



New South Wales Government  
Independent Planning Commission

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# Georges Cove Marina 146 Newbridge Rd Moorebank Gateway Determination Review PP-2024-658

## Advice Report

Andrew Mills (Chair)  
Juliet Grant

4 June 2025

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# 1. Introduction

1. On 16 December 2024, the NSW Independent Planning Commission (**Commission**) received a request from the NSW Department of Planning and Environment (**Department**) for advice on the merits of a Gateway Determination review request (**Review Request**) for planning proposal PP-2021-2262 (**Planning Proposal**), in accordance with section 2.9(1)(c) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).
2. The Gateway Determination review request arises from the decision made on 10 July 2024 by the delegate of the Minister for Planning and Public Spaces (the **Minister**), who determined that the Planning Proposal should not proceed. In response Mirvac Homes (NSW) Pty Ltd (**Proponent**) has requested a review of this decision.
3. The Department requested that the Commission review the Gateway determination, consider the information provided by the Proponent and Council and provide advice regarding the merit of the Review Request, including a clear and concise recommendation to the Minister’s delegate confirming whether the Gateway determination should be altered.
4. Andrew Mills, Chair of the Commission, determined that himself (Chair) and Juliet Grant would constitute the Commission for the purpose of exercising its functions with respect to this request.

# 2. The Planning Proposal

5. The Planning Proposal pertains to the site located at 146 Newbridge Road, Moorebank (Lot 3 DP 1246745) (the **Site**), within the Liverpool Local Government Area. The Site is located approximately 3.65km east of Liverpool CBD and fronts the Georges River. The Department’s Justification Assessment notes that the Site has historically been used as a resource extraction and recycling facility.
6. The Site is located within the Moorebank East Precinct, for which a site specific DCP applies (Part 2.10 of LDCP 2008).
7. The Planning Proposal seeks to amend the Liverpool Local Environmental Plan 2008 (**LLEP**) per the changes in Table 1 to facilitate a mixed use and residential development including 21 terrace dwellings, 318 units, basement carparking and restaurants/cafes located on the ground floor.

Table 1 – Proposed controls (Source: Department’s Gateway Determination Report)

Control	Existing	Proposed
Zone	RE2 Private Recreation, RE1 Public Recreation, SP2 Infrastructure - Drainage	No change
Schedule 1 Additional permitted uses	N/A	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:

		<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>
<b>Maximum height of the building</b>	21m	35m
<b>Floor space ratio</b>	0.25:1	0.4:1
<b>Minimum lot size</b>	10,000m <sup>2</sup>	No change
<b>Number of dwellings</b>	0	340 (21 terrace dwellings and 319 units)

8. The background of the Planning Proposal and Gateway Determination Review is set out at **Appendix B**.

### 3. Key Issues

9. In preparing this advice, the Commission has considered the material set out in **Appendix C**.
10. The Department's determination that the Planning Proposal should not proceed was based on its assessment that the Planning Proposal did not satisfy matters of strategic and site-specific merit. The Department provided the following five reasons for its decision in its Gateway Review Justification Assessment:
- **Reason 1:** the Planning Proposal does not give effect to the Regional Plan or Western City District Plan;
  - **Reason 2:** the Planning Proposal is not justifiably inconsistent with Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding;
  - **Reason 3:** the Planning Proposal is inconsistent with Council's Connected Liverpool 2040: Local Strategic Planning Statement (**LSPS**) and Liverpool Local Housing Strategy;
  - **Reason 4:** the Planning Proposal does not adequately demonstrate site-specific merit in relation to flooding risk; and
  - **Reason 5:** the Planning Proposal will absorb evacuation capacity for future development within Moorebank East and Chipping Norton.

#### 3.1 Strategic merit

11. Under section 3.8 of the EPA Act, the planning proposal authority is required to consider any district strategic plan applying to the LGA to which the planning proposal relates. In its assessment, the Department's concluded that the Planning Proposal demonstrated limited consistency or was unjustifiably inconsistent with the Greater Sydney Region Plan – a Metropolis of Three Cities (**Regional Plan**), the Western City District Plan (**District Plan**), Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding, the LSPS, and Local Housing Strategy.

##### 3.1.1 Regional Plan

12. The Department's Gateway Report states the objectives of the Regional Plan that are relevant to the Planning Proposal are:
- Objective 10 Greater housing supply;

- Objective 11 Housing is more diverse and affordable; and
  - Objective 37 Exposure to natural and urban hazards is reduced.
13. As part of Objective 37, Strategy 37.1 is to “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”.
14. The Department’s Gateway Report acknowledges the Planning Proposal provides a diversity of housing types. However, the Planning Proposal demonstrates a very limited consistency with the Regional Plan, particularly Objective 37, noting the Site is located in a high flood risk area and the Regional Plan requires housing to be located in areas which are not exposed to existing and potential natural hazards.
15. The Proponent in its Additional Material dated 28 March 2025 stated Strategy 37.1 is applicable to new urban development. The Proponent stated that the Planning Proposal is not ‘new’ urban development and would not take place on a greenfield site. The Proponent stated that they have considered options to limit intensification noting that all habitable areas are positioned above the Probable Maximum Flood (**PMF**), thereby minimizing exposure to potential flood hazards.
16. The Commission finds that the Planning Proposal would provide increased and diverse housing consistent with Objectives 10 and 11 of the Regional Plan. However, the Commission agrees with the Department and is of the view that the Planning Proposal is inconsistent with Objective 37. Although the Site has previously been disturbed, the Planning Proposal is new urban development because it is currently prohibited within the RE2 Private Recreation zone, and secondly it is located in an area exposed to natural hazards. The Commission has given consideration to flooding and evacuation risks in section 3.2.1 below. For the reasons set out above, the Commission finds that the Planning Proposal does not give effect to the Regional Plan.

### 3.1.2 District Plan

17. The Department’s Gateway Report identifies two relevant planning priorities of the Western City District Plan for the Planning Proposal discussed below.
- Liveability Planning Priority W5: Providing housing supply, choice and affordability with access to jobs, services and public transport*
18. The Department in its Gateway Report acknowledges that the Planning Proposal provides housing supply and choice however notes that this planning priority also states new housing must be in the right places to meet housing demand and that some areas may not be appropriate for additional housing due to natural or amenity constraints. The Department states that a significant constraint for the Site is flood affectation and for the reasons above, the Planning Proposal has limited consistency with Planning Priority W5. The Proponent states that although the Site is affected by flooding, it is capable of supporting the proposed residential land use and that there is sufficient flexibility available to accommodate a range of design solutions to ensure no adverse off-site flood impacts.

