

**LIVERPOOL CITY COUNCIL
LOCAL PLANNING PANEL REPORT**

29 June 2020

Application Number:	RZ-1/2019
Proposal:	Planning proposal request to facilitate a boundary adjustment by rezoning 4190sqm of land from RE2 (Private Recreation) to R3 (Medium Density Residential)
Property Address	146 Newbridge Road, Moorebank (Site C)
Legal Description:	Lot 7 DP1065574
Applicant:	Mirvac Homes (NSW) Pty Ltd
Land Owner:	Tanlane Pty Ltd
Recommendation:	Proceed to Gateway determination
Assessing Officer:	Kweku Aikins, Strategic Planner

1. EXECUTIVE SUMMARY

Council has received a request to prepare a planning proposal on behalf of Tanlane Pty Ltd for a portion of land within 146 Newbridge Road, Moorebank (Lot 7 DP 1065574).

The planning proposal seeks to amend the Liverpool Local Environmental Plan (LLEP) 2008 to rezone a part of the site from RE2 Private Recreation to R3 Medium Density Residential. The planning proposal seeks to amend the floor space ratio (FSR) development standard from 0.25:1 to 0.65:1 and the height of building (HOB) development standard from 21 metres to 8.5 metres. The planning proposal also seeks an amendment to the minimum subdivision lot size from 10,000sqm to 300sqm. The planning proposal would facilitate the development of approximately 9 dwellings up to 2-storeys in height.

Determination of strategic merit and site-specific merit has been assessed in accordance with *A guide to preparing planning proposals*, as updated and published by the NSW Department of Planning, Industry and Environment in 2018. The proposal has been submitted pursuant to Section 3.33 of the Environmental Planning and Assessment (EP&A) Act 1979 and the proposal is referred to the Liverpool Local Planning Panel for advice in accordance with Section 2.19 of the EP&A Act 1979.

On the basis that the planning proposal demonstrates strategic and site-specific merit, this report recommends that the planning proposal proceeds to a Gateway determination.

2. SITE DESCRIPTION AND LOCALITY

The land affected by this proposal, as outlined in the following maps, is located at 146 Newbridge Road, Moorebank and contained within Lot 7 in DP 1065574. The subject property is under the single ownership of Tanlane Pty Ltd. It is the site of a former sand mining operation by Benedict Sands, which is nearing the end of its life cycle.



Figure 1: Aerial image of subject site (yellow) and locality

The site is adjacent to the Georges River in the east, Newbridge Road to the north and the Georges Fair residential estate to the west. Land to the east of the Georges River is located within the Bankstown Local Government Area and is characterised as recreational open space.

3. DETAILS OF THE PROPOSAL

Background

On 31 August 2016, Council resolved to support a planning proposal to amend the Liverpool Local Environmental Plan (LLEP) 2008 for land located at 146 Newbridge Road, Moorebank (Lot 7 DP 1065574). The proposal sought to enable residential uses within the RE2 Private Recreation zone (limited to a key site area) and included a zone boundary adjustment in which 4190sqm of land would be rezoned from RE2 Private Recreation to R3 Medium Density Residential.

Gateway determination was issued for the planning proposal on 9 March 2017, however Moorebank Recyclers, the previous owners of Lot 6 DP 1065574 (which is directly south of the subject site) appealed the Gateway decision in the Land and Environment Court. The legal challenge was made on the basis that the planning proposal did not adequately address Clause 6 of State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55).

On 21 December 2017, the Class 4 appeal *Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd* (No 2) [2017] NSWLEC 186 was dismissed. The court decision was made on the basis that there was insufficient evidence to indicate that the contamination assessment was invalid. Moorebank Recyclers subsequently lodged an appeal against this decision in the NSW Supreme Court and the Gateway determination was declared invalid by the Court of Appeal on 18 December 2018.

