

## Greater Sydney, Place and Infrastructure

IRF20/4008

### Gateway determination report

<b>LGA</b>	Liverpool
<b>PPA</b>	Liverpool City Council
<b>NAME</b>	146 Newbridge Road, Moorebank (9 Homes)
<b>NUMBER</b>	PP_2020_LPOOL_003_00
<b>LEP TO BE AMENDED</b>	Liverpool Local Environmental Plan 2008
<b>ADDRESS</b>	146 Newbridge Road, Moorebank
<b>DESCRIPTION</b>	Part of Lot 7 on DP 1065574
<b>RECEIVED</b>	19 August 2020
<b>FILE NO.</b>	IRF20/4008
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1. INTRODUCTION

### 1.1 Description of planning proposal

The planning proposal (**Attachment A**) seeks to amend the Liverpool Local Environmental Plan 2008 (LLEP 2008) planning controls at 146 Newbridge Road, Moorebank by:

- rezoning part of the site from RE2 Private Recreation to R3 Medium Density Residential;
- Reducing the height of building control from 21 metres to 8.5 metres across the proposed R3 zone;
- Increasing the maximum Floor Space Ratio (FSR) from 0.25:1 to 0.65:1 across the proposed R3 zone; and
- Reducing the minimum lot size from 10 hectares to 300 square metres across the proposed R3 zone.

In 2015, a previous planning proposal was lodged over 146 Newbridge Road, Moorebank to allow additional permitted uses on a larger portion of the property including the Georges Cove Marina Site and the land subject to this planning proposal. This previous planning proposal was granted a Gateway Determination on 9 March 2017 however was subject to an appeal in the Supreme Court. The Supreme Court declared the Gateway Determination invalid due to previous procedural requirements in relation to a previous version of the State Environmental

Planning Policy No 55 – Remediation of Land. This previous planning proposal is not a part of this planning proposal.

## 1.2 Site description and surrounding area

The site is part of the broader land parcel described as 146 Newbridge Road, Moorebank; Lot 7 on DP1065574 (**Figure 1**). The site (**Figure 2**), subject to this planning proposal is identified only 0.41 ha of the total 22 ha land parcel. The site is currently used for extractive industry and recycling operations.

The site is located in the suburb of Moorebank and adjoins the Georges River, E2 Environmental Conservation land, and R3 Medium Density Residential zoned land. The Bankstown airport is located to the north west of the site. The Liverpool CBD is approximately 4km west of the site along Newbridge Road. The site is identified as an Urban Development Investigation Area under the Liverpool Local Strategic Planning Statement.