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

19. The Department's Gateway Report states that this priority is relevant to the Planning Proposal as the Site is subject to flooding from the Georges River and is considered a high-risk flood area. The Department noted that the District Plan states that "*Placing developments in hazardous areas or increasing the density of development in areas with limited evacuation options increases risk to people and property*". Action 88 within the District Plan states that consideration must be given to: "*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*". The Department stated the Planning Proposal is inconsistent with this Planning Priority as it seeks to locate new urban development on areas exposed to natural hazards.
20. The Department concluded that given the limited consistency with Planning Priority W5 and the inconsistency with Planning Priority W20, the Planning Proposal does not give effect to the District Plan.
21. The Proponent stated that the Site is located 500m from public transport access and 250m from a planned walking and cycling network along the riverfront. While it is not near a concentration of social or affordable housing, provisions for local affordable housing can be considered during the development application stage. The Proponent also stated the Planning Proposal can deliver the commitment under the District Plan (p 39) that "*new housing must be in the right places to meet demand for different housing types, tenure, price points, preferred locations and design*".
22. The Commission acknowledges that the Planning Proposal seeks to provide housing supply and choice. The Commission agrees with the Proponent, that the Site is in proximity to regional and district public transport and the Site also has reasonable access to jobs and services consistent with Planning Priority W20. However, the Commission is of the view that these factors do not outweigh the flood safety risks and emergency response limitations. The Commission is of the view that the Planning Proposal does not align with Planning Priority W20 as it seeks to locate new urban development on areas exposed to natural hazards. The Commission has given further consideration to flooding and evacuation risks in section 3.2.1 below. For the reasons set out above, the Commission finds that the Planning Proposal does not give effect to the District Plan.

### **3.1.3 Local Strategic Planning Statement and Liverpool Local Housing Strategy**

23. The Department stated the Planning Proposal is inconsistent with the Local Strategic Planning Statement as it proposes housing density outside the Liverpool City Centre, is not close to any existing centre (1.8km from Moorebank town centre) and does not have good public transport accessibility. The Department also stated that while the Planning Proposal aligns with certain aspects of the Liverpool Local Housing Strategy - such as housing diversity and sustainability - it would not increase housing stock in a dense area or area where housing demand is high (thus reducing housing demand pressure), nor does it propose any affordable housing as part of the Planning Proposal.



24. According to the Proponent, the Liverpool Local Housing Strategy (p 75) states “in certain circumstances it may be appropriate for Council to consider rezoning for residential uplift in appropriate locations outside of the identified Investigation Areas”. The Proponent also noted that a key message of the Productivity Commission report Building more homes where people want to live (2023) is “to address this [housing supply] shortage, the State should prioritise increasing housing supply where households want to live” (p 20), balancing consumer preferences with infrastructure capacity. The Proponent states examples such as the Waterfront at Shell Cove show strong demand for mixed marina and residential developments suggesting the Planning Proposal could attract buyers, promote mobility, and ease local housing pressure.
25. The Commission finds that residential uplift is appropriate in certain circumstances outside designated investigation areas, providing flexibility for strategic rezoning. The Site also has access to regional and district public transport as set out in section 3.1.2 above. The Commission is of the view that the Department’s concerns regarding affordable housing are capable of being addressed during the development application stage. For these reasons, the Commission finds that the Planning Proposal aligns with the Local Strategic Planning Statement and Liverpool Local Housing Strategy.

### 3.1.4 Section 9.1 Ministerial Directions

#### *Direction 1.1 Implementation of Regional Plans*

26. The Commission finds that the Planning Proposal does not align with the Regional Plan and for the reasons set out in 3.1.1 and 3.1.2 above is therefore unjustifiably inconsistent with Direction 1.1 Implementation of Regional Plans.

#### *Direction 4.1 Flooding*

27. Council in its submission to the Commission dated 14 May 2025 noted that it had reviewed the additional material provided by the Proponent, concluding the Planning Proposal remains inconsistent with the Direction 4.1 Flooding.
28. In its response to the Commission on 23 May 2025, the Department acknowledged the additional material provided by the Proponent but maintained the position that the Planning Proposal remains unjustifiably inconsistent with Ministerial Direction 4.1 Flooding.
29. For the reasons set out in Table 2 below, the Commission finds that the Planning Proposal is unjustifiably inconsistent with Direction 4.1 Flooding. The Commission has given further consideration to flooding and evacuation risk, including the Proponent’s modelling and Agency advice in section 3.2.1 below.

*Table 2 – Consideration of Direction 4.1 Flooding.*

Direction	Commission’s consideration
(1) A planning proposal must include provisions that give effect to and are consistent with: <ul style="list-style-type: none"> <li>a) the NSW Flood Prone Land Policy (FPLP);</li> <li>b) the principles of the Floodplain Development Manual 2005;</li> <li>c) the Considering flooding in land use planning guideline 2021; and</li> </ul>	<p>The FPLP was set out in the Floodplain Development Manual 2005. In 2023, the <i>Flood Risk Management Manual 2023</i> replaced the <i>Floodplain Development Manual 2005</i>.</p> <p>The Commission agrees with the Department that the Planning Proposal is inconsistent with Principle 9 of the <i>Flood Risk Management Manual 2023</i> as it reduces the evacuation capacity of Chipping Norton and Moorebank East Precinct during a flood event.</p>

<p>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</p>	<p>As set out in the <i>Considering flooding in land use planning guideline 2021</i>, the Commission has given consideration to regional, metropolitan and district plans, local strategic planning statements and environmental planning instruments. The Commission finds the Planning Proposal is inconsistent with 5.21(2c) of the LLEP as it would likely affect the affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood.</p> <p>The Commission agrees with the Department that the Planning Proposal is inconsistent with Georges River Floodplain Risk Management Plan and Study 2004 by locating residential and commercial development within a high flood risk area, where potential risk to life, or evacuation problems are anticipated. Additionally, the proposal is inconsistent with the Georges River Flood Study (BMT 2020 report), the current draft flood study for Liverpool City Council.</p>
<p>(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones.</p>	<p>The Planning Proposal does not seek to rezone the land for residential purposes. The Commission acknowledges that, while the proposal is technically consistent with this element of the direction, the intent of the direction is to prevent residential development on land identified for recreation purposes in a flood planning area.</p> <p>Although the Planning Proposal does not change the zoning, the inclusion of residential use as an additional permitted use would, in effect, enable residential development within a private recreation zone in a flood planning area.</p>
<p>(3) A planning proposal must not contain provisions that apply to the flood planning area which:</p> <ul style="list-style-type: none"> <li>a) permit development in floodway areas,</li> <li>b) permit development that will result in significant flood impacts to other properties,</li> <li>c) permit development for the purposes of residential accommodation in high hazard areas,</li> <li>d) permit a significant increase in the development and/or dwelling density of that land,</li> </ul>	<p>The Commission notes that there are conflicting views between the Department and Proponent on whether Direction 4.1(4) or 4.1(3) applies to the Planning Proposal. The Planning Proposal seeks to include development for the purposes of residential flat buildings, multi dwelling housing and restaurants/cafes as additional permitted uses within the RE2 Private Recreation.</p> <p>The Commission notes that the planning controls being sought are not confined to specific elevations and would apply to the entirety of the land in the flood planning area, even though the ground floor of the proposed design is above the flood planning level. The Commission is also of the view that it is not yet able to be determined if the Planning Proposal would meet section 5.22(2) (Special Flood Considerations) of the LLEP as this would be determined by the consent authority of a development application. The Commission agrees with the Proponent that Direction 4.1(3) applies to the Planning Proposal. Notwithstanding, the Commission has given consideration to Direction 4.1(4).</p>