Given the outcome of previous legal proceedings, the proponent has since lodged a request to prepare a planning proposal which seeks to simply rezone the 4190sqm portion of land from RE2 Private Recreation to R3 Medium Density. The additional permitted (residential) uses within the

RE2 zone will now be addressed as part of a separate planning proposal which has also been lodged with Council and is currently under assessment.

The subject proposal is one of several planning proposals lodged within the boundaries that Council defines as the Moorebank East precinct. Other proposals include the former Flower Power site to the northeast at 124 Newbridge Road (Site B), the Benedict B6 site to the north along Newbridge Road (Site A) and the Georges Cove Marina (Site D) to the immediate south. Further to the south is another planned mixed-use development known as EQ Riverside (Site E).

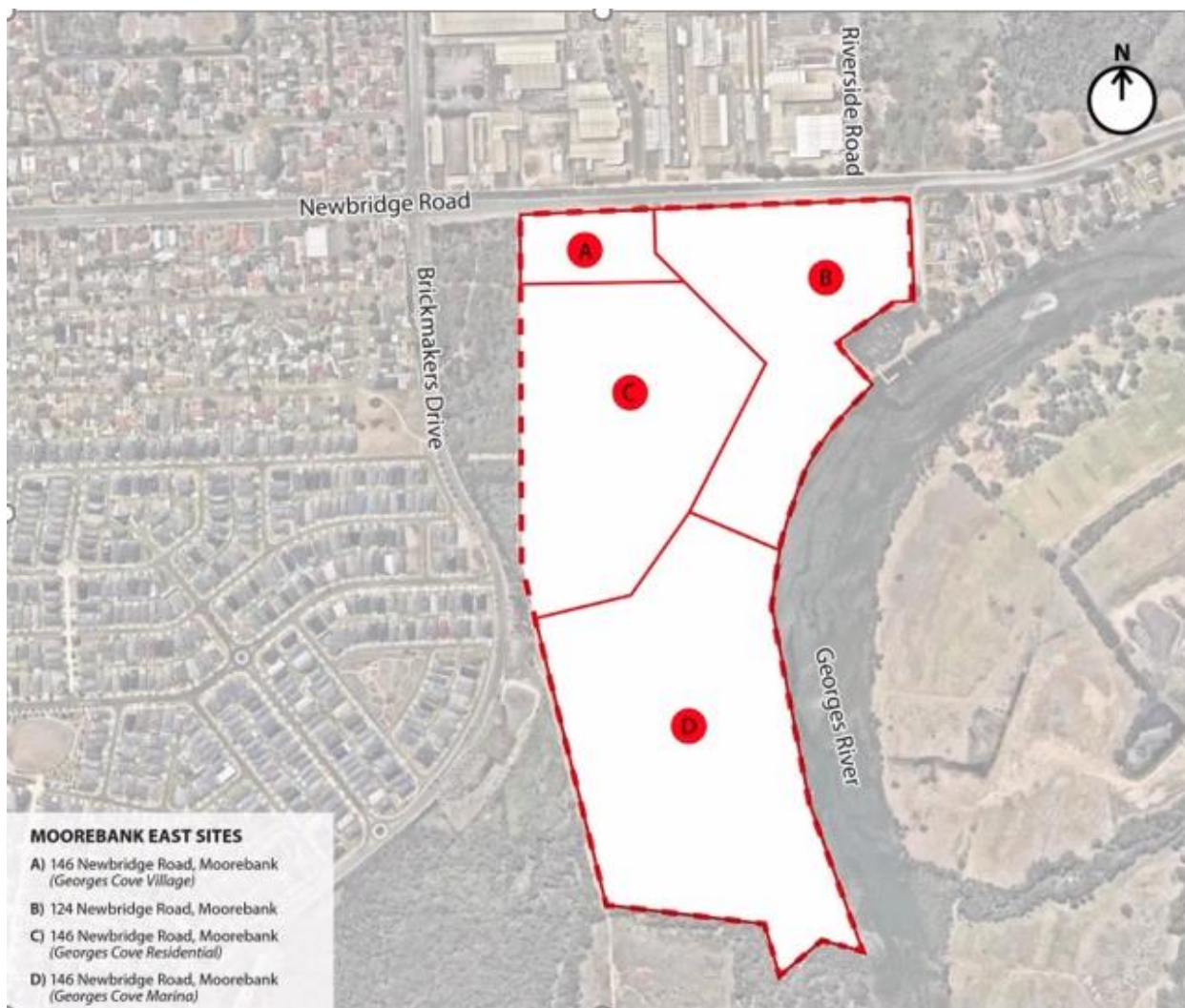


Figure 2: Moorebank East precinct, sites A-D (Tract Consultants)

Liverpool City Council has sought independent urban design and environmental advice to understand and resolve several key planning concerns to determine if the scale of development is appropriate for the precinct.

In 2018, Council engaged Tract Consultants to provide strategic and urban design advice and assist with the integration and coordination of each of the proposals at a precinct level. Tract Consultants proposed a draft structure plan for consideration which sought to balance the development interfaces between each of the sites. It was agreed that the subject site would be suitable for low density housing and would form part of Site C (subject to rezoning).