**Figure 1:** 146 Newbridge Road, Moorebank (Source: ePlanning Spatial Viewer)

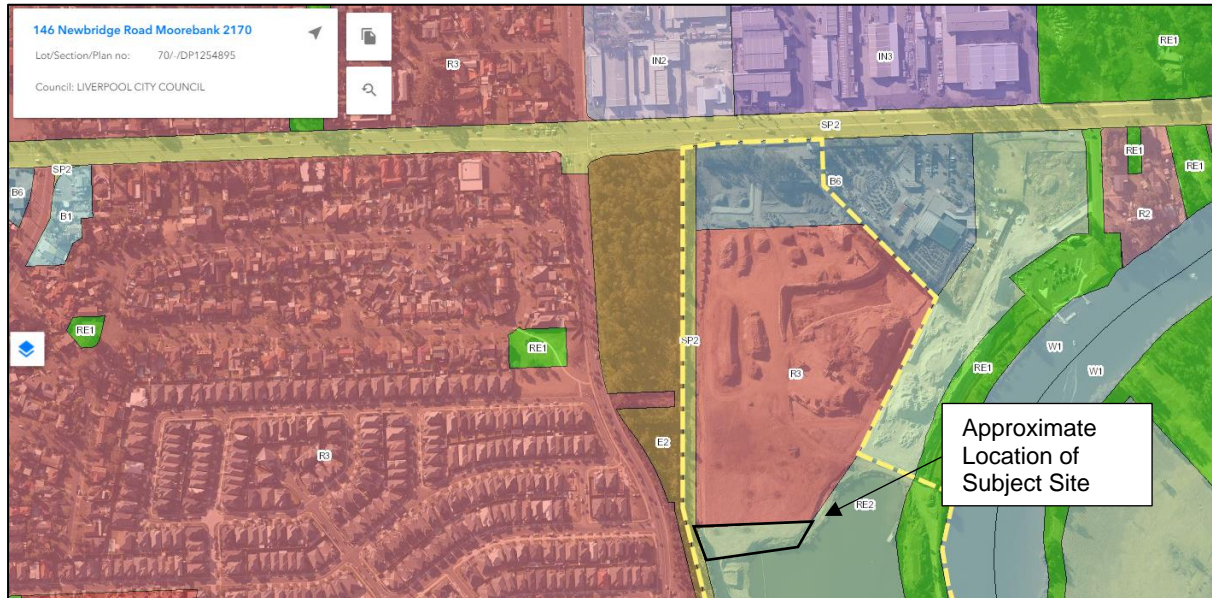




**Figure 2:** Subject Site (Source: Planning Proposal)

### 1.3 Existing planning controls

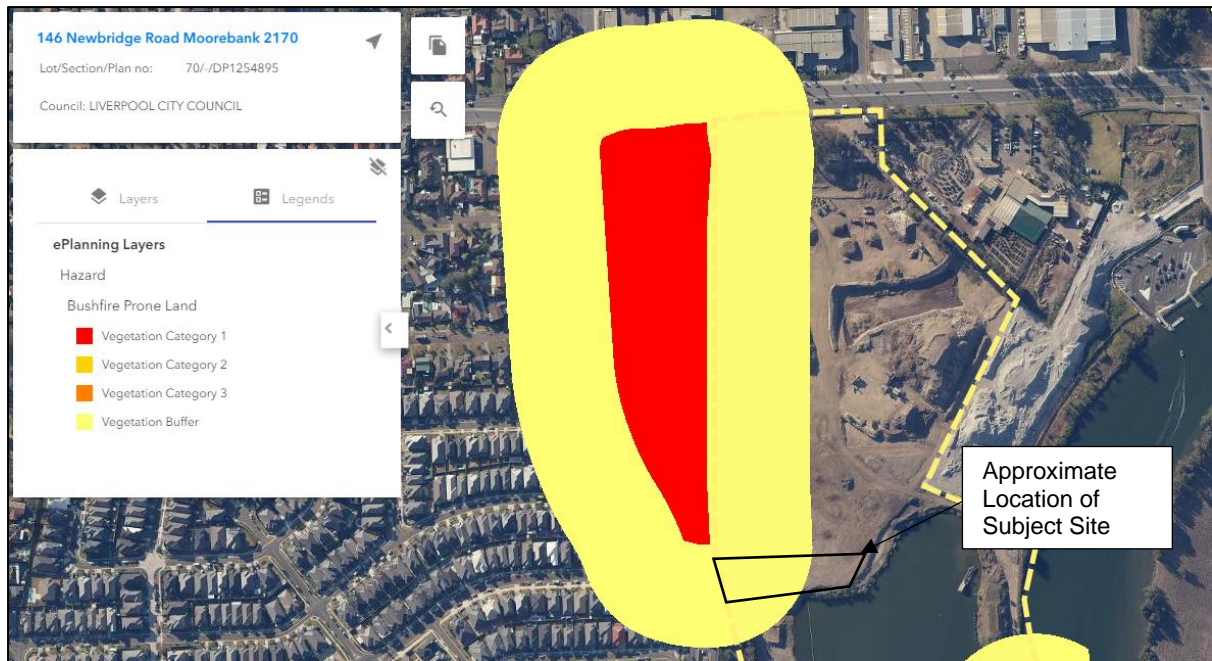
The site is currently zoned RE2 Private Recreation and adjoins land zoned R3 Medium Density Residential, SP2 Infrastructure and E2 Environmental Conservation.



