



IRF24/750

## Gateway determination report – PP 2024-658

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Liverpool Local Environmental Plan 2008 Amendment  
No. 86 - Lot 3, 146 Newbridge Road, Moorebank  
(Georges Cove Marina)

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# Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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**7 Recommendation..... 38****Table 1 Attachments supporting the proposal**

|           | <b>Attachments</b>   |
|-----------|--|
| <b>1</b>  | Amended planning proposal (April 2024)   |
| <b>2</b>  | SES preliminary Gateway comments (January & April 2024)  |
| <b>3</b>  | BCS preliminary Gateway comments (February 2024)   |
| <b>4</b>  | Proponent cover letter response to BCS and SES preliminary Gateway comments 6 March 2024 & 22 April 2024 |
| <b>5</b>  | Flood consultant response to BCS and SES preliminary Gateway comments 6 March 2024 & 22 April 2024       |
| <b>6</b>  | 13 Dec 2023 Council report and resolution, 30 September 2020 Council report and resolution               |
| <b>7</b>  | DPE Letter to Council Dec 2020   |
| <b>8</b>  | Local Planning Panel report and advice   |
| <b>9</b>  | George River Evacuation Modelling – Flood Evacuation Analysis, Molino Stewart (2022)                     |
| <b>10</b> | Concept urban design plans   |
| <b>11</b> | Contamination letter   |
| <b>12</b> | Aboriginal and Heritage Report   |
| <b>13</b> | Acoustic report and letter   |
| <b>14</b> | Flood Impact Assessment Report and Flood Emergency Response Plan   |
| <b>15</b> | Traffic Impact Assessment Report   |
| <b>16</b> | Bushfire Assessment Report   |
| <b>17</b> | Biodiversity Assessment Report   |
| <b>18</b> | Social Impact Assessment   |
| <b>29</b> | Visual Impact Assessment   |
| <b>20</b> | VPA Letter of Offer  |
| <b>21</b> | Department's feedback to Council on progressing Moorebank East proposals                                 |

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

|                                 |  |
|---------------------------------|--|
| <b>LGA</b>                      | <b>Liverpool</b>   |
| <b>PPA</b>                      | <b>Liverpool City Council</b>  |
| <b>NAME</b>                     | <b>Georges Cove Marina (340 dwellings)</b>   |
| <b>NUMBER</b>                   | <b>PP-2024-658</b>   |
| <b>LEP TO BE AMENDED</b>        | <b>Liverpool Local Environmental Plan 2008</b>   |
| <b>ADDRESS</b>                  | <b>Lot 3 146 Newbridge Road, Moorebank</b>   |
| <b>DESCRIPTION</b>              | <b>Part Lot 3 DP 1246745</b>   |
| <b>RECEIVED</b>                 | <b>3/04/2024</b>   |
| <b>FILE NO.</b>                 | <b>IRF24/750</b>   |
| <b>POLITICAL DONATIONS</b>      | <b>There are no donations or gifts to disclose and a political donation disclosure is not required</b>       |
| <b>LOBBYIST CODE OF CONDUCT</b> | <b>There have been no meetings or communications with registered lobbyists with respect to this proposal</b> |

It is noted that Council has submitted the proponent's planning proposal to the Department for Gateway assessment.

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objective of this planning proposal is to provide for residential development within the Georges Cove Marina Development at 146 Newbridge Road, Moorebank (Lot 3 DP 1246745).

In summary, the intended outcomes of the planning proposal are to:

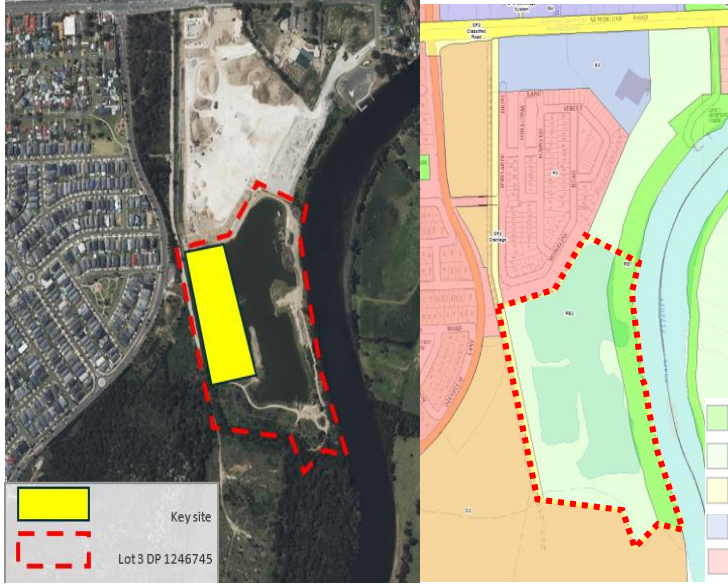
- contribute to the ongoing renewal of Moorebank East by providing apartment and multi-dwelling housing,
- activate the ground floor of proposed residential development through provision of restaurants and cafes, and
- co-locate housing with the approved marina and recreational facilities along the Georges River foreshore.

The objective and summarised intended outcomes of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Liverpool LEP 2008 per the changes below:

**Table 3 Current and proposed controls**

| Control | Current   | Proposed  |
|---------|---|-----------|
| Zone    | <p><b>RE2 Private Recreation, RE1 Public Recreation, SP2 Infrastructure - Drainage (</b></p>  <p>Figure 1)</p> | No change |

|   |     |  |
|---|-----|--|
| Schedule 1<br>Additional<br>permitted<br>uses | N/A | <p>An additional permitted use would apply to part Lot 3 in DP 1246745 within the RE2 Private Recreation land use zone, above an approved Marina development. The location of the additional permitted use will be mapped on the Key Sites Map (Figure 1) and would permit:</p> <ul style="list-style-type: none"> <li>• Development for the purposes of residential flat buildings, multi dwelling housing; and</li> <li>• Restaurants/cafes with a maximum total gross floor area of 1,500m<sup>2</sup> and limited to the ground floor of the residential flat building.</li> </ul> |
|---|-----|--|

| Control                        | Current              | Proposed  |
|--------------------------------|----------------------|---|
| Maximum height of the building | 21m                  | 35m   |
| Floor space ratio              | 0.25:1               | 0.4:1   |
| Minimum lot size               | 10,000m <sup>2</sup> | No change   |
| Number of dwellings            | 0                    | 340 (21 terrace dwellings and 319 units)  |
| Number of jobs                 | 0                    | Not specified however the proposal would result in some jobs as it seeks to permit restaurants and cafes. |

The planning proposal contains an explanation of provisions that adequately explains how the objectives of the proposal will be achieved.

However, the Department questions that it may not be appropriate for the increase height of building and floor space ratio development standards to be mapped in the LEP as it does not tie the increase in development potential specifically to the additional permitted uses. In addition, the Department has concerns with the suitability of an additional permitted use to facilitate the proposed development as discussed below.

#### Schedule 1 Additional Permitted Use suitability

The planning proposal refers to Legal advice dated 28 November 2017 regarding the approach of utilising an additional permitted use. It advises there is no legal impediment to Council including the additional use provision for the development anticipated in the planning proposal.

The advice confirmed that *the dominant activity on the subject land will be the marina development and recreational land uses such as boating, boat storage, water sports, open space and recreational and restaurants and a function area. The proposed residential uses will be incidental and subordinate to those uses* (p.19 of the planning proposal).

The planning proposal states a rezoning to R4 High Density Residential is not preferable as the site will not be used for purely residential purposes. The dominant activity for the site is the approved marina and supporting infrastructure, the proposed residential uses are incidental to that dominant use.



Reflecting on the statement of the dominant activity for the site, the Department has considered the incoming population as a result of the planning proposal. The unit mix is provided for the residential flat building component of the proposal within the urban design concept plans. The apartment unit mix is listed below with Liverpool's occupancy rate as per the Contributions Plan – Established Areas to provide an indication of the incoming population expected as a result of this proposal:

- 75 x 1 bedroom units = 135 persons (based on 1.8 persons per unit)
- 180 x 2 bedroom units = 414 persons (based on 2.3 persons per unit)
- 65 x 3 bedroom units = 201.5 persons (based on 3.1 persons per unit)

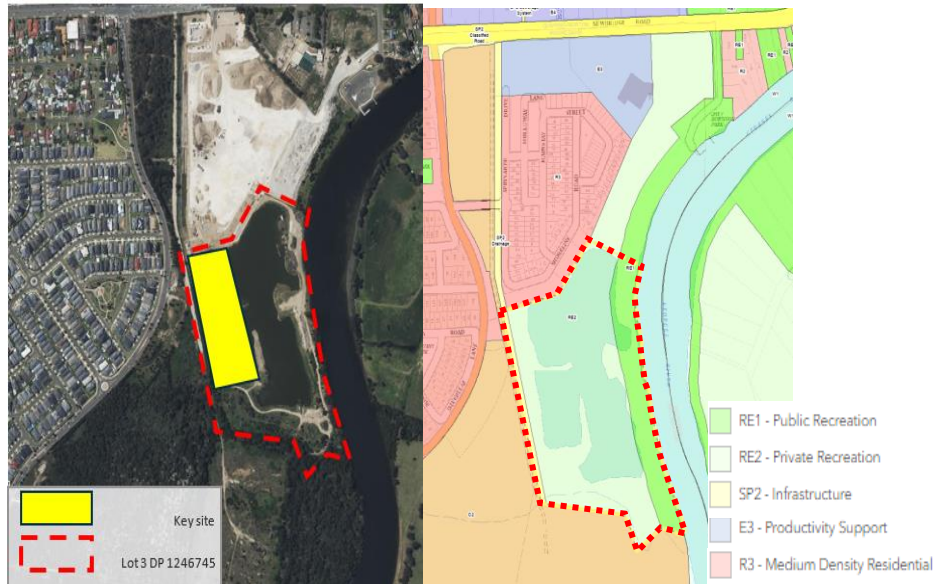
This equates to 320 dwellings and 750 persons. In the absence of detail on the number of bedrooms proposed for the terraces, it can be assumed these dwellings would be at least 2 bedrooms which would equate to a minimum of 48 persons. This would result in a total of 798 additional persons facilitated by this development.

The Department does not believe an additional permitted use is appropriate given the proposal would be introducing a significant and permanent population to the site compared with the recreational use of the Marina development. The Department will encourage Council to discuss any similar situations with the Department prior to lodgement of the planning proposal for Gateway assessment.

The Department notes a previous Gateway determination was issued in 2017 for a similar development utilising an additional permitted use, it was for a much smaller scale development (125 dwellings). The current planning proposal represents almost 3 times the development potential approved under the 2017 Gateway determination.

## 1.4 Site description and surrounds

The site is located at 146 Newbridge Road, Moorebank and is legally described as Lot 3 in DP 1246745. Only part of Lot 3 DP 1246745 is the subject of the additional permitted use for residential flat buildings, multi-dwelling housing and restaurant/café uses as shown by the identification of the 'key site' in Figure 1.



**Figure 1 (L) Site outlined in red, additional permitted uses via the key site in yellow, (R) existing land use zoning map (DPHI 2024)**

The site has historically been used as a resource extraction and recycling facility. The planning proposal states the site topography has been modified by the former extractive operations with vegetation being substantially cleared. Scattered patches of significant vegetation remain along the periphery.

The Sydney Western City Planning Panel approved DA 611/2018 for the Georges Cove Marina on 07 May 2021 with a 24 month deferred commencement for the following works:

- a function centre, tourist, entertainment, recreation and club facilities
- a wet berth facility predominantly for small craft (boats less than 15m long) and some vessels up to 20m long
- three external carparks and two basement carparks providing a total of 637 car spaces
- a private marina clubhouse
- servicing infrastructure including a site access road, power, water and sewerage

The Planning Proposal states the site will be accessed via Newbridge Road/ Brickmakers Drive, Promontory Way and extension of Spinnaker Drive (part of the residential development to the north of the site).

Georges River fronts the site's eastern boundary, residential development under construction to the north of the site, a section of Wurrungwuri Reserve is to the west and south and vacant land to the south. The adjoining land is described further in Section 1.6 Moorebank East Precinct.