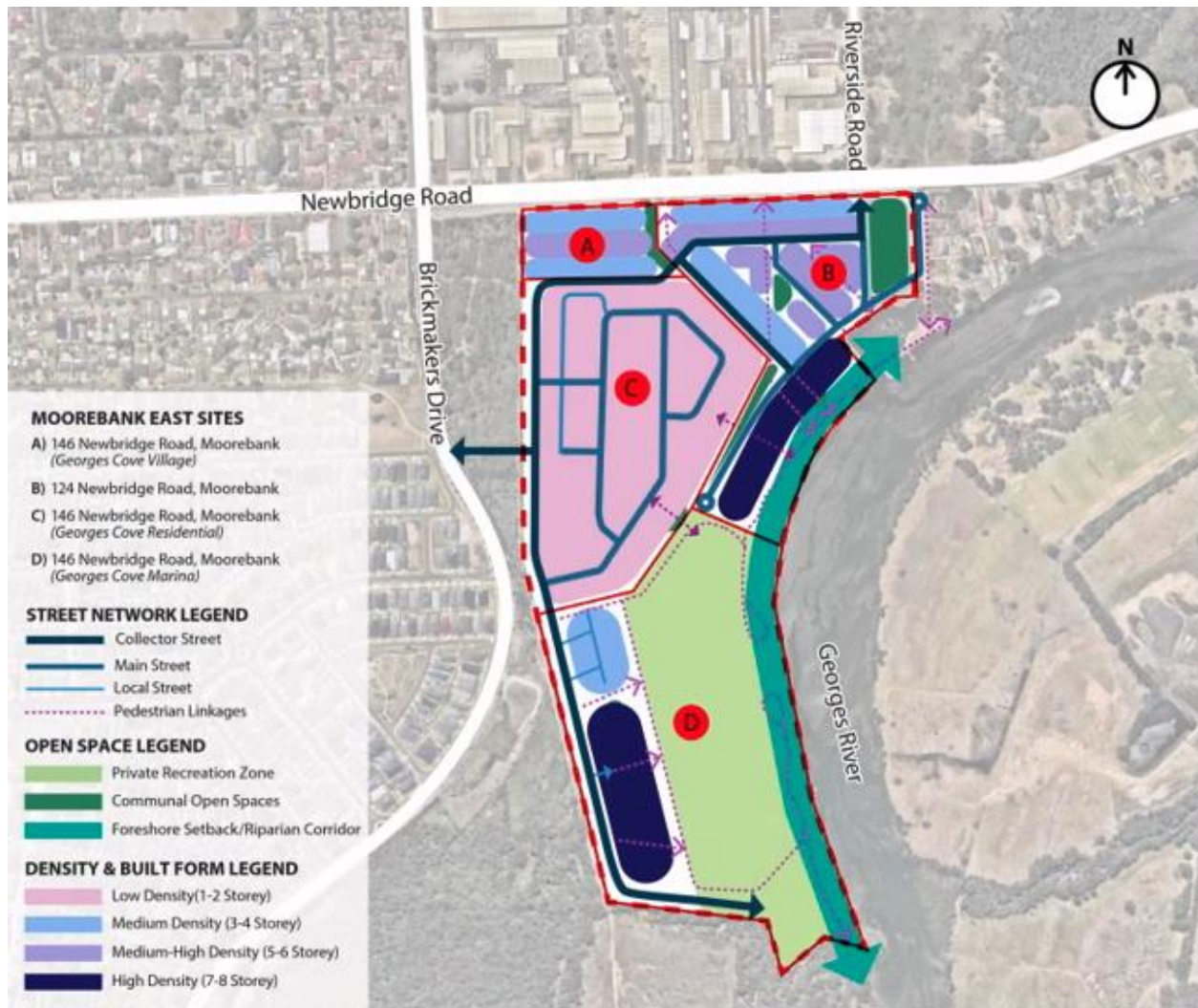


Figure 3: Moorebank East precinct Structure Plan (Tract Consultants)

Apart from the abovementioned proposals, a staged development application (DA) was lodged to subdivide 146 Newbridge Road (Lot 7 DP 1065574) into residue lots to create Sites A, C and D. A deferred commencement was issued for the DA on 26 February 2020, subject to the endorsement of detailed plans for a pedestrian evacuation bridge from 'Site C' and embellishment of Paine Park.

The Proposal

This planning proposal seeks to amend the LLEP to facilitate medium density residential development. It is envisaged that the development could support approximately 9 dwellings in addition to the 170 dwellings already being proposed directly to the north in the existing R3 zone.

The proposal is to be achieved through the following amendments to the LLEP:

- An amendment to the Land Zoning Map to rezone the site from RE2 Private Recreation to R3 Medium Density Residential (Shown in Figure 3);
- An amendment to the FSR Map from 0.2:1 to 0.65:1;
- An amendment to the HOB Map from 21 Metres to 8.5 Metres; and
- An amendment to the Lot Size Map from 10 000sqm to 300sqm.



Figure 4: Proposed land zoning map and subdivision plan (site shown in yellow hatching)

4. CONSIDERATIONS FOR STRATEGIC MERIT

Section A – Need for the planning proposal

1. ***Is the planning proposal a result of an endorsed strategic planning statement, strategic study or report?***

The planning proposal is not the result of any strategic study; however the Liverpool Local Strategic Planning Statement identifies the Moorebank East precinct as an urban development investigation area on the Structure Plan map (page 20).

2. ***Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

The proposed range of uses and modifications to development standards would require amendment to LLEP 2008. The planning proposal would be required to achieve these objectives.

Section B – Relationship to strategic planning framework

3. ***Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?***

Greater Sydney Regional Plan - A Metropolis of Three Cities

The *Greater Sydney Regional Plan - A Metropolis of Three Cities* (Regional Plan) was released

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in March 2018 and is the first Regional Plan prepared by the Greater Sydney Commission (GSC). The plan encompasses a global metropolis of three cities – the Western Parkland City, the Central River City and the Eastern Harbour City. Liverpool is located within the Western Parkland City and is identified as a metropolitan cluster and health and education precinct.

Table 1 Consistency with the Regional Plan

Objective	Comment
Housing the city	
<i>Objective 10 – Greater housing supply</i>	The planning proposal would lead to the provision of additional housing supply and choice within Liverpool

Western City District Plan

Section 3.8 of the EP&A Act requires that the planning proposal authority gives effect to any district strategic plan applying to the LGA to which the planning proposal relates. The Western City District Plan provides a series of priorities and actions to guide development and accommodate growth across the district.