**Figure 3:** Existing Zoning (Source: ePlanning Spatial Viewer)

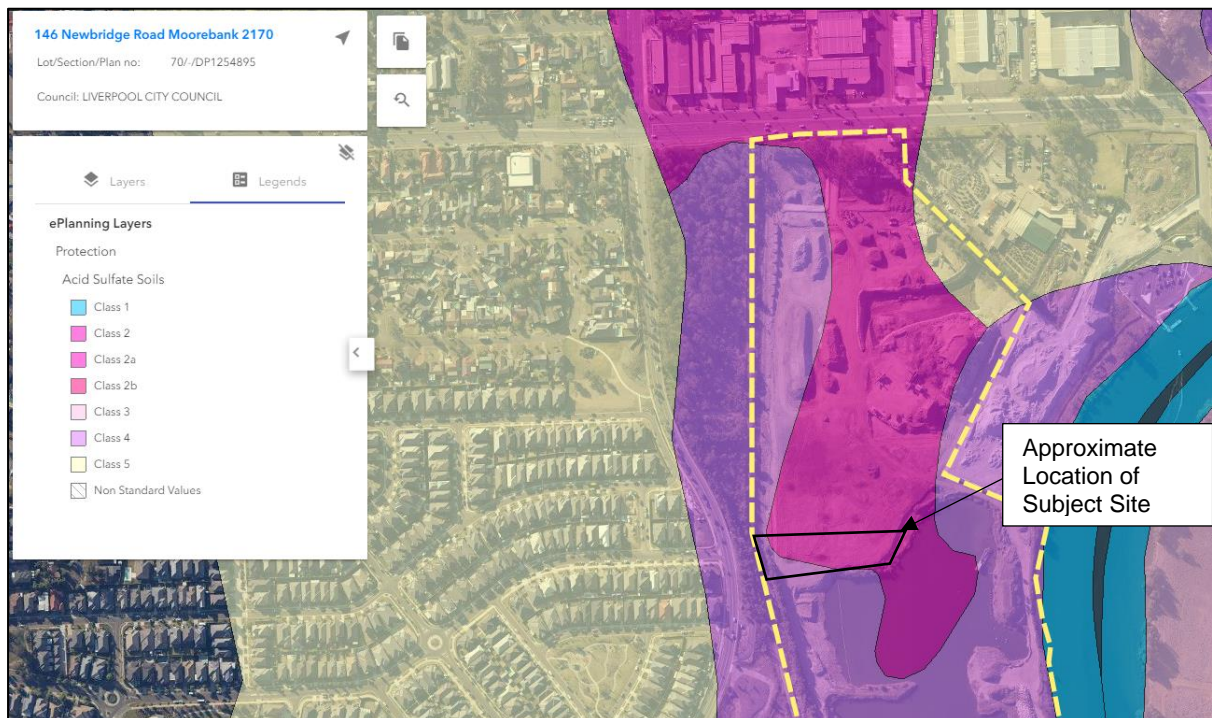
The site:

- contains a minimum lot size of 1 hectare;
- is affected by the Greenfield Housing Code;
- is in an Urban Release Area under the LLEP 2008;
- contains a maximum building height of 21 metres;
- is not affected by the Foreshore building line;
- is not located in or adjacent to Heritage items;
- is not located in or near a Wetland;
- is not affected by Airport Noise or the Obstacle Limitation Surface layer;
- is adjacent to the Sydney Green Grid;
- is affected by Bushfire (**Figure 4**), being located in a Vegetation Buffer area



**Figure 4:** Bushfire affectation (Source: ePlanning Spatial Viewer)

- contains Acid Sulfate Soils (Figure 5).



**Figure 5:** Acid Sulfate Soil Classification (Source: ePlanning Spatial Viewer)

- contains land that is and is adjacent to Environmentally (Significant) Sensitive Land – see Part 6 of the LLEP 2008 (**Figure 6**).





**Figure 6:** Environmentally Sensitive Land (Source: ePlanning Spatial Viewer)

### 1.4 Summary of recommendation

The planning proposal is recommended to proceed subject to the conditions identified in this report. The proposal will allow for a logical extension of urban zoned land which facilitates approximately 9 dwellings.

The proposal has strategic merit and is considered consistent with the District Plan and Council's Local Strategic Planning Statement. Given the extent of proposed zoning change, the inconsistency with relevant Section 9.1 Ministerial Directions is of minor significance.