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| <p>e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,</p> <p>f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,</p> <p>g) 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, or</p> <p>h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.</p> | <p>The Department, NSW State Emergency Service (SES) and Conservation Preservation and Heritage Regulation (CPHR) (previously known as BCS) and the Proponent have conflicting views as to whether the Site is located within a floodway area. The Proponent stated that the development would be located on structural piers above water within the marina and will not be located within a floodway. The Proponent noted that the piers will be located in an area mapped as floodway by application of the BMT 2020 report and cited examples in Sydney Harbour where urban development has successfully occurred suspended on piers over deep water. The Proponent stated that this area mapped as floodway arises artificially due to the historical extraction activities at the Site which created a large pool of open water and the mapping does not account for the restriction of flood depths due to the basement structure. SES in its advice stated that the flow on the Site is constrained to ten times less width than Sydney Harbour and is therefore not a like for like comparison, and that in a PMF event the Site becomes a floodway and poses a considerable risk, including to the piers. The Department, SES, CPHR and Council concluded that the Site is located within a floodway area. The Commission finds that the Planning Proposal would permit development in a floodway area and it is unjustifiably inconsistent with Direction 4.1(3)(a).</p> <p>The Commission is of the view that the development would not have any adverse flood impacts on other properties and is consistent with Direction 4.1(3)(b).</p> <p>The Proponent states that the Planning Proposal is consistent with Direction 4.1(3)(c) as the development will be located on structural piers above water within the marina and will not be located within an area of high hazard. The Commission notes that at this stage a development application has not been lodged and the Proponent is seeking to add residential flat buildings as an additional permitted use which would apply to all of the land located in a high hazard area. The Commission agrees with Council that the Planning Proposal is inconsistent with Direction 4.1(3)(c).</p> <p>The Commission finds that the introduction of 340 residential dwellings is a significant increase in dwelling density and the Planning Proposal is inconsistent with Direction 4.1(3)(d).</p> <p>The Planning Proposal does not seek to permit any of the uses set out in Direction 4.1(3)(e) and is consistent with this element of the Direction.</p> <p>The Planning Proposal does not seek to permit development to be carried out without development consent except for the purposes of exempt development or agriculture and is consistent with Direction 4.1(3)(f).</p> |
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	<p>For the reasons set out in section 3.2.1, including the advice from SES, the Commission finds that the Planning Proposal is likely to result in a significantly increased requirement for government spending on emergency services and measures and is therefore inconsistent with Direction 4.1(3)(g).</p> <p>The Planning Proposal does not seek to permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event and is consistent with Direction 4.1(3)(h).</p>
<p>(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:</p> <ul style="list-style-type: none"> <li>a) permit development in floodway areas,</li> <li>b) permit development that will result in significant flood impacts to other properties,</li> <li>c) permit a significant increase in the dwelling density of that land,</li> <li>d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,</li> <li>e) are likely to affect the safe occupation of and efficient evacuation of the lot, or</li> <li>f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.</li> </ul>	<p>As set out above, the Commission finds that the Planning Proposal would permit development in a floodway area and it is unjustifiably inconsistent with Direction 4.1(4)(a).</p> <p>The Commission is of the view that the development would not have any adverse flood impacts on other properties and is consistent with Direction 4.1(4)(b).</p> <p>The Commission finds that the introduction of 340 residential dwellings is a significant increase in dwelling density and the Planning Proposal is inconsistent with Direction 4.1(4)(c).</p> <p>The Planning Proposal does not propose development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing and is consistent with Direction 4.1(4)(d).</p> <p>For the reasons set out in section 3.2.1, including the advice from SES, the Commission finds that the Planning Proposal is likely to affect the safe occupation and efficient evacuation of the lot and is likely to result in a significantly increased requirement for government spending on emergency services and measures and is therefore inconsistent with Direction 4.1(4)(e) and 4.1(4)(f).</p>

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| (5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council. | As set out above, the Planning Proposal is inconsistent with Principle 9 of the <i>Flood Risk Management Manual 2023</i> as it reduces the evacuation capacity of Chipping Norton and Moorebank East Precinct during a flood event. The Commission finds that the Planning Proposal is unjustifiably inconsistent with Direction 4.1(5). |
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### Other Section 9.1 Ministerial Directions

30. The Commission has given consideration to the Section 9.1 Ministerial Directions set out in Table 4 of the Department's Gateway Determination Report. The Commission agrees with the Department's assessment.

## 3.2 Site specific merit

### 3.2.1 Flooding and evacuation risk

31. The Department in its Justification Assessment states that the Planning Proposal does not demonstrate site-specific merit in relation to flooding risk. The Department states that the Planning Proposal:
- is inconsistent with the NSW Flood prone land policy as it does not satisfy the primary objective of the 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;
  - would have impacts on established surrounding communities in relation to flood evacuation capacity; and
  - would facilitate intensified urban development including residential development in a flood planning area and in areas between the flood planning area and the PMF.
32. The Department has identified the relevant flood and evacuation studies to site-specific flood risk to be the following:
- Georges River Floodplain Risk Management Study and Plan (GRFR, 2004);
  - BMT 2020 report – commissioned by Council but not adopted; and
  - Georges River Evacuation Study (**Molino Stewart 2022 report**) – commissioned by Council but not adopted.
33. The Department in its Justification Assessment outlines that although the BMT 2020 report and Molino Stewart 2022 report have not been adopted by Council, they are considered by the SES, DCCEEW and the Department to be the latest available data and should be considered in assessing development and planning proposals.
34. In its meeting with the Commission on 13 February 2025, the Proponent requested the Commission allow for additional time for the Proponent to complete an updated flood assessment and flood modelling using the BMT 2020 report and Molino Stewart 2022 report, for which the Commission granted the additional time.
35. The Proponent's additional flood assessment and modelling, provided to the Commission on 28 March 2025, was referred for review by the Department, SES and CPHR. On 23 May 2025 the Department provided a response to the additional flood assessment and modelling, including advice from SES and CPHR, on both flood risk and evacuation which is discussed below.