In terms of the surrounding locality:

- north of Newbridge Road is an industrial area and north-east is Riverside Park,
- east across Georges River are public reserves (Canterbury-Bankstown LGA),
- south is a golf course and the south western motorway

- west is the established Moorebank residential areas including the Moorebank Town Centre (approximately 1.8km from subject site)

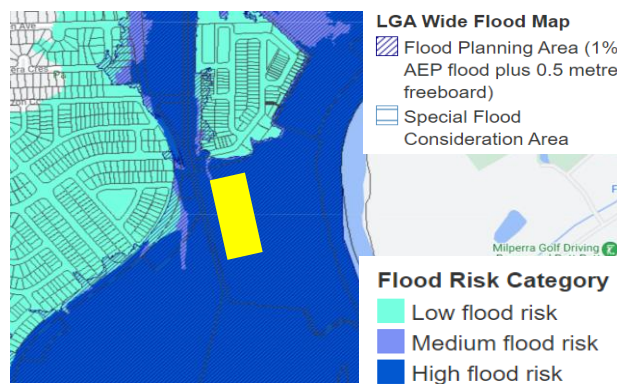
The subject site is approximately 3.65km east of Liverpool CBD and 4km east of Liverpool railway station.

#### Georges River Flooding & Evacuation studies

The relevant flood and evacuation studies for this site include:

- Georges River Floodplain Risk Management Study & Plan (2004);
- Georges River Flood Study (BMT 2020) commissioned by Council but not adopted; and
- Georges River Evacuation study (Molino Stewart 2022) commissioned by Council but not adopted.

Council's flood mapping identifies the site being within the 'high flood risk' category (Figure 2). This category is defined in Liverpool's DCP 2008 as land below the 1% AEP flood that is either subject to a high hydraulic hazard or where there are significant evacuation difficulties.



**Figure 2 Excerpt of Liverpool Council's Flood Mapping, key site in yellow**

Although the BMT 2020 Flood Study and Molino Stewart 2022 Flood Evacuation study have not been adopted by Council, State agencies including SES, Department of Climate Change, Energy, the Environment and Water and the Department of Planning, Housing and Infrastructure consider this information the latest available data and should be considered in assessing development proposals. The BMT 2020 Flood Study identifies the site is affected by:

- 5% Annual Exceedance Probability (AEP) (1 in 20 year), flood depths between 2-5m, with a flood hazard categorisation of H4-H5.
- 1% AEP (1 in 100 year), flood depths between 2-5m (a portion of the site exceeds 5m), with a flood hazard categorisation between H5-H6 (H6 in northern part of the site/terrace location).
- Probable Maximum Flood, flood depths can reach above 10 meters with a flood hazard of H6 for the entire site, and parts of the site become a floodway.

BMT 2020 Flood Study identifies the site as being mostly flood storage with the northern portion being a floodway.

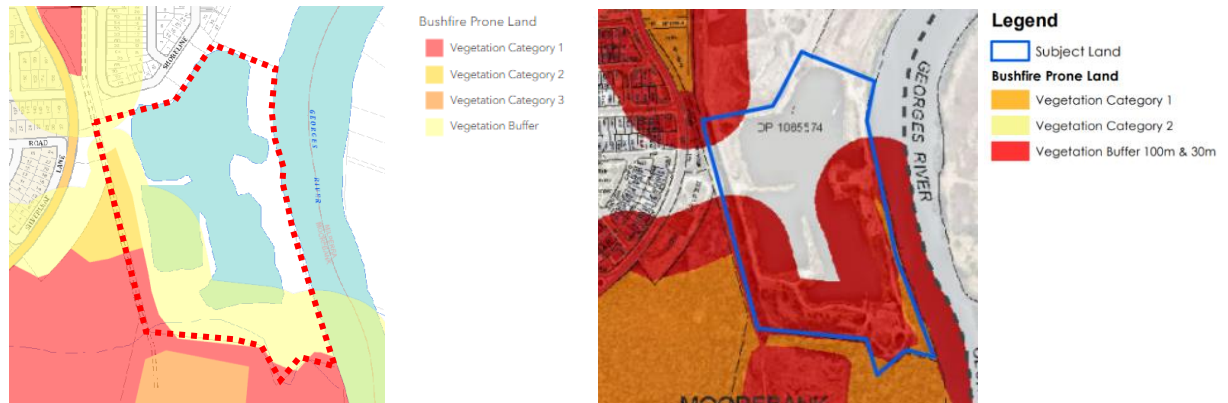
Hazard classification definitions are included within the former Department of Planning & Environment's Flood Risk Management Guide FB03.

- H4 – unsafe for vehicles and people
- H5 – unsafe for vehicles and people. Buildings require special engineering design and construction
- H6 – unsafe for vehicles and people. All building types considered vulnerable to failure

The Molino Stewart 2022 Flood Evacuation study is discussed in Section 4.3.2 of this report.

### Bushfire Prone Land

The subject site is identified as containing bushfire prone land as per the Department's Planning Portal as shown in Figure 3 below. It is noted the bushfire prone land mapped in the Planning Portal is different from the Bushfire Assessment report (2018). Both sources agree that the site is subject to a vegetation buffer.



**Figure 3 (L) Bushfire Prone Land (Planning Portal, 2024), (R) Bushfire Assessment Report (2018)**

## 1.5 Proposal's design response to flooding constraints

The planning proposal states the residential, restaurant/café development would be constructed within the existing land-based facilities. Restaurant/café uses are proposed above the Maritime building on the ground floor with apartments above. The floor level of these uses will be 1.5m above the flood planning level, these areas would only be inundated in a 1 in 5,000 year flood event (0.02% AEP). The minimum floor level for all apartments and terraces will be 1.4m above the PMF meaning all habitable floor levels will be flood free.

The Flood Impact and Flood Emergency Response Plan (August 2023) (Attachment 14) confirms filling would be required, beyond what was approved under the Marina consent, under the proposed terraces and under the proposed boatshed (concept plan in Figure 4, and areas of filling required in Figure 5). The overall building platform of RL 7.6m AHD would be retained from the approved Marina development. The Flood Impact and Flood Emergency Response Plan states the development is not located on a floodway, but an area of flood storage and flood fringe (it is assumed the difference in opinion to the BMT 2020 report is due to the BMT 2020 report being completed prior to the flood modelling referred to in the Flood Impact and Flood Emergency Response plan).

The buildings will be supported on piles to form more flood storage. The basement carpark would extend under the terraces and apartment buildings, and flood flows would be designed to pass under the carpark over the width of the apartment buildings. Flood modelling across the three sites within Moorebank East within single ownership (Sites A, C and D – discussed in Section 1.6 of this report) demonstrates that there is no loss in flood storage as a result of additional filling on the Marina site.

The proposed development's supporting piles would be exposed to high hazard (H6) during flood events including the 1% AEP. The building platform will be designed to withstand flood debris and uplift loads and will consist of flood compatible materials to minimise flood damages.



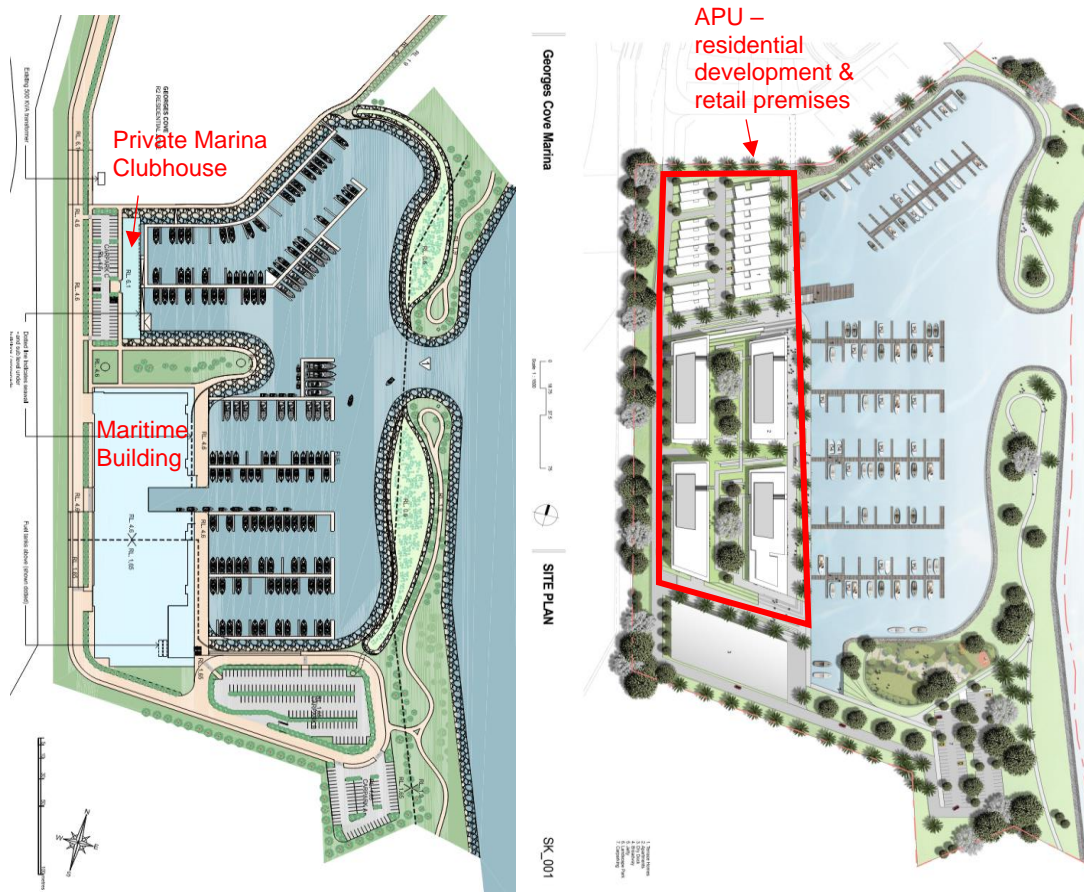


Figure 4 (L) DA-611/2018 General Layout Site plan (R) Excerpt of Site Plan (Attachment 10 - Concept Urban Design Plans)



Figure 5 Excerpt of Flood Impact Assessment – Concept plan showing filling modifications to facilitate development envisaged in the planning proposal

## 1.6 Moorebank East Precinct

Moorebank East precinct has several sites subject to planning proposals and one site under construction for residential development. The sites are shown in Figure 6, together with a 2024 NearMap aerial image and the DCP road layout envisaged for this precinct.

Council adopted a site specific DCP covering all sites (excluding the most southern site in Moorebank East) in February 2014. The internal road layout is useful in understanding the access points to/from this precinct via a 'collector' road. It's noted this road is not included within a contributions plan, developers will be responsible for the delivery of this road.

In 2018, Council engaged Tract Consultants to provide urban design advice on the individual planning proposals and assist with integration within the precinct. The consultants proposed a draft structure plan for sites A to D. This draft structure plan has no weight, while it was referred to within Council reporting, it has not been exhibited or formally considered or adopted by Council. Land subject to this planning proposal is located in 'Site D – Marina'. The draft structure plan identifies Site D - Marina for high density development (7-8 storeys) in the southern part of the key site and medium density (3-4 storeys) in the northern part of the key site.

Immediately to the north of the site is a medium density residential development for 179 dwellings under construction known as Georges Cove (Site C). This site is zoned R3 Medium Density Residential under the Liverpool LEP.

Further north, fronting Newbridge Road (Site A) is vacant land subject to PP-2024-963 currently under assessment by the Department for a Gateway determination. This proposal seeks to increase the current maximum gross floor area for a retail premises from 1,600m<sup>2</sup> to 4,000m<sup>2</sup>. The site is currently zoned E3 Productivity Support under the Liverpool LEP. Sites A, C and D are within one ownership.

Also fronting Newbridge Road is Site B which was partly occupied by the Flower Power plant nursery and associated commercial activities. These businesses have moved on, the site is subject to an approved DA 309/2011 for site remediation, earthworks and filling in two stages. The latest planning proposal (2020) seeks to facilitate 602 units through an R1 General Residential land use zone, commercial and limited retail uses (167 service apartments, shop top housing, commercial space). This proposal is still being assessed by Council.