## 2. PROPOSAL

### 2.1 Objectives or intended outcomes

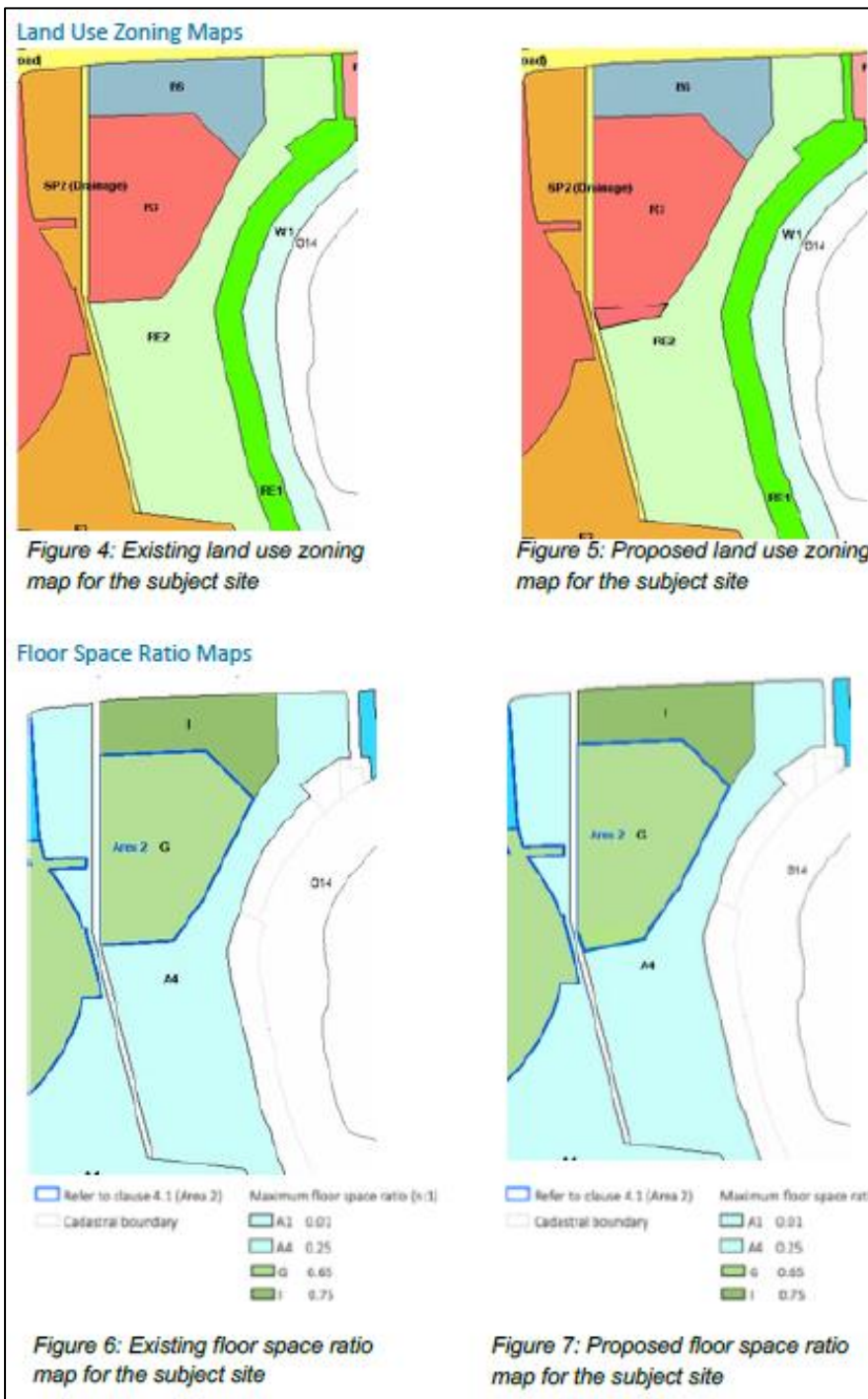
The objectives or intended outcomes are to facilitate a rezoning from RE2 Private Recreation to R3 Medium Density and an amendment to specific planning controls which will facilitate 9 additional dwellings on the subject site.

### 2.2 Explanation of provisions

The planning proposal outlines the proposed parts of the LLEP 2008 that will be affected. It is considered the proposed explanation is satisfactory for exhibition purposes.

## 2.3 Mapping

The planning proposal includes both existing and proposed mapping to clearly demonstrate the intended outcomes (**Figures 7 & 8**). The mapping identifies land parcels that are subject to the planning proposal, current and proposed development standards and the extent of the proposed changes. The planning proposal identifies the extent of land affected by the proposed changes. It is however recommended the clarity of the figures are updated for exhibition including the size of the land proposed to be rezoned to assist in readability during exhibition and an explanation of how Area 2 under clause 4.1 of the LLEP 2008 interacts with the proposed mapping.