### *Flood risk*

36. The BMT 2020 report identifies the Site as being mostly flood storage with the northern portion being a floodway. The BMT 2020 report also identifies the Site's flood hazard classification, in accordance with the former Department of Planning and Environment's Flood Risk Management Guide FB03, as being:
- in a 5% AEP flood event - H4 (unsafe for vehicles and people) to H5 (unsafe for vehicles and people and buildings require special engineering design and construction);
  - in a 1% AEP flood event – H5 to H6 (unsafe for vehicles and people and all building types considered vulnerable to failure);
  - in a PMF flood event – H6 for the entire site.
37. In the Proponent's updated modelling based on the model in the BMT 2020 report, the flood levels in Table 3 were modelled.

*Table 3 - Flood levels adjacent to proposed marina complex (Source: Proponent's additional flood assessment prepared by Martens, March 2025)*

<b>Flood Event (AEP)</b>	<b>Water Level (m AHD)</b>
20%	2.65
10%	3.20
5%	4.49
2%	5.24
1%	5.50
0.5% (1 in 200)	5.68
0.2% (1 in 500)	6.04
0.05% (1 in 2000)	6.35
0.02 (1 in 5000)	6.58
PMF	11.78

38. The Proponent's updated flood assessment outlines that future urban development would be capable of providing appropriate flood resilience measures, with all residential floors able to be located at or above the PMF level of 11.78m AHD and the carpark entry and ground floor retail spaces capable of being protected to a level of 7.6m AHD (2.1m above the 1% AEP flood level). The Proponent in its response to Agency comments dated 2 June 2025, maintained that residences would be above the PMF level and protected from all flood event possibilities.
39. CPHR in its advice dated 18 April 2025 stated the Site is unsuitable for residential development even if the habitable floors are proposed to be located above the PMF level, and that the Proponent's additional modelling did not show any difference to the flood constraints of the Site. CPHR also stated:
- the site is situated on a floodplain and is impacted by both frequent and rare floods.
  - the site would have a flood depth of 6 – 8 m and higher under the PMF event and be inundated for around 36 hours or longer.
  - the site is a floodway under the PMF event with highest hazard level H6, meaning it is unsafe for vehicles and people and all building types considered vulnerable to failure.

- in a 5% Annual Exceedance Probability (AEP) the area would be inundated for around 20 hours and the hazard would be H5 meaning it is unsafe for vehicles and people.

40. The Department in its response to the Commission stated that it retains its original position that the Planning Proposal does not demonstrate site-specific merit relating to flood risk.

### *Evacuation risk*

41. The Department in its Justification Assessment outlines that the Georges River Regional Flood Study evacuation modelling shows the existing road network (with the planned upgrade) has capacity to cater for 700 evacuating vehicles from the Moorebank East precinct, of which 360 vehicles are taken up by the existing development to the north.

42. The Proponent in its correspondence dated 4 October 2024 outlines that there would be additional capacity in the road network for the proposed development and existing residents to evacuate, noting that the Molino Stewart 2022 report has multiple inputs that if slightly refined (with justification) would demonstrate evacuation of the proposed development without impact on existing residents of Chipping Norton.

43. Council in its correspondence to the Department dated 11 November 2024, outlined that the existing roads of Spinnaker Drive, Promontory Way and Brickmakers Drive have been constructed without consideration to the subject Planning Proposal and are constructed below the PMF level. Council also noted the remaining vehicle capacity of 340 vehicles in the Moorebank East Precinct (as per Molino Stewart 2022 report) could be consumed by two adjoining sites zoned E3 Productivity Support which permits shop top housing under the LLEP 2008.

44. In the Proponent's updated flood assessment, evacuation modelling was undertaken using the modelling documented in the Molino Stewart 2022 report as a baseline with updates made to reflect current conditions, removing the M5 upgrade works which have not yet been commenced and including recent road works, developments and planning approvals granted since 2022 (with the exception of Site F of the precinct). The updated model also amended the number of vehicles modelled to be evacuated from eleven planning proposals that were included in the Molino Stewart 2022 report Scenario B modelling. The Proponent's modelling removed the vehicles attributed to planning proposals that have been rejected or stalled, amended vehicles from other planning proposals that have been revised since the 2022 model and assumed 50% capacity of non-residential carparks at some sites. The Proponent's model also removed the vehicles attributed to the Moore Point precinct (Site F of the precinct) *"as its population relies on several significant future road upgrades and pedestrian footbridges which are not fully known"*.

45. The Proponent's modelling outlines that evacuation of the Site could be achieved, with an improvement in overall floodplain evacuation, if the Site (Site D) and Georges Cove Village (Site A) were evacuated earlier than the currently proposed evacuation time for sub-sector R7 included in the Molino Stewart 2022 report. The Proponent proposes that if sites A and D of sub-sector R7 were evacuated 3 hours earlier than recommended in the Molino Stewart 2022 report, the model would be optimised and safe and efficient evacuation of the Site could be achieved.

46. The Proponent outlined that there are opportunities to improve the evacuation capability of the Site, particularly if a site-specific flood evacuation management plan (FEMP) is prepared, there is a warning system and the Site is managed by a body corporate (proposed to be incorporated into LEP instrument). In summary, the Proponent's view is that, if all these measures are included and the earlier evacuation warning is implemented as outlined above, all vehicles from the Site (in both approved and proposed conditions) would be able to safely evacuate and the number of vehicles caught by floodwaters throughout the floodplain would be reduced.
47. In its advice dated 15 May 2025, SES raised the following concerns:
- the Site is exposed to high hazard flooding, posing a significant risk as emergency services may not be able to respond, rescue or resupply any occupants who are unable to evacuate in time;
  - the Proponent's updated evacuation model underestimates risk by excluding vehicles from the eleven planning proposals included in the Molino Stewart 2022 report;
  - the Proponent's updated model, with underestimated vehicle numbers, leads to a conclusion of 277 vehicles being trapped during evacuation, which, noting this is presented as an improvement from the 296 in the Molino Stewart 2022 report, is still more than if the Planning Proposal did not go ahead;
  - the Proponent's model also assumes a 12-hour warning period, which is not supported by existing flood forecasting capabilities;
  - SES and the Bureau of Meteorology (**BOM**) do not provide site-specific warnings. SES does not support the use of private or site-specific warning systems or the early evacuation of the Site. An early evacuation trigger could also lead to frequent false alarms, causing complacency and increased risk to life;
  - the Planning Proposal relies on a body corporate to manage emergency response, which SES does not support due to the lack of trained personnel and reliance on SES resources for warnings and evacuation coordination; and
  - the option for sheltering in place as a last resort exposes remaining occupants to extreme conditions where rescue may not be possible. Pedestrian evacuation is also strongly discouraged by SES.
48. Council's submission to the Commission also raised concerns regarding the Proponent's evacuation model, noting that it underestimated vehicle numbers. Council also raised concern that the Planning Proposal relies on strategies like early warning systems and a site-specific FEMP, and that it would adversely affect evacuation routes for surrounding developments.
49. The Department in its response to the Commission stated that it retains its original position that the Planning Proposal does not demonstrate site-specific merit relating to evacuation risk.
50. The Proponent in its response to Agency comments, maintained its view that the Site can be fully evacuated during a worst case critical PMF event without impacting other floodplain evacuees. The Proponent also stated that an early warning system is not proposed, instead, it proposes a minor adjustment to the evacuation sector scheduling for a critical duration PMF event, which would enable a full evacuation of the Site and reduce the number of vehicles potentially trapped by 19.

