBJECT:</td>
<td>MODIFICATION TO DEVELOPMENT CONSENT DA-787/2005</td>
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</tbody>
</table>
ITEM No. | 1
---|---
Application Number | DA-787/2005/B
Proposed Development | Modification to Development Consent DA-787/2005 (pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979)
Property Description | Lot 100 DP 1102856
No. 51 Lachlan Street (Corner Maquarie Street North)
Warwick Farm NSW 2170
Applicant | Mosca Pserras Architects Pty Ltd
Land Owner | Conceal Pty Ltd
Cost of Work | Not specified – modification of approved development
Recommendation | Approval

1. **EXECUTIVE SUMMARY**

1.1 **Reasons for the Report**

Pursuant to the requirements of the endorsed IHAP Charter and Procedure, the proposal is referred to the Independent Hearing and Assessment Panel for consideration as the proposal seeks a variation to a development standard in excess of 10 percent.

1.2 **The proposal**

An application has been made pursuant to section 96(1A) of the Environmental Planning and Assessment Act 1979 which seeks to amend DA-787/2005.

Development Consent DA-787/2005 approved the construction of a residential flat building which contained a total of 36 residential units comprising a mix of 11 x three bedroom and 25 x two bedroom units. The approved residential flat building contained nine levels plus an attic and three levels of basement car parking.

The subject modification seeks to:

- Delete the top floor of the development and reconfiguration of Level 8;
- Delete one of the approved lift towers; and
- Amend Condition 61 to not require a 3.3 metre floor to ceiling height at the ground floor.

1.3 **The site**

The site is identified as Lot 100 DP 1102856, being No. 51 Lachlan Street and the corner Maquarie Street, Warwick Farm.
1.4 The issues

The proposed modifications are considered to raise no significant planning or building issues. The only issue relates to whether a modified development should be made to comply with current development standards pertaining to floor space ratio as opposed to complying with those standards in force at the time the original approval was granted.

It is noted that the proposal as originally approved and as proposed to be amended exceeds the current development standards pertaining to floor space ratio. The proposal as modified represents a 22.5 percent variation to the floor space ratio development standard.

1.5 Exhibition of the proposal

The application was advertised for fourteen days in accordance with Part 1.1 of Liverpool Development Control Plan 2008. No submissions were received during the exhibition period.

1.6 Conclusion

Following detailed assessment of the proposal it is considered that the development is substantially the same as approved and that the development as amended is consistent and compatible with the existing and likely future character of the area.

On this basis it is considered that the variation to the development standard should be allowed and application to amend the building layout should be approved.

2. SITE DESCRIPTION & LOCALITY

2.1 The Site

The subject site is located on the north eastern corner of the intersection of Lachlan Street with Macquarie Street. The land has an area of 1,418m² and has a frontage of approximately 44 metres to Lachlan Street and 36 metres to Macquarie Street.

Development has commenced on the site with the excavation and construction of the basement car parking levels.

The site is partly affected by the Probable Maximum Flood and prior to its excavation for basement car parking had a slight fall to the west.
2.2 The locality

The general area located within the north of the Liverpool CBD is currently undergoing extensive redevelopment for residential flat buildings. A Locality Map is illustrated in Figure 2.

A recently constructed 10 residential flat building which formed part of stage one of the development (separate development application) adjoins to the site to the east. Council is also currently considering a development application at Lot 102 DP 1102856, 3 George Street for a residential flat building. Residential flat buildings are also located opposite on the southern side of Lachlan Street.
The heritage listed Liverpool Pioneers’ Memorial Park is located on the western side of Macquarie Street North. Lachlan Street and part of Macquarie Street North are also heritage listed being part of the 1927 Hoddle “Plan of Town of Liverpool”.

3. BACKGROUND

3.1 History

Development Application DA-787/2005 was approved by Council on 21 October 2005. Development Consent was granted for the construction of a residential flat building containing a total of 36 residential units comprising a mix of 11 x three bedroom and 25 x two bedroom units. The approved residential flat building contained nine levels plus attic and three levels of basement car parking.

A modification application was later approved by Council being DA-787/2005/A on 6 April 2006. the modification application staged the construction of the development over three stages as outlined below:

- Stage 1: Demolition of existing buildings and excavation of the basement car parking area only.
- Stage 2: Construction of the basement car parking area only.
- Erection of a ten level residential flat building consisting of 35 residential dwellings and associated facilities.

Provided below is an extract of the approved site plan.