**Figure 7:** Extract of proposed mapping (Source: Planning Proposal)

### Minimum Lot Size Maps

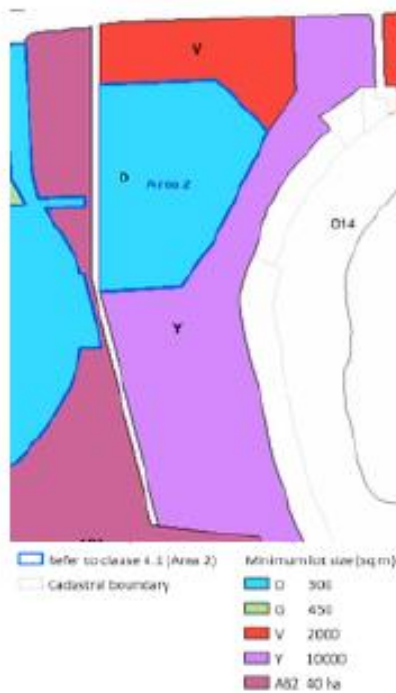


Figure 8: Existing minimum lot size map for the subject site



Figure 9: Proposed minimum lot size map for the subject site

### Height of Building Maps



Figure 10: Existing height of building map for the subject site



Figure 11: Proposed height of building map for the subject site

Figure 8: Extract of proposed mapping (Source: Planning Proposal)

### 3. NEED FOR THE PLANNING PROPOSAL

---

The planning proposal notes the site is located in an Urban Development Investigation Area under the Liverpool Local Strategic Plan Statement (LSPS). The proposal notes the boundary adjustment is considered justified as it provides sufficient land area to achieve the overall design merit of the Moorebank Cove Residential Estate.

The planning proposal is considered a logical extension of urban zone land as it is identified in the LSPS for an Urban Development Investigation Area. Although the proposal is not a part of a strategic planning study, the zone adjustment is considered appropriate to facilitate additional dwelling supply and an orderly extension of urban land in the LGA. The planning proposal notes the site is subject to a voluntary planning agreement to deliver improved open space for the future community. The planning proposal also provides a suitable assessment of the site-specific merit to facilitate the proposed objectives.

### 4. STRATEGIC ASSESSMENT

---

#### 4.1 Western City District Plan

The subject site is affected by the Western City District Plan. The Western City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. The planning proposal notes it gives effect to the Western City District plan as it meets objective 10 'Greater Housing Supply'.

The planning proposal gives effect to the Western City District Plan as it meets:

Planning Priority 5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport

The planning proposal seeks to provide an additional 9 dwellings on the boundary of an existing urban community and within an urban investigation area. The planning proposal will provide additional homes that are accessible to jobs, services in the Liverpool CBD and have access to regional transport.

#### 4.2 Local

Local Strategic Planning Statement – Connected Liverpool 2040 & Draft Liverpool Local Housing Strategy

Connected Liverpool 2040 is Council's long-term plan to shape Liverpool's future and to guide development and balance the need for housing, jobs and services as well as parks, open spaces and the natural environment. The planning proposal notes it will assist in meeting Council's five-year housing supply target outlined in the LSPS.

The *Draft Liverpool Local Housing Strategy* sets out the priorities and actions to deliver suitable housing the right locations to meet the needs of the Liverpool community over the next 20 years.

The planning proposal is identified in the Moorebank East precinct which is an urban development investigation area in the LSPS. The Local Housing Strategy notes the existing planning controls in Liverpool provide enough capacity for approximately 50,000 new dwellings by 2036, however the planning controls do not encourage or support the delivery of medium density housing. The planning proposal seeks to rezone land from RE2 Private Recreation to R3 Medium Density Residential,



facilitating approximately 9 detached dwellings in a low density setting which contributes to the housing diversity in the Moorebank East precinct.

#### Liverpool Community Strategic Plan

Council's *Our Home, Liverpool 2027* is a Community Strategic Plan (CSP) provides strategic directions that have been identified by the community and the measures that will allow Council to determine progress towards achieving them. The four key directions are:

- creating connection,
- strengthening and protecting our environment,
- generating opportunity and,
- leading through collaboration.

The proposal aligns with the third direction (generating opportunity) which aims to attract businesses for economic growth and employment opportunities and create an attractive environment for investment. The proposal seeks to introduce 9 additional dwellings in the community which will increase the population and assist in attracting more business to the local area.