To the south of the site, Site E – EQ Riverside, is currently vacant. In 2015, the Planning Assessment Commission issued a development consent for a materials recycling facility on the site. Most recently, Council submitted a council-initiated planning proposal to the Department for Gateway assessment in December 2023 to rezone the site E4 General industrial use and RE2 Private Recreation. This was refused at adequacy assessment by the Department due to insufficient information to address the Section 9.1 Direction 4.1 Flooding.



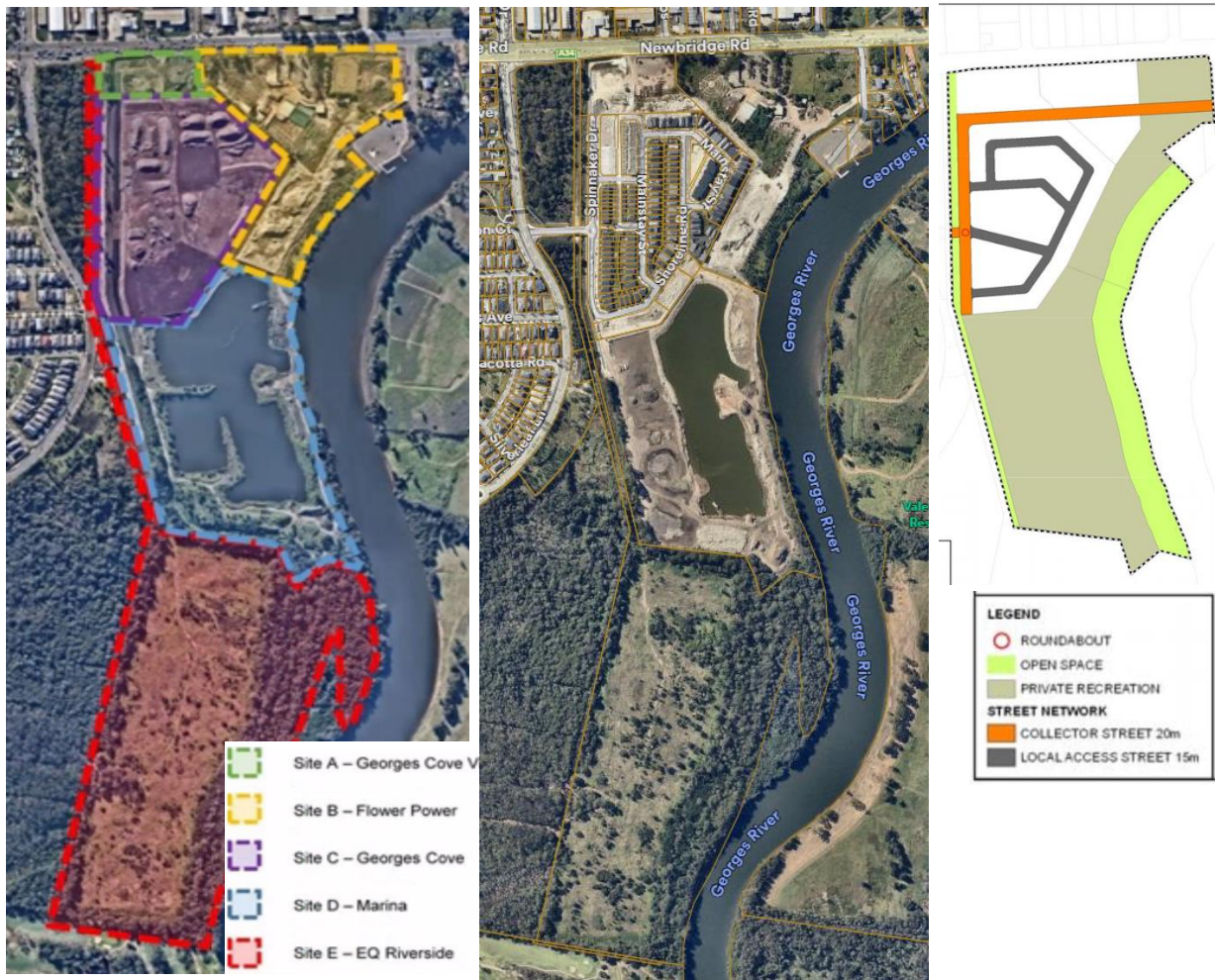


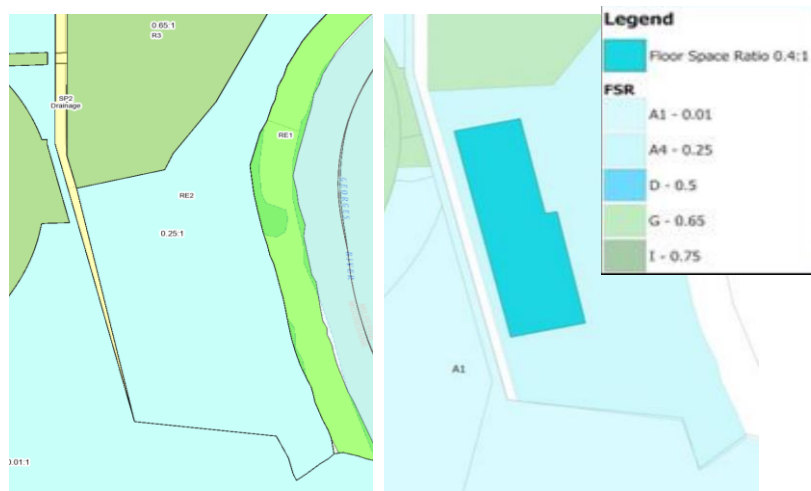
Figure 6 (L) Moorebank East precinct (Liverpool City Council, 2020), (M) March 2024 NearMap image, (R) Liverpool DCP Part 2.10 – Road Layout

## 1.7 Mapping

The planning proposal includes mapping showing the proposed changes to the Liverpool LEP 2008 maps. The proposed floor space ratio and height of building maps are suitable however the key site map would need to be consistent with the format and appearance of other Liverpool LEP maps.



Figure 7 (L) Current height of building map (NSW Planning Portal Spatial Viewer, 2024), (R) Proposed HOB map (EMM Consulting, 2023)



**Figure 8 (L) Current floor space ratio map (NSW Planning Portal Spatial Viewer, 2024), (R) Proposed FSR map (EMM Consulting, 2023)**



**Figure 9 Proposed Key Site height of buildings map (EMM Consulting, 2023)**

## 1.8 Background

The subject site has been subject to three planning proposals (including the subject proposal) as follows:

- Proposal to introduce 125 dwellings on the site, amend the land use zone boundary to increase the R3 Medium Density Residential land by 0.41ha to facilitate an additional 9 dwellings. The Department issued a Gateway determination for the proposal to proceed in March 2017. The NSW Supreme Court declared the determination invalid in December 2017 as the proposal did not comply with the procedural requirements under clause 6 of the SEPP 55 – Contaminated Land (now superseded).
- Proposal to amend the land use zone boundary to increase the R3 Medium Density Residential land to facilitate 9 additional dwellings. The Department issued Gateway determination for the proposal to proceed in September 2020, Liverpool LEP (Map Amendment No 3) was notified in May 2022.
- Proposal to introduce 340 dwellings (subject planning proposal). It was forwarded to the Department for Gateway assessment following Council's formal consideration at its meeting in September 2020. In December 2020, the Department advised Council (Attachment 7) to withdraw the subject proposal and resubmit once Council's Georges River Regional Flood Evacuation study was completed and can inform the planning proposals within Moorebank East. This is the Molino Stewart study referred to in Section 1.4 of this report.



In May 2023, Council sought advice from the Department on the way forward for proposals in Moorebank East. The Department advised that these planning proposals are to address the findings of the 2022 flood enquiry findings and address the draft shelter in place policy (Attachment 21). Council considered a revised planning proposal at its meeting on 13 December 2023, resolving to forward it to the Department for Gateway assessment.

The Department met with Council officers and the proponent on 19 December 2023 at the proponent's request. At this meeting the Department flagged there are key threshold issues to be resolved particularly around flooding and evacuation. These issues need to be considered during the Gateway assessment and there is a need to consult with SES and Biodiversity, Conservation and Science group prior to Council lodging the planning proposal with the Department.

Both agencies provided pre-Gateway comments on the proponent's planning proposal and the Flood Impact Assessment Report and Flood Emergency Response Plan. The proponent provided a response to pre-Gateway comments in the planning proposal submitted to the Department. Agency consultation is discussed further in Section 5 of this report.

## 2 Need for the planning proposal

*Q1. Is the planning proposal a result of an assured local strategic planning statement, or Department approved local housing strategy, employment strategy or strategic study or report?*

### Proponent Planning Proposal

The proponent's planning proposal states the proposal is not a direct result of a strategic study or report. It states the proposal responds to the following 'place-based' approach and design principles outlined in State government planning guidelines:

- The draft *Coastal design guidelines* (DPE 2022),
- The *Better Placed* (GANSW 2017),
- *NSW Guide to Activation* (DPE 2022).

The proponent states the planning proposal also provides an improved alignment with the objectives of the Liverpool Local Strategic Planning Statement (LSPS), Liverpool Housing Strategy and Liverpool Community Strategic Plan.

### Department comment

The planning proposal is not the result of any endorsed strategic study or report, it is a proponent initiated planning proposal.

It is acknowledged that Liverpool's LSPS identifies the Moorebank East area as an 'urban development investigation area' on the Structure Plan map. There is no supporting text providing direction on strategic work to be carried out.

The Local Housing Strategy does not identify the site to be investigated by Council for additional housing in either the short or medium term investigation areas. While the Housing Strategy contains locational requirements for potential additional housing locations outside of the listed investigation areas, the planning proposal demonstrates limited consistency. The planning proposal's consistency with the Housing Strategy is discussed further in Section 3.3 of this report.

Irrespective of the above, the Liverpool LSPS identifies Moorebank East as an 'urban development investigation area' and there is merit in investigating the potential for housing. Further commentary on the misalignment of the local strategic planning framework is provided in Section 3 Strategic assessment and Section 6 Assessment Summary of this report.

The Department disagrees with the justification provided by the proponent supporting the need for this planning proposal.

*Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

#### Proponent Planning Proposal

The proponent's planning proposal states the development facilitated by an additional permitted use provision is the best means of meeting the objective and intended outcomes for this site.

#### Department comment

The Department agrees a planning proposal is the best means of achieving the objectives and intended outcomes anticipated by the proposal.

## 3 Strategic assessment

### 3.1 Region Plan

The Greater Sydney Region Plan – a Metropolis of Three Cities (the Region Plan), released by the NSW Government in 2018, integrates land use, transport and infrastructure planning and sets a 40-year vision for Greater Sydney as a metropolis of three cities. The Region Plan contains objectives, strategies and actions which provide the strategic direction to manage growth and change across Greater Sydney over the next 20 years.

The relevant objectives for this planning proposal:

- Objective 10 Greater housing supply.  
This objective focuses on providing ongoing housing supply and a range of housing types in the right locations will create more liveable neighbourhoods and support Greater Sydney's growing population.  
The Plan recognises that not all areas of Greater Sydney are appropriate for significant additional development. Challenges relating to a lack of access to shops, services and public transport or other necessary infrastructure, and local amenity constraints require careful consideration.
- Objective 11 Housing is more diverse and affordable.  
A diversity of housing types, sizes and price points can help improve affordability. Increasing the supply of housing that is of universal design and adaptable to people's changing needs as they age. The Plan also recommends Affordable Rental Housing targets as a mechanism to deliver an additional affordable rental housing.
- Objective 37 Exposure to natural and urban hazards is reduced  
Strategic land use planning can play a greater role in supporting a more consistent approach to reducing exposure to hazards. Current guidelines and planning controls minimise hazards and pollution by:
  - Avoiding the placement of new communities in areas exposed to existing and potential natural hazards
  - Managing growth in existing neighbourhoods that are exposed and vulnerable to natural hazards
 Strategy 37.1: Avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards.

While the planning proposal will provide a diversity of housing types (units and terraces), it demonstrates a very limited consistency with the Regional Plan, particularly Objective 37.