Figure 3: Extract of approved site plan

Provided below is an extract of the approved elevations.
4. DETAILS OF THE PROPOSAL

An application has been made pursuant to section 96(1A) of the Environmental Planning and Assessment Act that seeks to amend Development Consent DA-787/2005. The modification involves three components, which includes:

- Deletion of the top floor development and reconfiguration of Level 8 to suit;
- Deletion of one of the approved lift towers; and
- Amend Condition 61 to not require a 3.3 metre floor to ceiling height at the ground floor.

Details of each component are canvassed below:

**Deletion of the top floor development and reconfiguration of Level 8 to suit**

- The approved plans label the ground floor as "Level 1" rather than adopting convention and describing the ground floor as "Ground Level". As a result what would be known as Level 8 under standard convention is labelled as Level 9 on the approved plans. The subject application seeks to correct this departure from conventional plan labelling and describes the ninth storey of the development as Level 8.
The first component of the proposed modification seeks to amend the top two storeys of the approved 9 storey, plus attic, of the residential flat building. The proposal involves the deletion of the top (attic) storey, and reconfiguring the Level 8 floor plan.

The proposal is to convert each of the two storey units to single storey units thus removing the attic level of the development. In so doing, reconfiguration of Units 34 and 35 is proposed. The proposal also involves minor modification to the internal layout, external enclosing wall alignment and the private space of Unit 33. Similarly, minor modification to the alignment, configuration and dimensions of the private open space balconies servicing Units 34 and 35 is proposed.

An extract of the amended elevations being considered as part of this modification application is illustrated below.

![Proposed elevations as part of modification application](image)

Deletion of one of the approved lift shafts.

The approved development provides two lift cores servicing four units per level. When originally proposed the developer had sourced competitively priced lifts and it was considered that the provision of an additional lift would improve residential amenity. However the applicant has advised that the residential apartment buying market will not support the additional strata levies associated with the maintenance of a surplus lift core. The space occupied by the lift core will become an additional bathroom on each level.
Amendment of condition No. 61 to reduce the ground floor ceiling height

- Condition 61 requires 2.7m floor to ceiling heights for all residential levels except ground floor which is required to achieve a 3.3m floor to ceiling height. The 3.3m ground floor ceiling height is typically required for the ground floor of a mixed use development where the ground floor will have a commercial or retail use.

5. STATUTORY CONSIDERATIONS

5.1 Zoning

The subject site is zoned R4 - High Density Residential under the provisions of Liverpool Local Environmental Plan 2008 (LLEP). An extract of the zoning map is provided below:

![Zoning Map](image)

Figure 6: Extract of LLEP 2008 zoning map

The proposed development is defined as a “residential flat building” which provides as follows:

“residential flat building” means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The development satisfies the above definition of a residential flat building.
5.2 Relevant matters for consideration

The planning controls that relate to the proposed development are:

- State Environmental Planning Policy No. 65 - Design Quality of Flat Buildings
- Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment
- Liverpool Local Environmental Plan 2008
- Liverpool Development Control Plan 2008

An assessment of the proposed development under the planning controls is provided below:

6. ASSESSMENT

The modified development application has been assessed in accordance with the relevant matters for consideration prescribed by Section 79C and 96 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation as follows:

6.1 Section 96 of the Environmental Planning and Assessment Act 1979

Section 96(1A) – Modification involving minimal environmental impact prescribes:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

In determining a Section 96 modification Council must be satisfied that the proposed modification meets the criteria above.

The proposed development involves a reduction in building height and the provision of one less bedroom as compared with the approved development. Any impacts associated with the approved development, whether by way of overshadowing, overlooking traffic or other, will be lessened under the proposed modification. Accordingly, the proposal is considered to have minimal environmental impact.
In general the proposed modification is considered substantially the same development as that previously determined by Council. The overall footprint and location of the development on the site is not substantially changing, only a functional configuration or residential of rooms.

6.2 Section 79C(1)(a)(1) – Any Environmental Planning Instrument

The following summarises the assessment of the proposal in terms of the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979.

(a) State Environmental Planning Policy No. 65 - Design Quality of Flat Buildings

Whilst the proposed development is for a S96(1A) modification, and therefore does not require a design verification statement from a registered architect, it is relevant note that the modified design was directed by a registered architect and the proposal is consistent with the requirements of SEPP 65 as well as the NSW Residential Flat Design Code.