Table 2 Consistency with the Western District Plan

Planning Priority	Comment
Housing the city	
<i>Planning Priority W5 - Providing housing supply, choice and affordability, with access to jobs, services and public transport</i>	Building on Objective 10 in the Regional Plan, the District Plan reaffirms the importance of providing a diversity of housing across the housing continuum. Accordingly, the planning proposal would provide additional housing supply and housing choice in an area identified by the LSPS as an urban development investigation area.

4. Will the planning proposal give effect to council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?

Connected Liverpool 2040 - Local Strategic Planning Statement (LSPS)

The Local Strategic Planning Statement (LSPS) outlines Liverpool City Council's strategic planning vision for the next 20 years. It identifies the Moorebank East precinct as an urban development investigation area on the Structure Plan map (page 20). It is underpinned by four planning priorities including connectivity, productivity, liveability, and sustainability. The LSPS will inform what type of growth occurs in the local government area (LGA). It sets out actions to deliver on the four planning priorities in order to meet the community's future vision for Liverpool.

Table 3 Consistency with the LSPS

Planning Priority	Comment
Liveability	
<i>Local Planning Priority 7 - Housing choice for different needs, with density focused in the City Centre and centres well serviced by public transport</i>	The planning proposal would support additional housing choice. The planning proposal would deliver approximately 9 detached dwellings in a low density setting which would assist in meeting Liverpool City Council's five-year housing supply target.

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5. *Is the planning proposal consistent with the applicable State Environmental Planning Policies?*

The following State Environmental Planning Policies (SEPPs) are of relevance to the site.

Table 4 Consistency with the applicable SEPPs

SEPP	Consistency
SEPP No 55 – Remediation of Land	Land contamination issues for the planning proposal are addressed under the Ministerial Directions. Any future DA would be required to comply with the provisions of the SEPP
SEPP (Affordable Rental Housing) 2009	The planning proposal will not affect the application of the SEPP.
SEPP (Vegetation in Non-Rural Areas) 2017	The planning proposal will not affect the application of the SEPP.
Greater Metropolitan Regional Environmental Plan No 2—Georges River Catchment	The planning proposal will not affect the application of the SEPP.

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6. Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)

The Planning Proposal addresses the following Directions, pursuant to Section 9.1 of the EP&A Act 1979:

Table 5 Consistency with the relevant Ministerial Directions

Section	Comment	Compliance
2. Environment and Heritage		
<i>Direction 2.6 - Remediation of Contaminated Land</i>	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The site is within Lot 7 DP 1065574 which has been identified as being contaminated by previous extractive uses that occurred on the site. The proponent has submitted a Preliminary Site Investigation (PSI). However, a deferred commencement has been issued for the subdivision of the broader site, for which a Site Audit, a draft long-term environmental management plan (LTEMP) and a revised RAP, were submitted.</p> <p>On 8 May 2020 the proponent confirmed that the documentation submitted for the DA would also be applicable to the subject planning proposal. Notwithstanding the above, any future DA for dwelling construction or subdivision would also need to comply with SEPP 55. Therefore, it is considered that this direction has been satisfied.</p>	Yes
3. Housing, Infrastructure and Urban Development		
<i>Direction 3.1 – Residential Zones</i>	<p>The objectives of this direction are:</p> <p><i>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</i></p> <p><i>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</i></p> <p><i>(c) to minimise the impact of residential development on the environment and resource lands.</i></p> <p>The planning proposal facilitates the redevelopment of the site and aims to deliver new and additional housing and diversify the local housing type within Moorebank. The site is within an existing urban area with a variety of infrastructure already established within the broader area including a public primary school; a public high school; a medical centre; a shopping centre; a library; a community room and two open space areas. As the planning proposal applies to land in an urban area, it does not consume land at the urban fringe.</p>	Yes
<i>Direction 3.2 - Caravan Parks</i>	<p>The objectives of this direction are:</p> <p><i>(a) to provide for a variety of housing types, and</i></p>	Partial