#### Local Planning Panels

All planning proposals in Greater Sydney Region and Wollongong prepared after 1 June 2018 are required to be referred to the local planning for advice before the Council considers whether or not to forward the proposal to the Department of Planning Industry and Environment (The Department). The planning proposal and an assessment report were considered by the Local Planning Panel on 29<sup>th</sup> June 2020. The Panel endorsed the progression of the planning proposal to Gateway determination and supported the findings of the assessment report with specific regard to the remediation of contaminated land.

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

The below assesses the consistency of relevant Section 9.1 Ministerial Directions.

#### Direction 2.2 Coastal Management

This Direction applies to land within the coastal zone and aims to protect and manage coastal areas of NSW as identified by the *Coastal Management Act 2016* and *State Environmental Planning Policy (Coastal Management) 2018*. The planning proposal is applicable to this Direction as land on the subject site is within the coastal zone. The planning proposal is not consistent with this Direction, however the inconsistency is of minor significance. The site of the proposed re-zoning is outside of the Forshore Building line as shown on the LLEP 2008. In addition, the Coastal Management SEPP will apply to future development on the site which manages development in the coastal zone and protects environmental assets of the coast. Given the planning proposal does not inhibit assessment of the controls outlined in the Coastal Management SEPP and the proposal is outside of the Foreshore building line, the inconsistency is considered to be of minor significance.

### Direction 2.6 Remediation of Contaminated Land

This Direction applies to land which may contain contaminated land. The planning proposal is considered consistent with items 4 and 5 of the Direction as the planning proposal authority has considered whether the site is contaminated through a preliminary site investigation and the investigation identified the site is suitable for the proposed zoning. The planning proposal also notes the site is currently subject to a Statutory Site Audit as part of remediation works and a remediation action plan.

### Direction 3.1 Residential Zones

This Direction applies when a planning proposal proposed a residential zone. The planning proposal notes the site has existing infrastructure and services and is within a predominantly urban area, therefore the proposal will make efficient use of these services and does not propose development on the urban fringe. By facilitating an additional 9 dwellings, the proposal will also broaden the supply and subsequent choice of building types available in the market. The Liverpool Development Control Plan 2008 provides provisions relating to the design of future development. The planning proposal does not contain provisions that will reduce the permissible density of development and is therefore consistent with Direction 3.1.

### Direction 3.4 Integrating Land Use and Transport

This Direction applies to the planning proposal as the planning proposal seeks to create residential zoned land. This Direction seeks to include provisions that require planning proposals to reduce car-dependency. The planning proposal is noted to improve access to housing within walking distance to transport and provide housing along the banks of the Georges River providing increased amenity and walkability for future residents. The proposal is supported by a Transport Assessment which concludes the development will have negligible impacts on traffic flows, safety and residential amenity on nearby roads. Given the proposal only seeks to provide an additional 9 dwellings and the road network can cater for the future development, the increased development generated by this proposal is considered of minor significance and therefore the inconsistency with this Direction is of minor significance.

### Direction 4.1 Acid Sulfate Soils

This Direction applies to the planning proposal as the planning proposal applies to land that contains acid sulfate soils (**Figure 5**). The site is identified as containing Class 2 land on the Acid Sulfate Soils Map. Given the planning proposal has not considered Acid Sulfate Soils Planning Guideline, the proposal is inconsistent with Direction 4.1.

Clause 7.7 of the LLEP 2008 provides that any works below the ground level on Class 2 land must prepare an acid sulfate soils management plan to consider the Acid Sulfate Soils over the site. Given the planning proposal seeks to provide an additional 9 dwellings through a minor extension to existing urban zoned land and the LLEP 2008 includes provisions to address the future risk of Acid Sulfate Soils, upon disturbance of soils, the inconsistency is considered to be of minor significance.

#### Direction 4.3 Flood Prone Land

This Direction applies to the planning proposal as the site is flood prone land. In accordance with the Direction, a planning proposal must not rezone land within a flood planning area and is therefore inconsistent with the direction. However, the inconsistency is of minor significance as the flooding risk has been assessed over the site through a Flood Impact Assessment and controls are in the LLEP 2008 to address detailed flood matters at the Development Application stage.

The assessment concludes the rezoning would not pose a scour risk due to the low velocity levels of the flood path and have no adverse impacts on water levels at any location off site. The assessment also notes the 100yr ARI flood-storage on the site will increase as a result of the broader proposal. In addition, the LLEP 2008 includes provisions under clause 7.8a of the LLEP 2008 that require future development to minimise flood risk to life and property associated with the use of the land. To facilitate an adequacy check of the proposed flooding assessment, it is recommended Council consult with the Department's Environment, Energy and Science branch during exhibition.