The proposed apartment layout provides satisfactory cross ventilation and solar access opportunities to the proposed units. The layouts for Units 34 and 35 are generally consistent with the typical floor plan for the levels below. The balcony width of Unit 35 is marginally narrower than the other dwellings, however the architect has prepared a furniture layout diagram which demonstrates that the Unit 35 balcony is satisfactorily useable.

In this regard the proposed amendment comply with the design principles prescribed by the SEPP.

(b) Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment

The proposed modification will not have any impact on the Georges River Catchment.

(c) Liverpool Local Environmental Plan 2008

Permissibility

The subject site is zoned R4 - High Density Residential under the provisions of Liverpool Local Environmental Plan 2008 (LLEP). The proposed development is defined as a “residential flat building” which provides as follows:

“residential flat building” means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

The development satisfies the above definition. The subject modification does not affect the permissibility of the proposed development.
Objectives

The objectives of the zone are as follows:

(a) To provide for the housing needs of the community within a high density residential environment.
(b) To provide a variety of housing types within a high density residential environment.
(c) To enable other land uses that provide facilities or services to meet the day to day needs of residents.
(d) To provide for a high concentration of housing with good access to transport, services and facilities.
(e) To minimise the fragmentation of land that would prevent the achievement of high density residential development.

Objectives (a), (b) and (d) are relevant to the application. The proposals amended will still provide high density residential housing in an accessible location within the Liverpool City Centre. The proposal as amended is of a scale and character that is commensurate with surrounding developments and is consistent with both the current and future character of the locality. The proposal will not create conflict with any adjoining land use.

The proposed development as amended therefore meets and satisfies the above stated objectives.

Clause 4.3 – Maximum Building Height

Pursuant to Clause 4.3 and the Height of Buildings Map, the permissible building height for the site is 45m. The proposed modification results in a reduction in height to 30m and is compliant with current development standards pertaining to building height.

Clause 4.4 – Maximum Floor Space Ratio

The development as approved had a total floor area of 3,583m² and a floor space ratio of 2.52:1. The proposal as modified results in a reduction of floor area, thus reducing the total floor area to 3,985m². This also results in a reduction in floor space ratio, where a total floor space ratio of 2.45:1 is provided.

Clause 4.4 pursuant to the floor space ratio map prescribes a maximum floor space ratio of 201:1. The amended proposal while reduces the floor area of the development does result in a departure from the current floor space ratio standard, and a variation of 22.5 percent is proposed.

Clause 4.6 of LLEP 2008 sets out the requirements where by variation to development standards can be made. Specifically Clause 4.6(3) prescribes:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.
The applicant submits that as the proposed modification results in a reduction in gross floor area and floor space ratio compared to the approved development, compliance with the maximum FSR requirements of Clause 4.4 is considered to be unreasonable or unnecessary in the circumstances of the case.

The environmental planning grounds, which justify departure from the development standard are, that the proposed development will involve less impacts in all areas related to the floor space ratio control than would be expected under the approved development. The reduction in building height by a level will result in an overall reduction in the visual bulk of the building and a reduced overshadowing and overlooking impact on neighbouring properties.

The variation of the development standard does not raise any matter of significance for State or regional environmental planning, and will not compromise the public benefit of maintaining the development standard as the proposed modification brings a “grandfathered” development closer to the current standard not further away from it as is the case with most requests for variations.

The objectives of clause 4.4 are as follows:

(a) to establish standards for the maximum development density and intensity of land use, taking into account the availability of infrastructure and the generation of vehicle and pedestrian traffic,
(b) to control building density and bulk in relation to the site area in order to achieve the desired future character for different locations,
(c) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,
(d) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,
(e) to provide an appropriate correlation between the size of a site and the extent of any development on that site,
(f) to facilitate design excellence in the Liverpool city centre by ensuring the extent of floor space in building envelopes leaves generous space for the articulation and modulation of design.

The proposed modified application is considered consistent with the above objectives of the FSR standard and the objectives of the R4 High Density Residential zone in which the development is proposed to be carried out

Other Liverpool City Centre Provisions

The subject site is located within the defined Liverpool City Centre boundary, and whilst it is not identified as a key site on the key sites map, the provisions of Part 7, Division 1 apply.

Clause 7.2 relates to solar access within the Liverpool City Centre and sets a maximum height for the subject site of 30m (despite the provisions of Clause 4.3). The modified proposal achieves compliance with this requirement whereas the approved development does not comply.