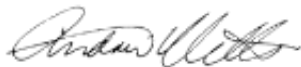


### *Commission's findings*

51. Based on advice from the Department, SES, CPHR, and comments from Council, the Commission finds that the Planning Proposal does not have site-specific merit because it fails to adequately address flood risks and evacuation feasibility—demonstrated by the Site's vulnerability to both frequent and rare flooding, an evacuation model that underestimates the number of trapped vehicles, reliance on an unsupported 12-hour warning period and a site-specific warning system — all of which expose potential occupants to an unacceptably high risk.
52. The Commission notes that there is a disagreement between the Proponent and CPHR as to whether the Site functions as a flood storage or a floodway. Notwithstanding this disagreement, the other critical issues identified by SES, CPHR, and the Department are sufficient for the Commission to conclude that the Planning Proposal does not demonstrate site-specific merit in relation to flood and evacuation risk. The severe flood hazards, inadequate evacuation modelling and unreliable early warning assumptions demonstrate the Site cannot safely support residential development, even with the proposed mitigation measures.

## **4. The Commission's Advice**

53. The Commission has undertaken a review of the Planning Proposal and the Proponent's Gateway Determination Review Request, as requested by the Department. At the Proponent's request, the Commission granted considerable additional time for the Proponent to undertake further analysis of flood and evacuation risk. The Commission subsequently sought a response on this analysis from the Department, SES and CPHR.
54. In reaching its conclusion, the Commission has considered the material set out in **Appendix C**, which includes submissions by the Proponent, Council, Department, SES and CPHR – as well as the rationale provided in the Department's Gateway Determination Report and Gateway Review Justification Assessment.
55. Based on its consideration of the material, the Commission finds that the Planning Proposal does not have strategic or site-specific merit as it:
- does not give effect to the Region Plan or Western City District Plan;
  - is unjustifiably inconsistent with the Section 9.1 Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding; and
  - does not adequately demonstrate site-specific merit in relation to flooding and evacuation risk.
56. The Commission advises that the Department's Gateway determination should be upheld and the Planning Proposal as submitted should not proceed past Gateway.



Mr Andrew Mills (Chair)  
Chair of the Commission



Ms Juliet Grant  
Member of the Commission

## **Appendix A – Referral Letter**

Our ref: PP-2024-658/ (IRF24/2849)

Mr Andrew Mills  
Chair  
Independent Planning Commission  
Suite 15.02, 135 King Street  
SYDNEY NSW 2000

Attention: Stephen Barry, Planning Director, IPC

16 December 2024

Subject: Request for Gateway determination review – referral to Independent Planning Commission

Dear Mr Mills

I am writing to advise that the Department of Planning, Housing and Infrastructure has received a Gateway determination review request for a planning proposal applying to 146 Newbridge Road, Moorebank as described below.

DPHI Ref. No:	Gateway Review to PP-2024-658
LGA	Liverpool City Council
LEP to be amended	Liverpool Local Environmental Plan 2008
Address	146 Newbridge Road, Moorebank (Lot 3 DP 1246745)
Proposal	To facilitate mixed use and residential development by introducing a new additional permitted use for residential flat buildings, multi dwelling housing and restaurants/cafes with a maximum total gross floor area of 1,500m <sup>2</sup> , increasing the maximum height of building and floor space ratio controls.

The reason for the Gateway determination review request is that the Minister for Planning and Public Spaces’ delegate determined on 10 July 2024, that the planning proposal should not proceed. The proponent has requested a review of the Gateway determination.

The Department’s Gateway review justification assessment and supporting attachments are enclosed for the information of the Commission.

The Commission is requested to review the planning proposal and prepare advice concerning the merits of the review request. The advice should include a clear and concise recommendation to the Minister's delegate confirming whether, in its opinion, the Gateway determination should be amended.

The advice and recommendation should be sent via email to Peter Pham, Acting Director, Local Planning and Council Support at the Department at Planning, Housing and Infrastructure at [REDACTED]

Should you have any enquiries about this matter, Peter can be contacted on [REDACTED]

Yours sincerely

[REDACTED]

**Daniel Thompson**  
**Acting Executive Director**  
**Local Planning and Council Support**

Enc. Gateway review justification assessment

## Appendix B – Planning Proposal Timeline

Date	Action
July 2018	The Planning Proposal was submitted to Council.
31 August 2020	The Planning Proposal was referred to the Liverpool Local Planning Panel (LLPP). The LLPP concluded that the Planning Proposal demonstrates strategic and site specific merit subject to further investigations regarding road capacity from additional traffic, flooding including evacuation and for Council to undertake a regional evacuation analysis that includes the whole Moorebank and Chipping Norton area.
September 2020	The Planning Proposal was exhibited.
30 September 2020	Council resolved to submit the Planning Proposal to the Department for Gateway determination.
November 2020	The Planning Proposal was submitted to the Department.
December 2020	The Department advised Council that the Planning Proposal was deemed not adequate as it did not address the findings of the NSW Government Flood Inquiry. The Department also advised that the Planning Proposal should be resubmitted upon completion of Council's Georges River Regional Flood Evacuation study.
March 2022	The Georges River Regional Flood Evacuation Study was completed (but has not yet been adopted by Council).
27 April 2023	Council met with the Department to discuss the Planning Proposal and others within the Moorebank East Precinct.
June 2023	Council requested further information from the Proponent.
15 September 2023	The Proponent provided amended plans and expert reports to Council.
13 December 2023	Council resolved to submit the Planning Proposal to the Department for Gateway determination.
3 April 2024	The Planning Proposal was submitted to the Department.
10 July 2024	The Department determined that the Planning Proposal should not proceed past gateway.
4 October 2024	The Proponent initiated a Gateway Determination review.
16 December 2024	Referral of Gateway Determination review to the Commission for advice.