## 3.2 District Plan

The site is within the Western City District. The Greater Sydney Commission released the Western City District Plan on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.

There are two relevant planning priorities for this planning proposal as outlined below.

*Liveability Planning Priority W5: Providing housing supply, choice and affordability with access to jobs, services and public transport.*

The Proponent's Planning Proposal states the proposal is consistent with this planning priority as providing housing supply is the driver for this planning proposal. The proposed residential use will service the growing demand for attractive local housing centred on the Georges River.

The Department agrees the proposal provides housing supply and choice however the planning priority states new housing must be in the right places to meet housing demand with some areas not appropriate for additional housing due to natural or amenity constraints. A significant constraint for this site is the flooding affectation, which is discussed further in Section 3.5 of the report (Section 9.1 Ministerial Directions).

The District Plan identifies opportunities for housing capacity can be realised by urban renewal, local infill development (missing middle/ medium density housing) and land release areas. From these three options, the Department considers 'urban renewal' as the most suitable categorisation for this site and the planning proposal. While the locational criteria for urban renewal opportunities are more appropriate for sites that would deliver significant housing compared to the subject planning proposal, the Department considers an assessment against the criteria necessary to determine the planning proposal's consistency with this planning priority.

The list of locational criteria is focused on alignment with infrastructure, accessibility to jobs, services and transport. Locational criteria for urban renewal investigation opportunities with a commentary in respect of the subject planning proposal are below:

- Alignment with investment in regional and district infrastructure such as Sydney Metro City & Southwest: Not applicable to this proposal and subject site.
- Other possible future investments such as Sydney Metro West and opportunities created by enhancements to existing infrastructure such as upgrades to schools, open space including sporting facilities and transport: Not applicable to this proposal and subject site.
- Accessibility to jobs: the development is part of a broader renewal of Moorebank East. Jobs and services will be available via new retail and commercial opportunities on adjoining sites (Site A – Georges Cove Village subject to a planning proposal), the approved Marina development and the industrial area to the north of Newbridge Road. Future occupants of the subject site will also have access to a direct bus service to Liverpool CBD (approximately 10 minute bus trip).
- Accessibility to regional transport: the proposal relies on the existing external road network to connect the site beyond the immediate Moorebank East precinct. Residents will be connected to this via new internal roads, and a bicycle and pedestrian path. Future occupants of the subject site will have access to Liverpool station via a direct bus service.
- Catchment areas within walking distance (10 mins) of centres with rail, light rail or regional transport: Not applicable.

The subject site is approximately 1.8km from Moorebank Town Centre.

The subject site is within reasonable proximity (800m) to a bus stop (Newbridge Rd opp Pat Devlin CI) with a direct service (M90 Burwood to Liverpool) to the Liverpool CBD and train station approximately every 15- 20 minutes from 5.00 am to 9.00 pm. A certain amount of

transport will still likely remain by car due to the site being outside of a walking catchment from a train station.

- Areas of high social housing concentration where there is good access to services, transport and jobs: Not applicable.
- Distance from special land uses such as ports and airports: Not applicable.

The above analysis demonstrates this site and planning proposal, and by extension Moorebank East precinct, has limited consistency with the District plan's criteria for new significant additional housing in an urban renewal setting. In addition, it is unclear how the planning proposal is consistent with improving housing affordability as no provisions for dedicated on-site affordable housing or monetary contributions for affordable housing have been identified.

*Sustainability Planning Priority W20: Adapting to the impacts of urban and natural hazards and climate change*

The Proponent's Planning Proposal does not address this planning priority.

This planning priority is relevant as it discusses natural and urban hazards to be considered in planning both in reducing exposure to these hazards but also building resilience to shocks and stresses. Planning needs to consider exposure at a local level as well as cumulative impacts at district and regional levels. This is relevant to the planning proposal as it is subject to flooding from the Georges River and considered a high risk flood area.

The planning priority states placing developments in hazardous areas or increasing the density of development in areas with limited evacuation options increases risk to people and property. Evacuation constraints are further discussed in 4.3 Infrastructure of this report.

Action 88 states 'avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas most exposed to hazards'. Noting how the proposal responds to the flood risk (Section 1.5 of this report), the proposal is still relying upon a Marina development to enable the residential dwellings to be flood free. As the planning proposal seeks to locate new urban development on areas exposed to natural hazards, it is therefore inconsistent with this planning priority.

Under section 3.8 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) a planning proposal is to give effect to the relevant District Plan. Given the proposal's limited consistency with *Planning Priority W5* and the proposal's inconsistency with *Planning Priority W20*, the Department is satisfied the planning proposal does not give effect to the District Plan.

### 3.3 Local Plans and Strategies

Liverpool's Local Strategic Planning Statement and Housing Strategy are relevant considerations for this planning proposal, as outlined below.

#### 3.3.1 Liverpool Local Strategic Planning Statement

The Connected Liverpool 2040: Liverpool Strategic Planning Statement provides a land use vision that guides future growth and development across Liverpool to 2040.

The proponent's planning proposal states the proposal aligns with:

- Planning Priority 5 – a vibrant, mixed-used and walkable 24 hour city centre with the Georges River at its heart.

The planning proposal provides medium and high density residential dwellings and meets the intent of this planning priority as the development will be providing a lively, mixed use precinct at Moorebank focused on the Georges River

- Planning Priority 6 – high quality, plentiful and accessible community facilities, open space and infrastructure aligned with growth.

The planning proposal will enable the provision of co-located boating facilities and housing, integrating several elements of the vision for the community within this planning priority, including high quality facilities and infrastructure.

The Department disagrees with the proponent's planning proposal.

Planning Priority 5 focuses on improving the Liverpool City Centre's 24-hour economy, improving public domain, active transport and connections to parkland and open space. The subject site is not within the Liverpool City Centre.

Planning Priority 6 focuses on improving the open space network including pathways along Georges River from Casula through the City Centre to Pleasure Point (River Connections Plan). It also includes improving active transport connections to the parklands.

The Department considers Planning Priority 7 and the Structure Plan relevant considerations for this planning proposal.

*Planning Priority 7 – Housing choice for different needs, with density focused in the City Centre and centres will serviced by public transport.*

Council's preference is for any increases in density of current controls to be focused in the City Centre and close to centres with good public transport accessibility. While this statement may not be strictly applicable to the subject site as the proposal is enabling residential development via an additional permitted use clause, not increasing density under current controls, an assessment against Council's preferences is made.

The planning proposal is inconsistent with Council's preferences as the site is outside the City Centre, is not considered close to a centre (1.8km from Moorebank town centre), and does not have good public transport accessibility (bus stops within approximately 800m).

#### *LSPS Structure Plan*

The site is identified on the LSPS structure Plan as an 'urban development investigation area'. As discussed previously in this report, the LSPS does not contain any further commentary in respect of the strategic planning work to be carried out for the urban development investigation area. As outlined in Section 1.6 Moorebank East Precinct, future urban development within this area appears to be proponent-led with the exception of Site E (to the south of the subject site) with Council taking on a lead role in the planning for that site.

Section 6 Assessment summary of this report provides the Department's reflections on the local strategic planning framework guiding redevelopment of Moorebank East precinct and advice to Council on future strategic planning work.

### 3.3.2 Local Housing Strategy 2020

The Liverpool Local Housing Strategy 2020 states there is sufficient capacity to meet the housing needs of the local community over the next 20 years however there is likely to be a lack of the right type of housing in the right locations to adequately meet this need and ensure housing affordability is maintained. The Housing Strategy sets out four key housing priorities over the next 20 years, the planning proposal's consistency with these priorities is assessed below:

- **Diversity:** Ensuring there is a sufficient range of diverse housing types to meet the changing needs of its residents.

The proposal will provide a range of apartment sizes and terrace dwellings to suit a diverse demographic.



- **Affordability:** Encouraging greater housing affordability in the LGA to ensure existing community members can remain within their community and that essential works in the locality can access appropriate housing

The proposal will increase housing supply in the LGA however it is unclear how housing affordability will be achieved. The proposal does not provide on-site dedicated affordable housing or make contributions towards this.

- **Location:** Providing opportunities for increased housing densities in close proximity to transport and services whilst retaining the local character of the area.

The Housing Strategy identifies investigation areas that will be subject to more detailed investigations to provide a diversity of housing.

Although being identified in the LSPS as an urban development investigation area, Moorebank East is not identified as an investigation area. Short term investigation areas include: Liverpool city centre & innovation precinct, Moore Point, Moorebank Town Centre, Miller Precinct, Warwick Farm Racing Precinct. The medium term investigation area includes Hargrave Park – Warwick Farm.

The Housing strategy identifies locational requirements for any additional housing locations outside of the above list of investigation areas. These include the following, with an assessment undertaken against each requirement:

- *Areas to be within 800m of major transport nodes.* The subject site is not within 800m of a major transport node but has access to bus services along Newbridge Road.
- *New housing should have good access (within 400m) of open space, employment opportunities and retail facilities.* The subject site is within 400m of a local park and parts of the Georges River foreshore will be publicly accessible. Future retail premises are proposed under a separate planning proposal for a northern site within Moorebank East (approximately 400m from the subject site). Industrial jobs may be available within the Chipping Norton industrial area to the north of Newbridge Road.
- *New housing should be located and designed to preserve the character of existing local neighbourhoods, areas of high ecological value and existing heritage.* The proposed apartments will be within the context of medium density residential areas.
- *New housing must be supported by infrastructure improvements including the provision of affordable housing where appropriate.* Council's December 2023 report states Council staff see significant inadequacies in the letter of offer supporting this proposal. The offer includes the construction a bike/pedestrian path through the Marina site. Council staff advised a more complete schedule of infrastructure items to support high density residential development should be offered and contribute to supporting recreation, traffic management, and stormwater quality management facilities.

In reviewing 'location' housing priority, the Department has also considered references within the Housing strategy to the SGS Housing study that was prepared to support the Housing strategy.

The Housing study included a detailed assessment of land use opportunities and constraints. The Study provided a weighted score to sites in proximity to train stations and other public transport options, retail centres, open space, schools and community facilities. The results of the opportunity mapping are included in Figure 19 of the Housing strategy, it identifies the subject site as being of 'low' opportunity for housing.

The opportunity mapping is then overlayed with constraints including medium or high-risk flood prone land, the subject site was not identified as having any housing opportunity.

- **Sustainability:** Encouraging sustainability and energy efficiency in housing location and neighbourhood design. Council will pursue opportunities to improve community access to the Georges River while also protecting and enhancing environmental values. New housing

and housing densities will be concentrated in centre locations to protect and enhance areas of high ecological significance and rural land.

The proposal does not appear to result in improved community access to the Georges River. The proposal is not located in centre locations. A discussion on the ecological significance of the site is discussed in Section 4.1.

The Housing Strategy also includes an Implementation and Delivery Plan. The following actions are relevant considerations for this planning proposal:

- *Action 4 – prepare precinct plans for relevant areas identified as short-term investigation areas in this Strategy.* The local housing strategy provides details on specific areas flagged for further housing growth. Council is to collaborate with relevant partners to progress precinct plans for identified areas.

Moorebank East is not identified as one of the investigation areas within the Housing strategy.

- *Action 5 – ensure housing density is focused around centres, high frequency public transport and amenity.* Council is to ensure planning proposals are consistent with the local housing strategy.

This planning proposal is not located in close proximity to a centre or high frequency public transport.

In conclusion, the planning proposal generally does not meet the four key housing priorities outlined in the Housing Strategy to guide future growth and demonstrates only limited consistency with locational requirements for potential additional housing outside of the listed investigation areas.

It is acknowledged the Department issued a Gateway determination for a similar development to proceed as the subject proposal on the subject site in March 2017 (Section 1.7 of this report). It is important to note the strategic planning framework has been updated since 2017 including a new region plan and local strategic planning framework (LSPS and local housing strategy). The Western City District plan was in draft format when the planning proposal was assessed at Gateway.

### 3.4 Local planning panel recommendation

Council officers reported the planning proposal to the Liverpool Local Planning Panel (LPP) on 31 August 2020. The LPP supported the Council officers' recommendation for the proposal to proceed to Gateway (Attachment 8) as it demonstrated strategic and site-specific merit.