The approved and proposed developments comply with the building separation requirements under Clause 7.4.
6.3 Section 79(1)(a)(ii) – Any Draft Environmental planning Instrument

No draft environmental planning instrument relates to the site.

6.4 Section 79(1)(a)(iii) – Provisions of any Development Control Plan

(a) Liverpool Development Control Plan 2008 Part 4: Liverpool City Centre

It is noted that the original development was approved in 2005 and was assessed under the provision of a DCP which is no longer in force.

The modification application has been assessed under Liverpool Development Control Plan 2008, specifically Part 4 – Development in the Liverpool City Centre. Assessed against the current controls prescribed by Part 4 is consistent with all requirements or otherwise involves a reduction in the level of non-compliance approved in the original development.

As outlined earlier in the report, the proposal seeks a reduction in floor to ceiling height for the ground floor. The proposal as originally approved provides a floor to ceiling height of 3.3 metres. The modification seeks to reduce this height to 2.7 metres.

Controls within Part 4 of LDCP 2008 prescribes:

Ground floor of all mixed-use buildings are to have a minimum floor to ceiling height of 3.6m in order to provide for flexibility of future use. Above ground level, minimum floor to ceiling heights are 3.3m for commercial office, 3.6m for active public uses, such as retail and restaurants, and 2.7m for residential.

There is no specific clause within the DCP which relates to floor to ceiling heights for the ground floor of non-mixed use buildings such as the subject building. However, from Control 2 of Clause 2.2 it is clear that the intent of the 3.3m floor to ceiling height at ground floor is to respond to non-residential ground floor uses.

Given that this is not proposed for the subject building, and the approved floor plan is not conducive to such uses, the ground floor ceiling height requirement of Condition 61 of the consent is not necessary. Accordingly, modification of the wording of the condition as proposed, to permit 2.7m floor to ceiling height at ground floor is appropriate in the circumstances.

6.5 Section 79C(1)(a)(iiia) - Any Planning Agreement

No planning agreement relates to the site or proposed development.

6.6 Section 79C(1)(a)(iv) - The Regulations

There are no matters prescribed by the Regulations that apply to this development.

6.7 Section 79C(1)(b) - The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed modification will not increase the existing impacts that will be created by the original development and will reduce them in some respects.
6.7 Section 79C(1)(c) - The suitability of the site for the development

The zoning of the site permits the development although it possesses a FSR 22% in excess of current limits. The development as amended generally complies with the appropriate provisions of Council’s DCP. The impacts of the development as amended on the amenity of the local area will be minimal and the development is consistent with the existing and likely future character of the area.

6.8 Section 79C(1)(d) - Any submissions made in relation to the application

(a) Internal Referrals:

INTERNAL REFERRALS

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<th>DEPARTMENT</th>
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<td>No objection subject to existing conditions of consent.</td>
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<tr>
<td>Land Development Engineering</td>
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</table>

(b) Community Consultation

In accordance with Liverpool Development Control Plan 2008, the application was initially advertised for fourteen days. A notice was displayed on site, an advertisement was placed in a local newspaper and letters were sent to properties within a 100m radius of the site. During the advertising period, no submissions were received objecting to the proposal.

6.9 Section 79C(1)(e) - The public interest

The public interest is taken to include the provision of increased housing choice and availability for future and existing residents of the Liverpool Local Government Area. The development as originally proposed will achieve this whilst the proposed amendments will improve the economic viability of the development in meeting the public interest.

The issues raised in the complying with the current floor space ratio development standard with respect to this proposal have been suitably addressed throughout this report. It is considered that the proposed development is in the public interest, and is worthy of support.

7. CONCLUSION

The proposed development generally complies with the Liverpool Local Environmental Plan 2008 and Liverpool Development Control Plan 2008.

This report finds that the amended development and the proposed variation of the FSR has merit. In addition the proposed amended development will not have any significant adverse impacts on the built or natural environments including the amenity of the local area.

Overall, the scale, design, character and operation of the development as approved and proposed to be amended is consistent and compatible with the character of the locality. The amended proposal is worthy of Council’s support.
8. RECOMMENDATION

That Council:

1. Approves modification application DA-787/2005/B which seeks to modify Development Consent DA-787/2005 pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979, subject to the modified conditions of consent

2. Supports the variation to Clause 4.4 - Floor Space Ratio made pursuant to Clause 4.6 of Liverpool Local Environmental Plan 2008.
9. ATTACHMENTS

9.1 Architectural plans