## Appendix C – Material Considered by the Commission

Document	Date
The Department's Referral to the Commission including the following documents:	
<ul style="list-style-type: none"> <li>Letter of Referral</li> </ul>	16 December 2024
<ul style="list-style-type: none"> <li>Department's Gateway Review Justification Assessment Report</li> </ul>	Received 16 December 2024
<ul style="list-style-type: none"> <li>Attachment A – Planning Proposal</li> </ul>	18 April 2024
<ul style="list-style-type: none"> <li>Attachment B – Gateway Determination</li> </ul>	10 July 2024
<ul style="list-style-type: none"> <li>Attachment C – Gateway Assessment Report</li> </ul>	11 July 2024
<ul style="list-style-type: none"> <li>Attachment D – Biodiversity, Conservation and Science (BCS) advice</li> </ul>	14 November 2024
<ul style="list-style-type: none"> <li>Attachment E – NSW State Emergency Service (SES) response</li> </ul>	12 November 2024
<ul style="list-style-type: none"> <li>Attachment F – Council's response</li> </ul>	11 November 2024
<ul style="list-style-type: none"> <li>Attachment F1 – LLEP report</li> </ul>	31 August 2020
<ul style="list-style-type: none"> <li>Attachment F2 – Council Meeting Report</li> </ul>	13 December 2023
<ul style="list-style-type: none"> <li>Attachment G – Proponent Review Request letter</li> </ul>	4 October 2024
<ul style="list-style-type: none"> <li>Attachment G1 – Proponent Review Request Report</li> </ul>	4 October 2024
<ul style="list-style-type: none"> <li>Attachment G2 – Proponent Flood Response</li> </ul>	30 September 2024
<ul style="list-style-type: none"> <li>Attachment G3 – Proponent Evacuation Strategy Review</li> </ul>	27 September 2024
Comments and presentation material from meetings with:	
<ul style="list-style-type: none"> <li>Department of Planning, Housing and Infrastructure</li> </ul>	4 February 2025
<ul style="list-style-type: none"> <li>Liverpool City Council</li> </ul>	13 February 2025
<ul style="list-style-type: none"> <li>Proponent</li> </ul>	13 February 2025
Additional material from the Proponent	28 March 2025
Correspondence from Liverpool City Council	14 May 2025
Correspondence from the Department	Received 23 May 2025
Proponent's comments on the correspondence from the Department	2 June 2025
Correspondence from:	
<ul style="list-style-type: none"> <li>Member for Holsworthy</li> </ul>	7 February 2025
<ul style="list-style-type: none"> <li>Liverpool City Council Councillor</li> </ul>	17 April 2025
<b>Additional considerations:</b>	
Section 9.1 Ministerial Directions	February 2023
Greater Sydney Region Plan – a Metropolis of Three Cities	2018
Western City District Plan	2018
Connected Liverpool 2040: Liverpool Strategic Planning Statement	2020
Liverpool Local Housing Strategy 2020	2020
Georges River Floodplain Risk Management Study & Plan	2004
Georges River Flood Study	2020
Georges River Evacuation Study	2022
Flood Risk Management Guideline	2023
Flood Risk Management Manual	2023
Local Environmental Plan Making Guideline	2023



## **Appendix D – Department's Gateway Review Justification Assessment**

GATEWAY REVIEW  
Justification Assessment

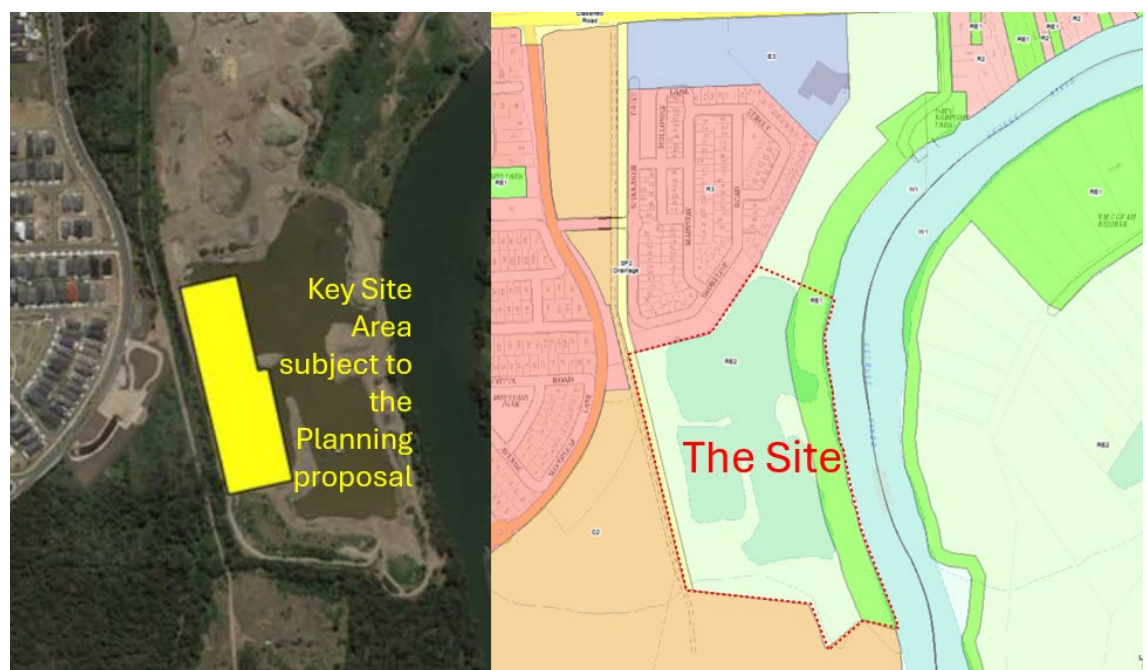
Purpose: To request that the Independent Planning Commission review the Gateway determination of the subject planning proposal, consider the information provided by the Proponent and Council and provide advice regarding the merit of the review request.