The Department draws attention to the following comments:

#### Strategic merit

- Moorebank East Precinct is transitioning from a former sand mining operation to a variety of residential, commercial, and retail developments alongside the approved marina on the subject site. The planning proposal was deemed compatible with this immediate context.

#### Site-specific merit

- *Flooding* - acknowledged the proponent's advice that the site is capable of redevelopment for residential purposes if the land is filled above the flood planning level and if the flood free pedestrian evacuation access is provided. The LPP encouraged Council to undertake a regional evacuation analysis that includes Moorebank and Chipping Norton so that clear provision can be made for the safe evacuation of residents in the event of flooding.
- *Urban design* – further detailed design and policy work is required post Gateway through the preparation of a site specific DCP. Issues to be addressed include the safety and

amenity of the waterfront promenade, north-south pedestrian/cycle link, podium landscape and internal road network.

- *Transport* – capacity in the local road network is a potentially significant constraint for redevelopment of the planning proposal site and the precinct generally. There is a need to investigate improvements to traffic capacity in the precinct, and recommends Council progresses a draft precinct wide traffic study and implement the findings of the study prior to any amendments to the LEP in this precinct.

#### Department comment

The planning proposal was updated after the LPP meeting to address the findings of the 2022 NSW Flood Inquiry and the Georges River Regional Flood Evacuation Study (Molino Stewart 2022). The planning proposal was not re-reported to the local planning panel.

Site specific merit comments are addressed in Section 3.5 Section 9.1 Ministerial Directions and Section 4.3 Infrastructure.

## 3.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed in the table below.

**Table 4 Section 9.1 Ministerial Direction assessment**

| Directions                            | Consistent/<br>Inconsistent | Reasons for Consistency or Inconsistency   |
|---------------------------------------|-----------------------------|--|
| <b>Focus area 1: Planning Systems</b> |                             |  |
| 1.1 Implementation of Regional Plans  | Inconsistent                | <p>The objective of this Direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p>The Department considers the planning proposal demonstrates limited consistency with the Regional Plan and not justifiably inconsistent with the Regional Plans (Section 3.1 of this report).</p> <p>The extent of inconsistency with the Regional Plan is not considered of minor significance due to the flood risk of the land and very limited consistency with locational requirements for additional housing.</p> |
| 1.4 Site Specific Provisions          | Consistent                  | <p>The objective of this direction is to discourage unnecessarily restrictive site specific planning controls. While the Department questions the suitability of facilitating the proposal with an additional permitted use, the proposed provision satisfies the objective of the Section 9.1 Direction.</p> <p>The proposal does not include unnecessarily restrictive site-specific planning controls.</p>  |



| Directions                                  | Consistent/<br>Inconsistent | Reasons for Consistency or Inconsistency   |
|---|-----------------------------|--|
| <b>Focus area 4: Resilience and hazards</b> |                             |  |
| 4.1 Flooding                                | Inconsistent                | <p>This direction applies as the planning proposal is seeking to create a provision that affects flood prone land.</p> <p>The proposal is inconsistent with this Direction, as discussed under Section 3.5.1 of this report.</p>   |
| 4.2 Coastal management                      | Inconsistent                | <p>This direction applies when a planning proposal applies to land that is within the coastal zone, as defined under the <i>Coastal Management Act 2016</i> – comprising the coastal wetlands and littoral rainforests area and as identified by chapter 2 of the <i>SEPP (Resilience and Hazards) 2021</i>.</p> <p>Both the proponent's planning proposal and Council's December 2023 report indicate the proposed key site is not within the coastal zone.</p> <p>However, part of the key site in the south western corner could potentially be within the Coastal Wetlands and Littoral Rainforest area map as per the 'coastal wetlands' layer available to view in the planning portal.</p> <p>The planning proposal is inconsistent with this direction but can be clarified through further mapping.</p> |
| 4.3 Planning for Bushfire Protection        | Inconsistent                | <p>This direction applies as the proposal includes land that is mapped as bushfire prone land (Section 1.4 of this report).</p> <p>This direction requires consultation with RFS following the receipt of a Gateway determination and the consideration of any comments within the planning proposal. Until this occurs, the planning proposal will remain inconsistent with this direction.</p>   |
| 4.4 Remediation of Contaminated Land        | Consistent                  | <p>This direction applies as the proposal seeks to carry out residential development on contaminated land. The requirements of this direction are discussed further in Section 3.5.2 of this report.</p>   |
| 4.5 Acid Sulfate Soils                      | Inconsistent                | <p>This direction applies as the site contains Class 2 and Class 4 acid sulfate soils. The relevant planning authority must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils unless the planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils.</p> <p>The planning proposal is not supported by an acid sulfate soils study and is inconsistent with this direction.</p>   |

| Directions  | Consistent/<br>Inconsistent | Reasons for Consistency or Inconsistency   |
|---|-----------------------------|--|
| <b>Focus area 5: Transport and Infrastructure</b> |                             |  |
| 5.1 Integrating Land Use and Transport            | Consistent                  | <p>This direction seeks to ensure development design improves access to housing, jobs and services by walking, cycling and public transport, reducing dependence on cars and reducing travel demand.</p> <p>The proposal is accompanied by a Traffic Impact Assessment (Attachment 15) and outlines the transport interventions to accommodate the marina and residential development.</p> |
| <b>Focus area 6: Housing</b>                      |                             |  |
| 6.1 Residential Zones                             | Consistent                  | This proposal is considered consistent with this Direction as the proposal seeks to deliver a mixed use development, delivering housing with access to infrastructure and services.  |

### 3.5.1 Consideration of 9.1 Direction 4.1 Flooding

This direction applies as the proposal seeks to alter zones and provisions that affect flood prone land. The flood affectation on the site is outlined in Section 1.4 of this report. The relevant considerations from the Section 9.1 direction are replicated below.

(1) The direction requires a planning proposal to include provisions that give effect to and are consistent with:

- a) The NSW Flood Prone Land Policy
- b) The principles of the Floodplain Development Manual 2005
- c) The Considering Flooding in land use planning guideline 2021, and
- d) Any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.

(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:

- a) Permit development in floodway areas,
- b) Permit development that will result in significant flood impacts to other properties,
- c) Permit a significant increase in the dwelling density of that land,
- e) Are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities

#### Consistency

A planning proposal may be inconsistent with this direction only if the Planning Secretary is satisfied that:

- a) the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or

- b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005 or
- c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or
- d) the provisions of the planning proposal that are inconsistent are of minor significance.

#### Department assessment

#### **NSW Flood Prone Land Policy, the Flood Risk Management Manual, adopted flood study and/or floodplain risk management plan**

The NSW Flood Prone Land Policy is set out in the *Floodplain Development Manual: the management of flood liable land* (April 2005). The *Flood Risk Management Manual* was gazetted in June 2023 and replaced the Floodplain Development Manual 2005. A series of flood risk management guidelines support the manual providing extra technical advice to support councils to understand and manage flood risk.

The *Flood Risk Management Manual* 2023 set out 10 flood risk management principles to achieve the primary objective of the policy, to reduce the impacts of flooding and flood liability on communities. Principle 9: Manage flood risk effectively is a relevant consideration to this planning proposal.

It states effective management of flood risk to the community requires a flexible merit-based approach to decision-making which supports sustainable use and development of the floodplain. The following matters are relevant to the planning proposal:

- managing flood risk to the existing community. In the context of this planning proposal, it relates to evacuation capacity within the road network with the full redevelopment of Moorebank East precinct blocking thousands of Chipping Norton residents from evacuating without further infrastructure upgrades (discussed Section 4.3.2).
- limiting increases in flood risk related to new and modified development. In the context of this planning proposal, it relates to the risk of enabling a new permanent population above a development that will be subject to high hazard flood events.

Local government is primarily responsible for managing flood risk in their LGAs, however the Manual provides advice on the role of State government (Section 5 Roles and Responsibilities of the Manual). In relation to planning proposals, the following matters need to be considered:

- objectives and provisions of the policy and this manual
- relevant legislation and government policies
- relevant SEPPs, LEPs and DCPs
- local flood information and Flood Risk Management (FRM) plans
- the need to avoid causing an increase in the threat to personal safety and property and any unwarranted increase in potential damage to public property and services
- FRM information and advice from local councils and the lead agency for FRM. This includes when considering the need for and reviewing FIRAs, including the flood impacts:
  - of development decisions on new and modified developments and their users and the impacts of development on the flood risk to the existing community
  - on infrastructure and the impacts of infrastructure on flooding of the existing community in decisions to place, build, modify or upgrade infrastructure in the floodplain.

The Department acknowledges the circumstances of this planning proposal in that the development would be constructed above an approved Marina development, meaning residential, restaurant/café uses would be located above the flooding planning level or PMF (as described in Section 1.5 of this report).

As the residential uses would be above the PMF, it could be argued the flood mapping is not applicable to this component of the development. However, any future flood studies/mapping for the site may not contemplate this scenario and/or consider a change in the flood affectation of the site noting that the landform is not being raised (as distinct from the neighbouring northern residential site currently under construction).

Development resulting from this planning proposal will be constructed above a Marina development that will be subject to frequent and high hazard floods. The high hazard classifications meaning all building types being vulnerable to failure, regardless of the design standards the supporting structures. This represents a risk to personal safety and property especially if people decide to remain in their residences rather than evacuate.

Ultimately, it is considered the planning proposal is inconsistent with the NSW Flood prone land policy and Flood Risk Management Manual for the following reasons:

- does not satisfy the primary objective of the NSW Flood prone land policy being to reduce the impacts of flooding and flood liability on communities.
- does not avoid causing an increase in the threat to personal safety and property and any unwarranted increase in potential damage to public property and services.
- if this development was to proceed, it could have impacts on the existing community in relation to evacuation (discussed under Section 4.3.2 of this report and further in this section).

Noting the circumstances of this planning proposal, an assessment of consistency still needs to be carried out against the adopted Flood Risk Management Plan. The planning proposal is inconsistent with the adopted Georges River Floodplain Risk Management Plan and Study. The site is identified as 'high flood risk' with commercial and residential uses being unsuitable.

#### **A planning proposal must not contain provisions that apply to the flood planning area**

The planning proposal states the floor level for the café/restaurant uses will be 1.5m above the flood planning level (flood planning area is defined as land at or below the flood planning level). As such, the Department has not carried out an assessment against this part of the Section 9.1 direction.

#### **A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply**

Clause 5.22 Special flood considerations of the Liverpool LEP applies to either (a) sensitive or hazardous development, or (b) for development on land the consent authority considers to be land that, in the event of a flood, may (i) cause a particular risk to life, and (ii) require the evacuation of people or other safety considerations.

This part of the Section 9.1 direction is relevant as the planning proposal seeks to enable restaurant/café premises between the flood planning level and the PMF which will enable significant residential development above those uses to be flood free. This stacking of development in a high risk flood area can be seen as a particular risk to life, in addition, the population will need to evacuate in a flood event.

The following comments are provided in respect of consistency with this part of the direction:

- a) Permit development in a floodway area: Georges River BMT 2020 mapping identifies part of the site as a floodway however, this mapping would not have considered the flood management works that formed part of the Marina development approval. The Flood

Impact & Flood Emergency Response report states the development would not be located within a floodway but an area of flood storage and flood fringe. Additional information and discussion with Council would be required to determine whether this component of the Section 9.1 Direction applies to this planning proposal.

- b) Permit development that will result in significant flood impacts to other properties: The Flood Impact & Flood Emergency Response report states extensive flood modelling by Cardno (accepted by Liverpool Council) has demonstrated that the development would not have any adverse flood impacts on other properties. In this way, the planning proposal is consistent with this statement. However, if the Marina development failed in a flood event, it could result in significant flood impacts to the restaurant/café premises and residential dwellings above it.
- c) Permit a significant increase in the dwelling density of that land: The Department considers this statement applies to the development as the retail premises on top of the Marina development enables 340 residential dwellings to be located above the PMF. The proposal is inconsistent with this statement.
- f) Are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities: While there may be capacity within the evacuation network to accommodate this development, it would be at the expense of the redevelopment of other sites within the Moorebank East Precinct. The redevelopment of Moorebank East as per status of planning proposals considered within the Molino Stewart 2022 report meant either a cap on development in the precinct or additional government spending on widening Nuwarra Road to ensure the existing community's evacuation capacity would not be impacted (Section 4.3.2 for more details). Therefore, the proposal is inconsistent with this criteria until Council undertakes further work on this precinct.