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Section	Comment	Compliance
<i>and Manufactured Home Estates</i>	<p><i>(b)to provide opportunities for caravan parks and manufactured home estates.</i></p> <p>Although the proposed R3 zone will support a variety of housing types, caravan parks and manufactured home estates (MHE) will no longer be permitted under the new zoning. However, given that the site is part of a broader urban renewal precinct any caravan park or MHE would be unsuitable for the subject site as it would be relatively isolated, and out of character with surrounding development.</p>	
<i>Direction 3.3 - Home Occupations</i>	<p>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</p> <p>The proposal will facilitate home occupations as this land use is permitted in the R3 zone without consent.</p>	Yes
<i>Direction 3.4 Integrating Land Use and Transport</i>	<p>The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p><i>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</i> <i>(b) increasing the choice of available transport and reducing dependence on cars, and</i> <i>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i> <i>(d) supporting the efficient and viable operation of public transport services, and</i> <i>(e) providing for the efficient movement of freight.</i></p> <p>The inherent traffic impacts would be negligible as the proposal would facilitate 9 additional dwellings only. A detailed traffic investigation will accompany any development application relating to the residential subdivision of the site.</p>	Yes
<i>Direction 3.5 - Development Near Regulated Airports and Defence Airfields</i>	<p>The objectives of this direction are:</p> <p><i>(a) to ensure the effective and safe operation of regulated airports and defence airfields;</i> <i>(b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and</i> <i>(c) to ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.</i></p> <p>The proposal will not affect the operation of any regulated airports. The proposed decrease in height sought under this Planning Proposal ensures that any development will be below the Obstacle Limitation Surface (OLS) applying to the site. The subject portion of the site is located approximately</p>	Yes

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Section	Comment	Compliance
	1.5km west of Bankstown Aerodrome and is not burdened by any ANEF restrictions.	
4. Hazard and Risk		
<i>Direction 4.1 – Acid Sulfate Soils</i>	<p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p> <p>The planning proposal applies to land identified as Classes 2 and 4 on Council's Acid Sulfate Soils Planning Map. Existing acid sulfate soils provisions will not be altered by the planning proposal and will apply to any future development which might intensify the use of the land.</p>	Yes
<i>Direction 4.3 – Flood Prone Land</i>	<p>The proposed development is located on the floodplain of the Georges River. The only access road to the development is via the proposed bridge from Brickmakers Drive. For flood events greater than the 1% AEP, Brickmakers Drive will be inundated by floodwaters and access will not be available. Therefore, complete evacuation of the residents is necessary before the access road becomes inaccessible.</p> <p>The R3 zone will consist of 179 two storey residences (including the proposed 9 additional dwellings) all with a minimum floor and road level greater than RL 6.1m AHD (being the 100yr ARI flood level plus 500mm freeboard) which is the Flood Planning Level. The finished road and floor levels will continually rise from RL 6.1m AHD on the south eastern edge of the development to the west reaching levels around RL 10m AHD at the proposed link road bridge which provides car access to Brickmakers Drive.</p> <p>A deferred commencement has been issued for subdivision of the broader site. Although the subdivision DA has yet to be determined, provisional conditions of consent have been included to ensure that any residential development in the R3 zone will be provided with an acceptable Flood Emergency Response Plan and an elevated pedestrian evacuation bridge.</p>	Yes
<i>Direction 4.4 – Planning for Bushfire Protection</i>	The planning proposal applies to land identified as being affected by the Vegetation Buffer zone on Council's Bushfire Map. This is the lowest risk category. Existing bushfire management provisions will not be altered by the planning proposal, and future development will be capable of complying with the Rural Fires Act 1997 and the NSW Rural Fire Service 'Planning for Bushfire Protection' guidelines 2019, subject to concurrence from the NSW Rural Fire Service.	Yes
6. Local Plan Making		
<i>Direction 6.1 – Approval and referral requirements</i>	The planning proposal does not include provisions that require development applications to be referred externally and is not related to designated development.	Yes