#### Direction 4.4 Planning for Bushfire Protection

This Direction applies as the site is mapped or within close proximity to bushfire prone land (**Figure 4**). The planning proposal is supported by a bushfire assessment which notes that future applications can be achieved on the site, and that the proposed development can achieve minimum setbacks for Asset Protection Zones. Given this, the proposal is considered a minor risk as it does not preclude the ability for future development to occur on the site.

However, the inconsistency with this Direction remains unresolved until consultation occurs with RFS and that RFS does not object to the progression of the planning proposal.

### **4.4 State environmental planning policies (SEPPs)/Environmental Planning Instruments**

#### SEPP 65 – Design Quality of Residential Apartment Development

SEPP 65 provides principles to ensure that residential apartments are of high-quality design and maximise amenity both externally and internally for occupants. The SEPP is supported by the Apartment Design Guide which provides further detail on how development can achieve these principles. Any future development application for a residential flat building on the site will need to address SEPP 65 and the ADG.

#### SEPP (Coastal Management) 2018

The SEPP applies to 146 Newbridge Road, Moorebank given the site is adjacent to the Georges river which is subject to tidal influences and a coastal zone. The SEPP aims to manage development in the coastal zone and establish a framework to guide decision making in the coastal zone. The SEPP applies to development assessment and therefore any development application on the site will be subject to the planning provisions under the Coastal Management SEPP. The planning proposal does not inhibit assessment of the controls outlined in the Coastal Management SEPP and is therefore considered appropriate.



### SEPP No. 55 Remediation of Land

This objective of this SEPP is to provide for a state-wide planning approach to the remediation of contaminated land. A preliminary site investigation has been undertaken over the site to assess the potential for contamination. The preliminary investigation identified the proposal is considered suitable for rezoning to facilitate residential land uses. Alongside this, the SEPP only applies to development assessment and not rezoning. In accordance with the SEPP, any future development application will also require consideration of whether the site is contaminated and whether remediation of the site is required during the development assessment phase. The planning proposal does not inhibit assessment of the SEPP and is therefore considered appropriate.

### Greater Metropolitan Regional Environmental Plan No 2 – Georges River Catchment

This planning instrument applies to the Georges Rivers Catchment in the Liverpool City Council area. The general aims and objects of the plan are to maintain and improve the water quality and river flows of the Georges River and to provide a mechanism that assists in achieving water quality objectives, among other matters. The planning instrument applies when a council prepares a local environmental plan or when a consent authority determines a development application or where a development activity is proposed to be carried out that does not otherwise require development consent.

The proposed rezoning seeks to facilitate approximately 9 dwellings on the site and a logical extension of the existing R3 Medium Density Zoned land to the north. As the proposal seeks to increase development potential on the site, it has the potential to affect Stormwater flows, land degradation, acid sulfate soils, and be impacted by flooding. Impacts of land degradation, acid sulfate soils and flooding are considered further in **section 4.3** of this report above.

Given the location of the planning proposal away from the riverbank, it is not anticipated to affect the disturbance of the riverbank or any adjoining open space or vegetated buffer area along the river.

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

---

### **5.1 Social**

The planning proposal seeks to support the rezoning of approximately 9 dwellings. The planning proposal is supported by a Social Impact Assessment which has assessed the social needs as a result of the full development of the site. The assessment notes the full-redevelopment of the broader 146 Newbridge Road land will require approximately, 14,400-16,200m<sup>2</sup> of additional open-space to cater for the planned population increase.

The assessment notes, this open space can be delivered as proposed by an existing Voluntary Planning Agreement. The assessment also concludes that this planning proposal will not negatively impact the area or reduce access to public recreation space in the area. Matters such as public amenity, privacy, visual corridors, car-parking and other social matters as a result of the proposed 9 dwellings will be addressed during the development application stage.

### **5.2 Environmental**

The subject site is located on and adjacent to environmentally sensitive land (**Figure 6**); however, the extent of the planning proposal is located outside of the bounds of the environmentally sensitive land. The planning proposal is also supported by a Biodiversity Assessment which concluded the planning proposal will

not result in any ecological impacts. The report also noted there is no ecological values within the boundary of the planning proposal and no proposed impacts to the vegetation community along the banks of the Georges River.