Dept. Ref. No:	PP-2024-658 (Gateway Review reference: GR-2024-12)	
LGA	Liverpool City Council	
LEP to be Amended:	Liverpool Local Environmental Plan 2008	
Address/ Location:	The planning proposal applies to land at 146 Newbridge Road, Moorebank (Lot 3 DP 1246745).	
Proposal:	The planning proposal seeks to amend development standards for land at 146 Newbridge Road Moorebank (part Lot 3 DP 1246745) by introducing a new additional permitted use for residential flat buildings, multi dwelling housing and restaurants/cafes with a maximum total gross floor area of 1,500m <sup>2</sup> , increasing the maximum height of building and floor space ratio controls.	
Review request made by:	<input type="checkbox"/> The Council	
	<input checked="" type="checkbox"/> A proponent	
Reason for review:	<input checked="" type="checkbox"/>	A determination has been made that the planning proposal should not proceed.
	<input type="checkbox"/>	A determination has been made that the planning proposal should be resubmitted to the Gateway.
	<input type="checkbox"/>	A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Background Information						
Details of the planning proposal	<b>Explanation of Provisions</b>					
	The planning proposal ( <b>Attachment A</b> ) seeks to amend The Liverpool Local Environmental Plan 2008 as follows:					
	<table border="1"> <thead> <tr> <th>Control</th> <th>Current</th> <th>Proposed</th> </tr> </thead> <tbody> <tr> <td>Zone</td> <td>RE2 Private Recreation,</td> <td>No change proposed</td> </tr> </tbody> </table>	Control	Current	Proposed	Zone	RE2 Private Recreation,
Control	Current	Proposed				
Zone	RE2 Private Recreation,	No change proposed				

	RE1 Public Recreation, SP2 Infrastructure - Drainage	
Schedule 1 Additional permitted uses	N/A	<p>An additional permitted use for part Lot 3 in DP 1246745 within the RE2 Private Recreation land use zone.</p> <p>The location of the additional permitted use will be mapped on the Key Sites Mapping 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> <li>• The proposal is for the additional uses to be situated on an approved Marina development.</li> </ul>
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 proposed

The provisions above apply to part Lot 3 DP1246745, see figure below.



**Figure 1. Subject site outlined in red. Proposed additional permitted uses on a portion of the subject site in yellow. Existing land use zoning map.**

### The Proposal

The planning proposal:

- Would enable 21 terrace dwellings and 319 units,

- restaurants and cafes (up to 1500m<sup>2</sup>, on the ground floor)

### Site description and surrounding area

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.

Georges River fronts the site's eastern boundary, residential development is under construction to the north of the site, a section of Wurrungwuri Reserve is to the west and south and undeveloped land is 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 the Georges River are public reserves (Canterbury-Bankstown LGA),
- south is a golf course and the southwestern 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.



**Figure 2 Subject site and surrounding locality**

### Environmental Analysis

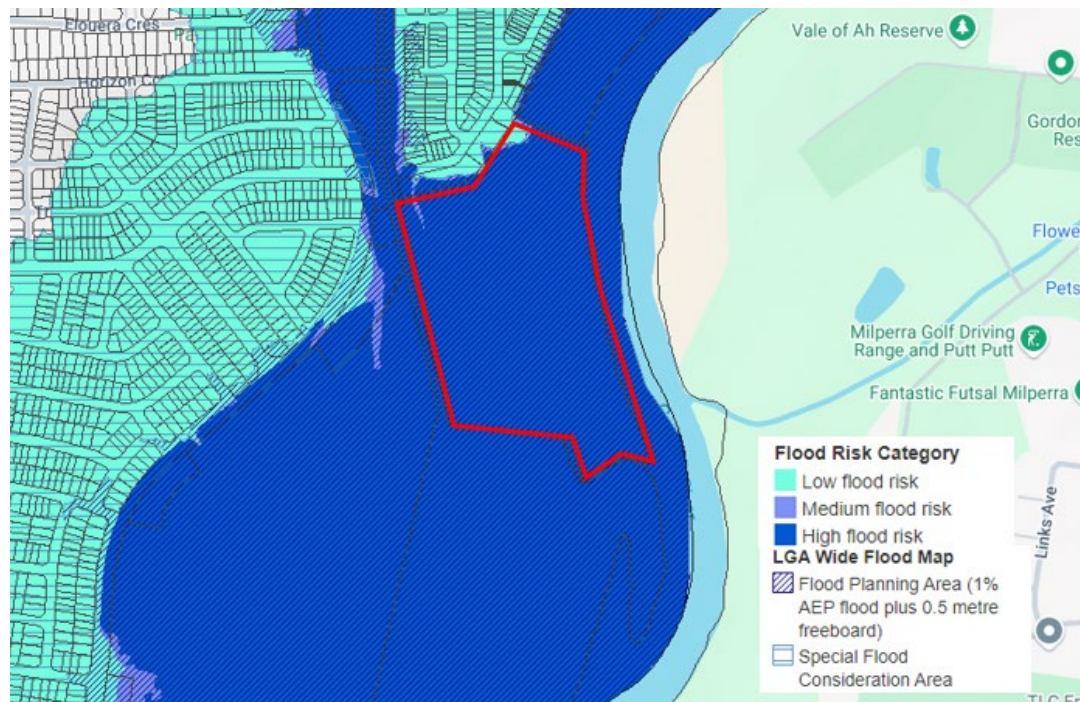
#### Flooding

Relevant flood and evacuation studies for this site include:

- Georges River Floodplain Risk Management Study & Plan (GRFR 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 current flood mapping identifies the site being within the 'high flood risk' category (Figure 2). Under Liverpool's DCP 2008, this category is defined as land below the 1% AEP flood that is either subject to a high hydraulic hazard or where there are significant evacuation difficulties.



**Figure 3 Flood mapping from GRFR 2020**

Although the BMT 2020 and Molino Stewart 2022 have not been adopted by Council, they are the most recent and relevant flood related studies 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.

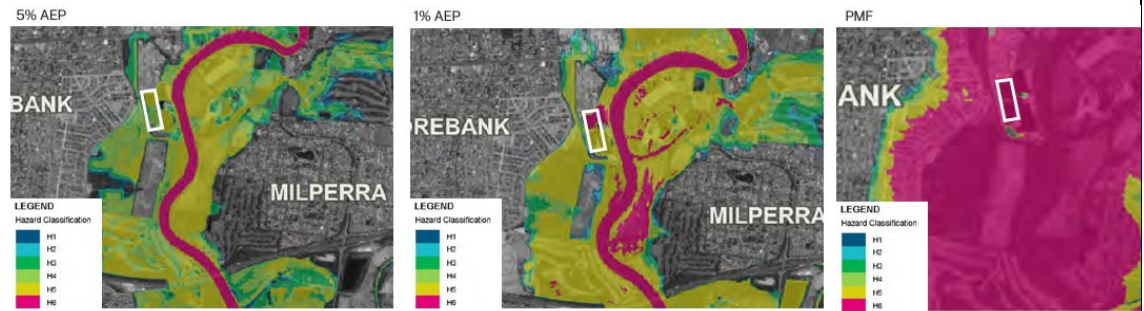
State agencies including NSW State Emergency Service (SES), Department of Climate Change, Energy, the Environment and Water (DEECCW) and the Department of Planning, Housing and Infrastructure (DPHI) consider this information the latest available data and should be considered in assessing development and planning 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 (PMF), flood depths can reach above 10 meters with a flood hazard of H6 for the entire site, and parts of the site becomes 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