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Section	Comment	Compliance
<i>Direction 6.3 – Site specific provisions</i>	The planning proposal does include provisions to allow a Site-specific development to be carried out on the site.	Yes

5. CONSIDERATIONS FOR SITE SPECIFIC MERIT

Section C – Environmental, social and economic impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The site is disturbed, and it is highly unlikely that the site would contain any critical habitat for threatened species, populations or ecological communities, or their habitats. It is not expected that any threatened species, populations or ecological communities will be adversely affected as a result of the proposal.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Flooding

The site is located on the floodplain of Georges River and is wholly affected by flooding under the 1% Annual Exceedance Probability (AEP) event. The planning proposal is accompanied by a Flood Impact Assessment (FIA) by Cardno which confirms the proposal seeks to fill the majority of the site to the 1% AEP level. The FIA confirms that the impact of the proposed filling is not significant and provides alternative mitigation options to mitigate against any adverse impacts of flooding. The applicant has considered filling part of the site and providing compensatory excavation onsite.

Additionally, a deferred commencement has been issued for the staged subdivision of the broader site. Although the subdivision DA has yet to be determined, provisional conditions of consent have been included to ensure that any residential development in the R3 zone will be provided with an acceptable Flood Emergency Response Plan and an elevated pedestrian evacuation bridge.

Contamination

The site is within Lot 7 DP 1065574 and has been identified as being contaminated by the previous extractive uses that occurred on the site. The proponent has submitted a Preliminary Site Investigation (PSI). However, a deferred commencement has been issued for a staged subdivision of the broader site into residue lots, for which a Site Audit, a draft long-term environmental management plan (LTEMP) and a revised RAP, were submitted. As a result, Council's Environmental Health Unit has indicated that the submitted PSI has been superseded by the documents submitted with the subdivision DA. The proponent has since provided advice that the revised documentation will apply to the subject planning proposal and that any future DA will comply with SEPP 55 requirements.

Draft Precinct Wide Traffic Study

A draft precinct wide traffic study has been submitted to examine the cumulative traffic effects of Sites A-D within the proposed Moorebank East precinct. The assessment proposes a staged improvement works program (Stage 1 – Sites A, B, C and D / Stage 2 – Site E) to ensure that

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intersection performance remains at a satisfactory level of service. Given that the draft precinct wide traffic study and works program affects all sites, it should be finalised in consultation with Council and TfNSW at a later stage.

Bushfire

The site is affected by Category 1 Bushfire Prone Vegetation. A bushfire assessment report has been prepared by Blackash Fire Consulting and it finds that bushfire protection measures can be achieved to support the planning proposal and that further details can be addressed as part any future DA, subject to concurrence from the NSW Rural Fire Service during the post-gateway stage.

Acid Sulfate Soils

The planning proposal applies to land identified as Classes 2 and 4 on Council's Acid Sulfate Soils Planning Map. Clause 7.7 of the LLEP 2008 requires the submission of an acid sulfate soils management plan when works are below natural ground level, therefore it is possible that an acid sulfate soils management plan will be required as part of any DA.

Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) pursuant to Section 7.4 (formerly known as Section 93F) of the Environmental Planning and Assessment Act 1979 was agreed to between Liverpool City Council and Tanlane Pty Ltd, dated 11 June 2008.