### **5.3 Economic & Infrastructure**

The planning proposal seeks to provide an additional 9 dwellings on the site. The planning proposal notes that water and sewer services will need connecting to the site. These services will be determined by Sydney Water and therefore consultation is recommended during exhibition with Sydney Water to determine the pathway for servicing the site.

The Social Impact Assessment identified the site is located within 610m of the Newbridge Road bus stop with buses to Liverpool, Burwood and Strathfield and more than 800m from existing social infrastructure such as primary schools. The report notes improved pedestrian and cycle links to nearby shops and public infrastructure will support the cumulative impact of the larger planning proposal over the site. Given the additional 9 dwellings on the site is a minor increase, it is anticipated the cumulative impact of the proposal is minor and any additional public infrastructure can be addressed during the development application phase. As the site is also subject to a Voluntary Planning Agreement to deliver supporting infrastructure such as improved walking and cycling paths to Newbridge Road, the minor additional dwellings are considered justified.

A Transport Assessment has also been provided in support of the planning proposal. The assessment identifies vehicular access to the site will be via Brickmakers Drive onto the broader road network. The assessment concludes the future daily site traffic on Newbridge Road and Governor Macquarie Drive will have minimal traffic impacts and have negligible impact on traffic flows. Impacts to Brickmakers Drive will be within the typical daily traffic capacity of the road.

## **6. CONSULTATION**

---

### **6.1 Community**

The planning proposal identifies it will be on public exhibition for at least 14 days and at a minimum notification will occur on the Liverpool City Council website. The *Guide to preparing local environmental plans 2019* (the guide) identifies that generally public exhibition includes:

- Notification in a newspaper that circulates in the area;
- Notification on a website; and
- Notification in writing to affected and adjoining landowners.

In accordance with the guide the planning proposal is considered low impact as it is consistent with the pattern of surrounding land use zones, consistent with the strategic planning framework and does not present strict issues with regard to service, and is not a principal LEP or nor does it reclassify public land and is therefore considered appropriate to be exhibited for a minimum of 14 days.

### **6.2 Agencies**

The planning proposal notes the Gateway Determination will identify the relevant public authorities who are to be consulted. The planning proposal however does

note, the NSW Rural Fire Service and Sydney Water are identified as potentially interested parties for consultation. As noted throughout the Gateway determination report, it is recommended direct consultation occur with the following entities:

- Environment, Energy and Science of the Department;
- NSW Rural Fire Service; and
- Sydney Water.

## **7. TIMEFRAME**

Council anticipates obtaining legal drafting and to make the plan by March 2021. Given the minor nature of the planning proposal, finalisation within six months from the date of Gateway Determination is considered reasonable.

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

---

Liverpool City Council's resolution on the 29 July 2020 did not request to be authorised as the local plan-making authority. Given the low impact nature of the planning proposal to facilitate 9 additional dwellings and the minor inconsistency with relevant Section 9.1 ministerial directions, it is considered appropriate for Council to be authorised as the local plan-making authority subject to the Gateway conditions being met prior to plan notification.

## **9. CONCLUSION**

---

As the site is subject to a Voluntary Planning Agreement to deliver public-open space for the needs of the community and the planning proposal does not impede this delivery, the proposal is consistent with relevant state planning policies and infrastructure can be provided to support the development, the planning proposal is recommended to proceed subject to conditions of approval.

## **10. RECOMMENDATION**

---

It is recommended that the delegate of the Secretary:

1. agree that any inconsistencies with section 9.1 Directions 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land are minor or justified; and
2. note that the consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection is unresolved and will require further justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 14 days.
2. Consultation is required with the following public authorities:
  - Environment Energy and Science Group;
  - NSW Rural Fire Service; and
  - Sydney Water;



3. The timeframe for completing the LEP is to be 6 months from the date of the Gateway Determination.
4. Given the minor nature of the planning proposal, Council is authorised as the local plan-making authority, subject to:
  - (a) The planning proposal authority has satisfied all the conditions of the Gateway Determination;
  - (b) The planning proposal is consistent with section 9.1 Directions or the Secretary (or its Delegate) has agreed that any inconsistencies are justified; and
  - (c) There are no outstanding written objections from public authorities.



**Frankie Liang**  
**Manager, Western District**



11/09/20

**Adrian Hohenzollern**  
**Director, Western**  
**Central River City and**  
**Western Parkland City**

Assessment officer: Thomas Holmes  
Senior Planning Officer, Western  
Phone: 9860 1583