### Assessment of consistency

In summary, the planning proposal is inconsistent with the following components of the Section 9.1 direction:

- NSW Flood Prone Land Policy
- Georges River Floodplain Risk Management Plan and Study 2004
- A planning proposal must not contain provisions that apply to areas between the flood planning area and PMF to which Special Flood Considerations apply:
  - Permit a significant increase in the dwelling density of that land
  - Are likely to result in a significantly increased requirement for government spending on emergency management services, provision of road infrastructure.
  - Permit development in a floodway area (additional information/discussion with Council needed to determine whether this criterion is applicable to the planning proposal)

A planning proposal may be inconsistent with the Section 9.1 Direction if it satisfies relevant matters. Comments are provided below:

- The planning proposal is not in accordance with a floodplain risk management study adopted by the relevant Council
- The provisions of the planning proposal that are inconsistent with this section 9.1 direction are not of minor significance.

Further work would be required to understand whether the submitted flood and risk impact assessment is prepared in accordance with the principles of the NSW Flood Manual and consistent with the relevant planning authorities' requirements. BCS stated the assessment must be updated

to include the information for a 'Detailed' flood impact and risk assessment (FIRA) as described in the *Flood Impact and Risk Assessment – Flood Risk Management Guideline LU01* (this is discussed further under Section 5 in relation to State agency comments). The revised FIRA is required to show the change in flooding risks from existing to post development conditions including the exposure of future communities to flooding risks and to illustrate whether the proposal is an appropriate use of the site.

The proponent responded disagreeing with BCS' statement.

### 3.5.2 Consideration of 9.1 Direction 4.4 Remediation of Contaminated Land

This direction applies as the proposal seeks to carry out residential development on contaminated land. It is noted the proponent's planning proposal does not address this Section 9.1 direction however EMM consultants prepared a letter summarising the contamination reports prepared to date for the site (Attachment 11), providing the relevant reports for Council's consideration.

The direction requires a planning proposal authority (PPA) to consider whether the land is contaminated when preparing a planning proposal. If it is contaminated, the PPA is satisfied that the land is suitable (including after remediation) for all the purposes for which land in the zone concerned is permitted to be used. If the land requires remediation, the PPA is satisfied that the land will be so remediated before the land is used for that purpose.

The PPA is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

#### **Department comment**

Council's December 2023 report notes the subject site has been identified as being contaminated due to previous uses of the site, including sand extraction via dredging and dry extraction methods on the site since 1993.

The Contamination letter (Attachment 11) summarises the contamination reports prepared to date for the subject site that were submitted to support the planning proposal. This includes a Preliminary Investigation of Contamination (2015), Supplementary Preliminary Investigation (March 2016), Preliminary Site Investigation Rezoning (Area 1) and Georges Cove Marina (Area 2) (May 2018). A Site Audit Report 282 (April 2019) was also prepared.

The Site Audit Report 282 concluded that, with remediation, the site can be made suitable for 'commercial/industrial' development (consistent with the land use as a marina) and is also suitable for 'residential with minimal opportunity for soil access, including units'.

The direction requires the planning proposal authority to be satisfied the land can be made suitable after remediation for the intended development, being residential uses. Council's report from its December 2023 meeting refers to the Site Audit Statement 282 recommendation and states further contamination assessment including any required remediation measures, is required with any future DA on the subject site.

It appears that Council is satisfied that the land can be made suitable after remediation for the intended development.



### 3.6 State environmental planning policies (SEPPs)

An assessment against the SEPPs relevant to the planning proposal are included below.

**Table 5 Assessment of planning proposal against relevant SEPPs**

| SEPPs  | Consistency                 | Reasons for Consistency or Inconsistency  |
|--|-----------------------------|---|
| SEPP<br>(Resilience<br>and Hazards)<br>2021<br><br>Chapter 2<br>Coastal<br>Management  | Inconsistent                | <p>Both the proponent's planning proposal and Council's December 2023 report indicates the proposed key site is not within the coastal zone.</p> <p>However, part of the key site in the south western corner could potentially be within the Coastal Wetlands and Littoral Rainforest area.</p> <p>There is insufficient evidence to demonstrate whether the key site is within the coastal zone.</p> <p>Until the affectation is clarified, the proposal is inconsistent with the SEPP.</p>   |
| SEPP<br>(Resilience<br>and Hazards)<br>2021<br><br>Chapter 4<br>Remediation<br>of land | Justifiably<br>Inconsistent | <p>The proposal seeks to carry out residential development on contaminated land.</p> <p>CI 4.6(2) requires a consent authority to consider a report specifying the findings of a preliminary investigation of the land concerned in accordance with the contaminated land planning guidelines before determining an application that would involve a change of use on the land.</p> <p>The Contamination letter (Attachment 11) refers to the contaminated land planning guidelines considered as part of the Site Audit Report (2019). Since the completion of the Site Audit report, the guidelines have been updated.</p> <p>The Contamination letter states the intent of the guidelines or the methods for preliminary site investigations and reporting have not materially changed. The letter concluded that the preparation of a further Preliminary Site Investigation for the site, in strict accordance with the updated guidelines, would not be expected to change the conclusion of the Site Audit ('with remediation, the site can be made suitable for residential with minimal opportunity for soil access, including units).</p> |
| Chapter 6<br>Water<br>catchments   | Inconsistent                | <p>This Chapter includes provisions a consent authority must consider when determining an application for development within a regulated catchment which includes Georges River Catchment.</p> <p>There are provisions relating to water quality and quantity, aquatic ecology and flooding. Some of these matters have been addressed within the planning proposal and supporting documentation.</p> <p>As not all the matters have been addressed, the proposal is inconsistent but it is appropriate the remaining matters be addressed at a development application stage.</p>  |

| SEPPs   | Consistency | Reasons for Consistency or Inconsistency  |
|---|-------------|---|
| SEPP<br>(Housing<br>2021)<br><br>Chapter 4<br>Design of<br>residential<br>apartment<br>development<br>(former<br>'SEPP 65') | Consistent  | The proposal can demonstrate consistency with this SEPP at the development application stage. |

## 4 Site-specific assessment

### 4.1 Environmental

Flooding risk of the subject site is a challenge for this planning proposal with the Section 9.1 Direction Flooding discussing the flood risks associated with this proposal. The Department also notes that the NSW Flood Inquiry 2022 identified Georges River as a high risk catchment and calls for a risk-based approach in planning.

#### 4.1.1 Biodiversity

The planning proposal is supported by a Biodiversity Assessment (Attachment 17), prepared by Biosis dated April 2018. This assessment report was prepared to support a previous planning proposal on the site (see Section 1.8 of this report), the Gateway was issued in March 2017 and subsequently declared invalid by the NSW Supreme Court.

Field investigations were undertaken to determine the presence of threatened flora and fauna species and aquatic habitats. No threatened flora species were identified in the field investigations however riparian habitats along the Georges River hold some habitat value for Downy Wattle *Acacia pubescens* (Vulnerable EPBC Act and BC Act) and Nettled Bottle Brush *Callistemon linearifolius* (Vulnerable BC Act). The Biodiversity Assessment concluded that there is a low likelihood of occurrence for the two listed species.

A number of threatened fauna species were considered under previous assessments of the study area as likely to have habitat within the study area. The assessment concluded that there is a low likelihood of impact of the proposed development on these species. The assessment also referred to the observation of two White-bellied Sea Eagles within the study area during the field assessment and recommended a five-part test to be undertaken for this species to support any future development application.

Prior to the field investigation, Biosis confirmed that various native vegetation communities including the Swap Oak Floodplain Forest, River Flat Eucalypt Forest and Cumberland Plain Woodland have been mapped in the broader landscape. The assessment concludes that the River Flat Eucalypt Forest and Swamp Oak Floodplain Forest were found along the foreshore of the Georges River. The Department notes the foreshore area is outside of the area proposed for the additional permitted use.

In regards to riparian corridors, the section of land identified as the subject site of the planning proposal does not occur within 40 metres of the Georges River, and as such a controlled activity permit would not be required.



No threatened aquatic species were observed within the study area.

### Department comment

The Department undertook pre-Gateway consultation with the Biodiversity, Conservation and Science Group (BCS) as part of NSW Department of Climate Change, Energy, the Environment and Water (DCCEEW). BCS' comments are attached (Attachment 3) and summarised in Section 5 of this report.

Noting the Biodiversity Assessment was prepared in 2018 and six years have lapsed, BCS recommended that the biodiversity assessment be updated. The Department agrees with this recommendation.

## 4.2 Social and economic

The proposal is accompanied by a Social Impact Assessment outlining the social infrastructure needs and impacts of the proposal. It is noted this assessment appears to have supported a previous planning proposal lodged on the subject site. The assessment refers to a rezoning facilitating 374 dwellings above the Marina and rezoning a portion of RE2 Private Recreation land to R3 Medium Density Residential.

The assessment also refers to the masterplan for 146 Newbridge Road including 'Moorebank Cove' (Site C in Moorebank East) for 179 residential lots, and Georges Cove Village (Site A in Moorebank East) for seniors housing, a child care centre and business and retail uses. The Department is only aware of a planning proposal for Site A to increase the amount of retail floorspace which is currently under Gateway assessment.

**Table 6 Social and economic assessment**

| Social             | Assessment   |
|--------------------|--|
| Affordable housing | <p>While the provision of affordable housing in new development projects such as this is encouraged, Section 7.32(3)(b) of the Act requires any condition imposed relating to contributions for affordable housing on a development consent must be authorised by an LEP and must be in accordance with a Council scheme for dedications or contributions set out in or adopted by the LEP.</p> <p>Council does not currently have an affordable housing contribution scheme in place to levy for affordable housing on this site.</p> <p>This does not preclude Council and the proponent exploring the provision of affordable housing through the voluntary planning agreement process.</p> |

| Social               | Assessment   |
|----------------------|--|
| Open space           | <p>The Social Impact Assessment (SIA) indicates there are six open spaces within approximately 800m of the site. These include:</p> <ul style="list-style-type: none"> <li>• Two new local parks with playgrounds (50 Escura Cres, Playfield Park and Central Park),</li> <li>• One open space area with boatramp (Davy Robinson Boat Ramp)</li> <li>• One bushland reserve (Wurrungwuri Reserve), and</li> <li>• One sportsfield and dog park located across the Georges River (Vale of Ah Reserve) (however this park is not currently located within walking distance from the site)</li> </ul> <p>It appears the Wurrungwuri Reserve seems to be inaccessible to the public and Vale of Ah Reserve is across the Georges River and does not have a direct pedestrian route from the site.</p> <p>It should be noted that works associated with the existing marina development and supporting VPA include the embellishment of Georges River waterfront which will become publicly accessible and 5,900m<sup>2</sup> of communal open space. The SIA states this provision of open space is sufficient to meet the demands of the forecast population of Georges Cove Marina, as well as the forecast population from neighbouring developments in 146 Newbridge Road.</p> |
| Community facilities | <p>As residents of the proposed development will be living in high density in apartments, and there are no community centres nearby, there will be a need for onsite communal internal meeting/gathering spaces that provide a space for socialising and programs outside the home, for example, for children's birthday parties, book clubs, music practice, parent's groups. These spaces should be provided at the early stages of the development and connected to open space.</p> <p>The proposal does not include provision for a library, community facility or community centre.</p>   |
| Schools              | <p>The SIA notes the local public primary school within Moorebank has capacity for the additional growth from this proposal, based on consultation with school principal completed in December 2015.</p> <p>Based on the time lapsed since consultation with the school principal and year of reporting, consultation with Schools Infrastructure NSW to understand the capacity of the local primary and high school to accommodate this development would be needed.</p>   |
| Economic             | <p>The proposal seeks to facilitate restaurant/café floorspace commensurate to the marina and proposed residential uses. This will contribute to creating jobs in the region.</p>  |

## 4.3 Infrastructure

### 4.3.1 Transport

A Transport Planning Assessment Report was prepared by EMM in 2018 to support a previous version of this planning proposal. The Addendum Traffic Impact Assessment (Attachment 15) provides an update on the assessment to align with the development facilitated under this planning proposal.