The VPA applies to the subject site and contains a series of contributions/works which are summarised as follows:

- Embellishment of river foreshore land;
- Dedication of river foreshore land to Council subject to an easement for maritime vessel access as well as two easements for the drainage of water;
- Development of a Vegetation Management Plan;
- Completion of works described in the Vegetation Management Plan;
- Conduct maintenance works described in the Vegetation Management Plan;
- Construction of passive recreation facilities on the river foreshore land; Dedication of a drainage channel;
- Construction and dedication of a road bridge over drainage channel, embankment and road to Brickmakers Drive;
- Construction and dedication of pedestrian access to Newbridge Road and a pedestrian path within the public verge along the entire length of the land frontage to Newbridge Road;
- Dedication of an easement over land for access for the purpose of allowing Council to undertake maintenance to the river foreshore land.

Delivery of items in the VPA are largely dependent on the staging of development for the existing R3 zoned land, with the bridge to be completed (and dedicated) before the first subdivision certificate is issued. Accordingly, no VPA has been proposed as part of this planning proposal. However, a funding mechanism for infrastructure and traffic works (such as a precinct wide contribution plan) should be finalised at a later stage.

9. *How has the planning proposal adequately addressed any social and economic effects?*

Social Impacts

The submitted Social Impact Assessment (SIA) indicates that additional public community facilities will not be required for the subject proposal. Accordingly, the proposal for 9 dwellings is unlikely to generate any adverse social impacts as it will be consistent with the proposed development in the immediate vicinity.

Economic Impacts

The proposal would facilitate a positive economic impact in the locality through the capital investment value of the future residential development, the creation of construction jobs, and the reinforcement of patronage to local retail businesses and services through an increase in residential population.

Section D – State and Commonwealth Interests

10. *Is there adequate public infrastructure for the planning proposal?*

Yes. There is a reasonable amount of public infrastructure to support the planning proposal, specifically in relation to social infrastructure, transport infrastructure and flooding infrastructure.

Social Infrastructure

The SIA by Cred Consulting identified a range services and social infrastructure within a kilometre of the site including a public primary school; a public high school; a medical centre; a shopping centre; a library; a community room; two open space areas (within 800m); and planned access to 2ha of foreshore open space. It also asserts that the existing VPA for 146 Newbridge Road will deliver 39,350sqm of waterfront public open space, including pedestrian and cycle ways that will enhance local access to recreational activities.

Transport Infrastructure

As discussed earlier, the draft precinct wide traffic study identifies traffic works and intersection improvements which would need to be supported by TfNSW and an appropriate funding mechanism at a later stage.

Flooding Infrastructure

As discussed earlier, Council has provided conditional support for a pedestrian bridge from 'Site C' which is expected to facilitate a 200m walk to areas above the PMF flood level. By providing this pedestrian evacuation route in the event of a flooding emergency, residents would have the option to be evacuated by either car or on foot (via the elevated pedestrian bridge) to areas above the PMF flood level.

11. *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

The views of relevant State and Commonwealth public authorities will be obtained after the planning proposal has been considered by the Department of Planning, Industry and Environment's Gateway determination process.

Next Steps

The usual process for planning proposal applications, following a review of the application, is for Council officers to finalise the proposal detailing the proposed changes to LLEP 2008. The planning proposal would then be reported to Council for endorsement and subsequently forwarded to the Department of Planning, Industry and Environment seeking a Gateway determination.

Should a Gateway determination be issued there would be public authority community consultation, a public exhibition period and a further report to Council prior to proceeding with the making of any amendment to LLEP 2008.

6. CONCLUSION

It is recommended that the planning proposal proceeds to a Gateway determination as the planning proposal satisfies the strategic and site-specific merit tests. A report should further be drafted detailing a decision to support the proposal for consideration by Liverpool City Council.

7. ATTACHMENTS

1. Planning Proposal
2. Preliminary Site Investigation
3. Biodiversity Assessment
4. Transport Planning Impact Assessment
5. Flood Impact Assessment
6. Bushfire Assessment Report
7. Acoustic Study
8. Heritage Report
9. Social Impact Assessment
10. Moorebank East Flood Evacuation Analysis Report
11. Flood Evacuation Response (Sites A, C, D)
12. Moorebank East Staged Traffic Assessment