To assess the development traffic for the planning proposal, the following components of the broader precinct have been included:

- Georges Cove residences (Site C in Moorebank East precinct)
- Georges Cove Marina (residential) and its associated restaurant and café – subject of this planning proposal
- Georges Cove Marina (commercial) (Site A in Moorebank East precinct)
- Moorebank Recyclers land (Site E in Moorebank East precinct)

The future development traffic to and from Sites A, C and E in the precinct are based on existing traffic reports.

The traffic distribution for the development has been modelled for two scenarios against an existing (without development) scenario. The existing scenario includes surveyed traffic volumes only and without any proposed development site traffic volumes. The two scenarios include:

- Scenario 1:
  - DCP road will not be connected to Davy Robinson Drive
  - All traffic will be entering and exiting via Promontory Way
  - Brickmakers Drive/Promontory Way will be modelled as a signalised intersection with the existing approach and departure lane layout and a pedestrian crossing facility at the north approach
- Scenario 2:
  - DCP road will be connected to Davy Robinson Drive following the development of Flower Power site and Georges Cove Village site
  - Traffic will be distributed so that it will enter and exit via both Promontory Way and Davy Robinson Drive.
  - Brickmakers Drive/Promontory Way will be modelled as a signalised intersection with the existing approach and departure lane layout and a pedestrian crossing facility at the north approach.
  - Newbridge Road/Davy Robinson Drive will be modelled as a signalised intersection with the existing approach and departure lane layout and pedestrian crossing facilities on all three approaches (east, south and west approaches).



**Figure 10 Excerpt of Addendum Traffic Impact Assessment also showing intersection locations modelled**

Key findings for the modelled intersections include:

- Newbridge Road/Governor Macquarie Drive/Brickmakers Drive intersection has a level of service (LOS) F (unsatisfactory with excessive queuing) under the existing scenario for AM and PM peak. Under Scenarios 1 and 2, the LOS remains as F for AM peak (with a slight reduction in delay (seconds) under Scenario 2), and LOS D (operating near capacity) for PM peak. The additional traffic volume from the development makes a negligible difference as it only contributes up to 5.7% of the intersection traffic volume.
- Newbridge Road/Davy Robinson Drive intersection has a level of service (LOS) F under the existing scenario for AM and PM peak and Scenario 1 (noting this intersection operates as a 'give way' intersection). Under Scenario 2, this intersection is signalised. The LOS for both AM and PM peaks is B (good with acceptable delays and spare capacity).
- Newbridge Road/Access Road intersection operates as a 'give way' intersection with a LOS A for all scenarios
- Brickmakers Drive/Promontory Way intersection operates as a 'stop' intersection with a LOS A for AM peak and B for PM peak. Scenario 1 and 2 operate with a signalised intersection (this signalisation will occur prior to marina operations).

#### Department comment

The construction of the DCP road; upgrading of the 'give way' intersection at Newbridge Road; and signalisation of Davy Robinson Drive has a significant improvement on the LOS of that intersection. In addition, it has minor improvements on the delay (seconds) vehicles experience at the Newbridge Road/Governor Macquarie Drive/Brickmakers Drive intersection in the AM peak.

It's evident that the effective and efficient operation of the road network in the Moorebank East Precinct is reliant upon the delivery of the DCP road and upgrading of the Newbridge Road/ Davy Robinson Drive intersection however the delivery of both items appear uncertain. The DCP road is not included within a local contributions plan, relying upon developers to deliver the road. Newbridge Road is a State Road, and Council is encouraged to commence discussions with Transport for NSW regarding funding and delivery timeframes for the intersection upgrade.

If the DCP road and upgrade of Newbridge Road/ Davy Robinson Drive intersection does not occur, Scenario 1 demonstrates the traffic impact on the following intersections:

- Newbridge Road/Governor Macquarie Drive/Brickmakers Drive intersection operates at LOS F (unsatisfactory with excessive queuing) under the existing scenario for both AM and PM peak. However, with the development (Scenario 1) the delay in seconds increases from 70 to 97 in the AM peak, and the intersection actually improves in the PM peak to LOS D.
- Newbridge Road/Davy Robinson Drive intersections operates at a LOS F under the existing scenario and Scenario 1 for both AM and PM peak.

The traffic impact is acceptable subject to feedback from Transport for NSW. The need for the DCP road network and upgrade of Newbridge Road/ Davy Robinson Drive intersection is part of a broader question for Council about the future for Moorebank East precinct (discussed in Section 6 of this report).

#### 4.3.2 Flood evacuation – road infrastructure

As outlined in Section 1.4 of this report, Molino Stewart's 2022 Georges River Flood Evacuation assessment has not been adopted by Council. However, it is the only flood evacuation study assessing how and if all premises within Liverpool LGA's floodplain can evacuate within the available flood warning time, given a 100% evacuation compliance. It also modelled the evacuation capacity of the road network to accommodate future growth identified in planning proposals for land located along the Georges River, including Liverpool CBD, Chipping Norton, Warwick Farm and Moorebank.

During the preparation of this study, there was extensive consultation with NSW SES, Liverpool Council, Infrastructure NSW, Transport for NSW, Department of Planning and Environment and others to inform the model's inputs and assumptions, such as the most up to date information on future urban development and road upgrades and NSW SES' approach to managing a flood emergency in the area. It is noted from Council's December 2023 report that *'some of the assumptions used to inform the study were contested by proponents as well as Council staff. Nonetheless, the study provides valuable insight into evacuation constraints that currently apply and must be considered'* (p.75).

Multiple Georges River flood evacuation scenarios were defined and modelled in the study to demonstrate how various assumptions will alter the evacuation process. Relevant to this planning proposal is the scenario modelled, 'Scenario B'. 'Scenario B' is a modified 'Scenario 3' - future scenario with rezoning and development from planning proposals currently under investigation, as advised by Council. However, Scenario B has updated planning proposals, adjusted vehicle yields for new development, upgrades to roads and capacities, and multiple non-residential vehicle evacuation destinations. It is noted the 'vehicles per dwelling' assumption used is based on 2016 census vehicle ownership rate but with a rate of one vehicle per dwelling for new apartments.

Figure 11 contains the relevant development assumptions for Moorebank East. It is noted that the planning proposals modelled in Moorebank East were at a point in time (2021) and some of the proposals have been amended since then (for example, Site E no longer has a residential component with the most recent planning proposal submitted to Gateway for industrial development).



| Site                        | Development Type                 | Commercial Space (ha) | Employees | Dwellings |            |
|-----------------------------|----------------------------------|-----------------------|-----------|-----------|------------|
|                             |                                  |                       |           | Houses    | Apartments |
| Site A: Benedict Sands      | Mixed use                        | 0.89                  | 857       | 0         | 126        |
| Site B: Flower Power        | Mixed use and commercial strip   | 2.32                  | 361       | 0         | 602        |
| Site C: Moorebank Cove      | Low density residential          | 0                     | N/A       | 179       | 0          |
| Site D: Georges Cove Marina | Apartments                       | 0                     | N/A*      | 21        | 374        |
| Site E: EQ Riverside        | Apartments and commercial/retail | 0.18                  | 207       | 0         | 1,500      |

\*there are an estimated 45 employees under Site D's existing deferred commencement consent for a Marina, however the modelling considered the residential planning proposal for the site.

**Figure 11 Excerpt of Molino Stewart Report**

The modelling suggests that while planning proposals for Moorebank East would have sufficient time to evacuate, they would take up road capacity currently used by Chipping Norton evacuees and thousands of existing residents would be caught by floodwaters who would otherwise have time to escape.

The modelling suggests that the road network could have capacity for approximately 340 vehicles evacuating from Moorebank East, accounting for the road upgrades in Scenario B. Any additional vehicles above 340 would pose a problem for where traffic converges onto a single lane at Brickmakers Drive and Nuwarra Road, there is insufficient road capacity for timely evacuation for Chipping Norton evacuees.

Investigating the provision of an additional southbound lane on Nuwarra Road between Brickmakers Drive and Heathcote Road to reduce queueing that severely limits the evacuation of Chipping Norton onto the M5, and use of additional roads for evacuation, may facilitate some further modest development at Moorebank East without compromising the safety of those already living and working in Chipping Norton.

The report recommended development at Moorebank East should be restricted. The report stresses that the 'spare' evacuation capacity is only a high level calculation and the capacity would have to be further modelled to test the impact of a reduction in vehicles from certain developments.

### Proponent's Flood Emergency Response Plan

The proponent's Flood impact risk assessment includes a Flood Emergency Response Plan (FERP) that outlines a three-stage response to a flood warning alert.

- First stage evacuation of the Mirvac Georges Cove Marina (site D) is by car via the Mirvac Georges Cove Residences (site C) development to Brickmakers Drive, up Maddecks Ave to Nuwarra Rd and to the regional flood refuge or local flood refuges
- If this evacuation were to become impossible at some point, then a second stage pedestrian flood evacuation will be possible via the elevated pedestrian bridge over Brickmakers Drive to Paine Park and up Horizon Circuit to flood free land and local refuges.
- Third stage is shelter in place on flood free floor levels (PMF) with access to all amenities, should people refuse to leave the development. Shelter in place is not encouraged.

### Department comment

Considering the above, while there is capacity within the road network for this development to evacuate, it needs to be subject to further evacuation modelling as per Molino Stewart's recommendation. It appears that this development will come at the expense of sterilising the

remainder of Moorebank East precinct redevelopment as evacuation capacity would be taken up by this development.

Council needs to review its vision for the redevelopment of Moorebank East precinct as a whole. It is suggested that Council agree on an appropriate type and density of development for each site with flooding risk being a key determining factor, investigate and act on the recommendations of the Molino Stewart report and allocate evacuation capacity accordingly.

The Department also notes the proponent's response that the Molino Stewart report is considered by flood engineers to be fundamentally flawed. However the Department agrees with Council that the study provides valuable insight into evacuation constraints that currently apply and must be considered (p 75 of Council report).

#### 4.3.3 Utilities and servicing

The planning proposal states the proposal will not require provision of additional types of infrastructure to accommodate residential apartments and restaurant/café uses within the marina development. Consultation is anticipated with service and infrastructure providers as part of post-Gateway consultation.

While essential infrastructure (water/sewer/electricity) may be available to service the marina development, the Department needs to understand whether the existing infrastructure can accommodate the proposed development. Additional information would be required to demonstrate there is capacity within existing infrastructure.

#### 4.3.4 Letter of offer – local infrastructure

Lot 3 is subject to an existing voluntary planning agreement between Council and Tanlane Pty Ltd (VPA-11 on Council's planning agreement register). A variation to the VPA is currently being negotiated in relation to the Marina approval. A new letter of offer (Attachment 20) was provided to Council including:

- Construction of a bike/pedestrian path through the Marina site; and
- Exclusion of the application of Section 7.11, Section 7.12 and Section 7.24 Contributions other than in respect of the Liverpool Contributions Plan 2018 – Established Areas but only in respect of the category Community Facilities – District Works.

Council notes that the initial letter of offer is inadequate commensurate to the proposed density. It's also noted that where a local VPA seeks to exclude section 7.24 state contributions, advice needs to be sought from the Department.

## 5 Consultation

As discussed under Section 1.8 of this report, the Department consulted with SES and BSC. The agency submissions are discussed below.

### 5.1 NSW State Emergency Services

Following Council's consideration and resolution to forward the planning proposal to the Department for Gateway assessment, the Department referred the applicant's planning proposal and Flood Impact Assessment Report and Flood Emergency Response Plan to SES for comment.

SES' submission is dated 29<sup>th</sup> January 2024 (Attachment 2), it was forwarded to Council for the proponent's consideration prior to lodging the planning proposal for Gateway assessment. The submission in summary included the following:

- Recommended reconsidering the proposed residential development on the site as ‘the properties along Newbridge Road in Moorebank, (..) are located on one of the worst flood ways in NSW’, as noted in the March 2022 meeting minutes of Liverpool City Council
- It is located on a high-risk floodplain as identified in the NSW 2022 Independent Flood Inquiry. Recommendation 22 and 15 of the Flood Inquiry advocates for a planned retreat from areas at most risk on the floodplain.
- The Molino Stewart evacuation report states ‘Development at Moorebank East should be restricted’ and that ‘planning proposals for Moorebank East (..) would take up road capacity currently used by Chipping Norton evacuees and thousands would be caught in floodwaters who would otherwise have time to escape’.
- Recommended that BMT 2020 Georges River Flood Study is used to determine flood risk on the site, to use the best available information. This study indicates that the entire proposed development site is in a high flood risk precinct
- There is no known safe period of isolation in a flood, though the longer the period of isolation, the greater the risk to occupants.
- There is limited evidence to indicate that there would be structural stability of the buildings located in the high hazard floodway
- The area is an existing flood rescue hotspot for NSW SES, which would be exacerbated by increasing the density of the population at risk.
- Climate change has not currently been adequately considered to ensure risks are understood and managed for the future users of the site.
- Development of the floodplain should have sufficient evacuation capacity and should not impact on the ability of the existing community to safely and effectively respond to a flood.
- The proposed evacuation route along Brickmakers Drive becomes inundated with flood waters as frequently as a 1% AEP event and during a PMF event becomes inundated with flood waters in excess of 1m in depth. During a PMF event this area is classified as Hazard Level 6 (H6) which is classified as not suitable for people, vehicles or buildings.
- It is unacceptable to expect people to escape from a flood on foot as identified in the proposal.
- The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.

### Proponent response

The proponent provided a response to SES comments (Attachment 5) and in summary included the following:

- The statements that the site is located on the “worst floodway” or in a “high risk” floodplain are made specifically in reference to the “the properties along Newbridge Road in Moorebank and are subject to the Moorebank Voluntary Acquisition Scheme.
- Reiterated the design features of the development to respond to flood risk and that the Molino Stewart 2022 Evacuation Modelling is fundamentally flawed.
- The maximum number of persons on site has been estimated by using the number of car parking spaces proposed for the site. The approved marina development included 637 car parking spaces, the planning proposal has 592 spaces, therefore it is not necessarily an increase in the number of people on site.
- Both car and pedestrian flood evacuation from the site is possible based on SES’ flood evacuation model assumptions. Car evacuation is the primary evacuation method however some households statistically don’t own vehicles. Pedestrian evacuation will be a backup strategy for those without a car.



- The proposal would not require additional SES personnel to organise flood evacuation from the site due to the reduction in the number of persons to be managed. There would also be 24 hour strata management in place to initiate evacuation.

### Further SES submission dated 29 April 2024

The Department referred the proponent's response to SES for further review. SES provided a submission dated 29<sup>th</sup> April 2024 (Attachment 2) responding to the additional information. This submission was not forwarded to Council or the proponent for a comment. A summary is provided below:

- The flood risk at the site poses a risk to human life and property as the building supporting the development to be facilitated by this planning proposal will be subject to 5% AEP flood events and 1% AEP events with high flood hazard levels.
- Residential development has a different risk profile to a Marina.
- Given the risk to life, evacuation constraints, potential structural risks, and historical flood rescues along Newbridge Road and other roads in the vicinity, SES does not support the proponent's proposed complex reliance on SES-led evacuations, private evacuation plans, pedestrian evacuation and shelter in place as being sufficient to justify the proposed introduction of risk by increasing the residential population on this site
- If relation to the building being supported on piles to form more flood storage, Flood Risk Management Guideline FB03 states "floodwater and debris can undermine structures or damage or destroy structural and non-structural elements of buildings and infrastructure and affect contents. SES also note that "80% of bridge failures are due to scour, often during floods and peak flow events which are becoming more common with climate change".
- NSW SES has an interest in the public safety aspects of the development of flood prone land, particularly the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW

### Department comment

It is clear there is a difference of opinion on the Molino Stewart 2022 Georges River Flood modelling report however it provides valuable insight into evacuation constraints that currently apply and must be considered. The Department agrees with the concerns expressed by SES regarding risk to life and property enabling a new permanent population above an approved development subject to 1% AEP and up to the PMF high hazard flood events.

## 5.2 Biodiversity, Conservation and Science Group

The Department also referred the applicant's planning proposal and Flood Impact Assessment Report and Flood Emergency Response Plan to the NSW Department of Climate Change, Energy, the Environment and Water, Biodiversity Conservation and Science Group (BSC) for comment.

BCS' submission is dated 09 February 2024 (Attachment 3), it was forwarded to Council for the proponent's consideration prior to lodging the planning proposal for Gateway assessment. The submission in summary included the following:

- BCS recommends that Council undertakes a review of the evacuation constraints and emergency conditions for the Liverpool CBD and adjoining areas (including Moorebank Marina and Moore Point) having regard to the evacuation modelling undertaken by Molino Stewart dated 2022.

This review would provide an improved understanding of the compatibility of the proposal with the site's flood risk, constraints and gaps in infrastructure and systems, and the requirement for scaling, staging and sequencing of developments in an adaptive manner

- The Flood Impact and Risk Assessment (FIRA) does not meet the requirements of the NSW Flood Manual and must be updated to include the information for a 'detailed' flood impact and risk assessment as described in the Flood Impact and Risk Assessment – Flood Risk Management Guideline LU01

For example, the documentation does not include the flooding impacts under the full range of flooding events including the PMF, and is only based on the changes in flooding characteristics from pre- to post-development conditions of the site under the 5% AEP and 1% AEP events.

The documentation does not include the compatibility of the proposed development site under these flooding events (i.e. depth and duration of flooding and its hazards and the extent of isolation during major flooding events)

- The revised FIRA is required to show the change in flooding risks from existing to post development conditions including the exposure of future communities to flooding risks and to illustrate whether the proposal is an appropriate use of the site.
- In relation to the Flood Emergency Response Plan:
  - The proposed future residential development of approximately 1,000 residents is likely to be isolated for 24 – 36 hours or even longer under extreme flooding events
  - The NSW Flood Manual *Support of Emergency Management Planning Guideline EM01* does not support site-specific flood response plans because they 'are not considered by the NSW to be an effective measure to strategically and effectively manage emergency management risks to the community during flooding'.
  - BSC supports the SES advice.
- BSC recommends the 30 April 2018 Biosis Biodiversity Assessment is updated considering 6 years have lapsed since this report was prepared.

### Proponent response

The proponent's flood consultant addressed BSC's flood related comments in the document dated 6 March 2024 (Attachment 5). A covering letter submitted by the proponent dated 22 April 2024 (Attachment 4) addressed BSC biodiversity comments. A summary of the advice provided included the following:

- The submitted Flood Impact Assessment which formed part of the initial lodgement of the planning proposal considers the impact of the PMF and as such, the full range of flooding at the site is considered.
- An updated biodiversity assessment can be provided post-Gateway.

### Department comment

The additional information requested by BSC could be provided post-Gateway if this proposal was to proceed.

## 6 Assessment summary

Based on the assessment in this report, it is recommended that the planning proposal not proceed to Gateway. The planning proposal demonstrates limited strategic merit supporting this proposal both in respect of the Regional and District Plans, and with the local strategic planning framework.

From a Regional and District Plan perspective, the proposal for additional residential housing demonstrates limited consistency with locational criteria. Noting that the criteria is more suitable for significant residential development, the Department is aware of other live planning proposals within Moorebank East precinct considering residential development within the precinct. Furthermore, these plans include a strategy (Regional Plan) and action (District Plan) to avoid locating new urban development in areas exposed to natural and urban hazards.

The Department acknowledges the design response of the development to the site's flood risk. However, considering the approved Marina will be subject to 5% AEP, 1% AEP and PMF high hazard flood events, this represents a significant risk to life and property and contrary to the directions in the Regional and District Plans.

The Department also considers there is limited local strategic planning merit supporting this proposal. Moorebank East is not identified as a short or medium term investigation area and although the Local Housing Strategy 2020 provides criteria for housing outside of these investigation areas, the proposal demonstrates limited consistency. The Department also notes the subject site/Moorebank East precinct is identified as 'low opportunity' for housing in the context of locational requirements and when flood prone land mapping is overlayed, the Housing Study does not identify any opportunity for housing on this site/precinct.

The Department notes the proposal is inconsistent with a number of Section 9.1 Ministerial Directions. 4.2 Coastal Management, 4.3 Planning for Bushfire Protection and 4.5 Acid Sulfate Soils could be satisfied with additional information. In relation to Section 9.1 Directions 1.1 Implementation of Regional Plans and 4.1 Flooding, the planning proposal cannot be considered justifiably inconsistent with these Directions.

In respect of 4.1 Flooding, the planning proposal is inconsistent with the NSW Flood prone land policy as the proposal does not satisfy the primary objective of the NSW Flood prone land policy being to reduce the impacts of flooding and flood liability on communities; does not avoid causing an increase in the threat to personal safety and property and any unwarranted increase in potential damage to public property and services; if this development was to proceed, it could have impacts on the existing community in relation to evacuation.

In addition, while the residential dwellings would be above the PMF, restaurant/café additional permitted use would be between the flood planning level and PMF which enables a significant increase in dwelling density of the land, contrary to the provisions of the Section 9.1 direction.

In respect of evacuation, while there is capacity within the road network for this development to evacuate, it needs to be subject to further evacuation modelling as per Molino Stewart's recommendation but it will also come at the expensive of sterilising the remainder of Moorebank East precinct redevelopment. If Council wishes to pursue development beyond the capacity identified within the Molino Stewart report, Council needs to investigate and plan for infrastructure that boosts vehicular evacuation capacity.

The planning proposal is inconsistent with a number of SEPPs however, these could be resolved with additional information.

Considering the lack of strategic merit supporting rezoning of this site for residential development, and the significant flooding and evacuation constraints for Moorebank East Precinct, Council is encouraged to review the redevelopment vision for this precinct. Council should agree on an appropriate development for its location considering environmental and infrastructure constraints, put a framework in place to support any appropriate development within the precinct and plan for appropriate supporting infrastructure.

This would include a review of the local and collector road network supporting Moorebank East precinct as shown in the DCP, including the need for the upgrade of Newbridge Road/Davy Robinson Drive intersection which would require discussions with Transport for NSW and mechanisms in place for the delivery of this infrastructure.

The Department's assessment also concluded that the intensity of residential development proposed under an additional permitted use warrants further discussion on its suitability. For future planning proposals seeking additional permitted uses, the Department encourages Council to engage with the Department pre-Gateway submission.

## 7 Recommendation

It is recommended the delegate of the Secretary:

- Note that the planning proposal's inconsistencies with Section 9.1 Directions 1.1 Implementation of Regional Plans and 4.1 Flooding are not justifiably inconsistent under the terms of the direction
- Note that the planning proposal's inconsistencies with Section 9.1 Directions, 4.2 Coastal Management, 4.3 Planning for Bushfire Protection, and 4.5 Acid Sulfate Soils could be resolved with additional information.

It is recommended the delegate of the Minister determine that the planning proposal should not proceed because:

- The proposal does not adequately demonstrate strategic merit in respect of locating housing in the right areas.
- The proposal does not adequately demonstrate site-specific merit in relation to flooding risk.
- While the development facilitated by the proposal can evacuate without affecting Chipping Norton residents, this development will absorb all spare capacity for future development within Moorebank East. As there are several planning proposals with Council for assessment seeking to redevelop this precinct, Council needs to undertake further strategic planning work for this precinct.

Council needs to re-visit its vision for the redevelopment of this precinct holistically, determine any appropriate development for this precinct and allocate development potential based on evacuation capacity. If development is to exceed evacuation capacity, investigate and deliver upgrades to road infrastructure to support the redevelopment of this precinct as per the Molino Stewart 2022 Georges River Evacuation report.



19.06.24

Elizabeth Kimbell

Manager, Local Planning and Council Support



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(Signature)

20 June 2024 (Date)

Felicity No

Director, Local Planning (Metro Central, West and South)



11/7/2024

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