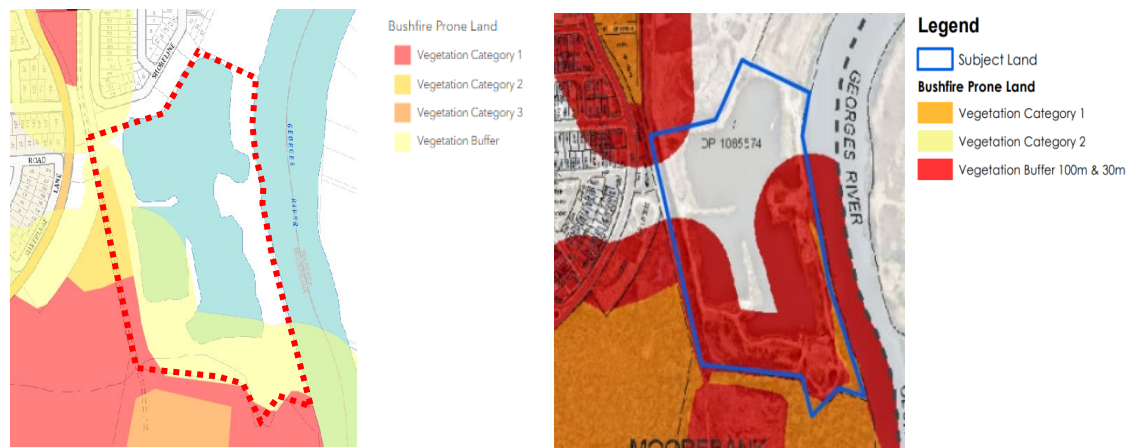
BMT 2020 Flood Study identifies the site as being mostly flood storage with the northern portion being a floodway.



### Figure 4 Flood mapping from BMT 2020

## Bushfire Prone Land

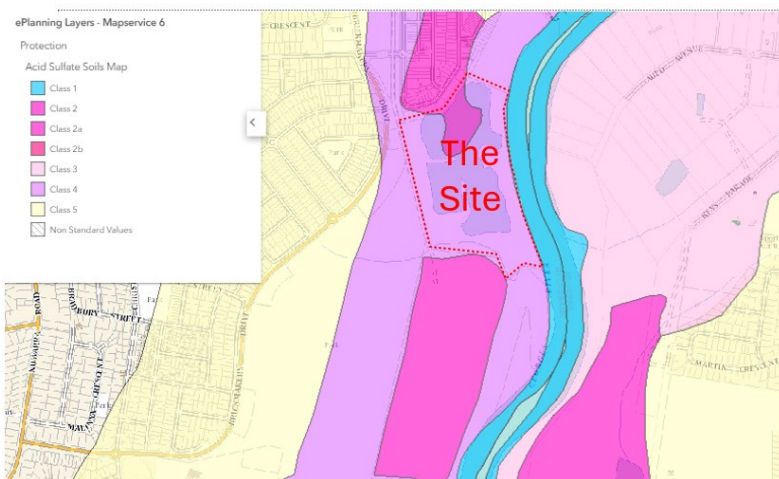
The subject site is identified as containing bushfire prone land as per the NSW Government's Planning Portal, per Figure 5 below. It is noted the bushfire prone land mapped in the Planning Portal is different from the Bushfire Assessment report (2018). Both sources reflect that the site is subject to a vegetation buffer.



**Figure 5 Bushfire Prone Land Extent (Left: NSW Planning Portal 2024, Right: Bushfire Assessment Report, 2018)**

## Acid Sulphate Soil

The subject site contains Class 2 and Class 4 Acid Sulfate Soils (ASS). However, the area proposed to be developed is mostly contained in Class 2 ASS.



### Figure 6 Acid Sulphate Soil



<p>Infrastructure and Services</p>	<p><b>Public Transport</b></p> <p>The M90 Bus service runs along Newbridge Road (800m away from subject site) on both directions, between Liverpool and Burwood, and is scheduled for frequent services; every 10 minutes in peak hours and every 15 minutes otherwise.</p> <p>The 902 Bus service is accessed from Moorebank Town Centre (1.8 km away from subject site), running every 30 minutes during peak hour and hourly on the hour otherwise.</p> <p><b>DCP Road</b></p> <p>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).</p> <div data-bbox="347 640 1476 1460"> </div> <p><b>Figure 7 Moorebank East Precinct (Left), Precinct aerial image March 2024 NearMap(Middle), Liverpool DCP Part 2.10 – Road Layout (Right)</b></p>
<p>Background</p>	<p><b>Moorebank East Precinct</b></p> <p>The broader area is known as Moorebank East Precinct and a site specific DCP applies to the site. The DCP identifies the site as private recreation land. In 2018, Council engaged Tract Consultants to provide urban design advice on the individual planning proposals and assist with integration within the precinct.</p> <p>The consultants proposed a draft structure plan which identified the subject site as “Site D – Marina” suitable 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. The draft Structure Plan was not exhibited and was not adopted by Council.</p> <p><b>Development Application- DA 611/2018</b></p>

	<p>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:</p> <ul style="list-style-type: none"> <li>• a function centre, tourist, entertainment, recreation and club facilities</li> <li>• a wet berth facility predominantly for small craft (boats less than 15m long) and some vessels up to 20m long</li> <li>• three external carparks and two basement carparks providing a total of 637 car spaces</li> <li>• a private marina clubhouse</li> <li>• servicing infrastructure including a site access road, power, water and sewerage</li> </ul> <p><b>Historical Planning Proposal for the site</b></p> <p>On March 2017, The Department issued a Gateway Determination to proceed for a 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 nine dwellings. 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 State Environmental Planning Policy 55 – Contaminated Land.</p> <p>On September 2020, the planning proposal in its current form was forwarded to the Department and was not deemed adequate as it did not address the findings of the NSW Government Flood Inquiry or address the draft shelter in place policy. The Department advised to resubmit the proposal once Council's Georges River Regional Flood Evacuation study was completed and can inform all planning proposals within Moorebank East. The current planning proposal is a resubmission of this proposal.</p>
Reasons for Gateway determination	<p>The planning proposal was determined to not proceed on 10 July 2024, and a Gateway refusal (<b>Attachment B</b>) was signed by the Executive Director, Local Planning and Council Support, as delegate of the Minister for Planning and Public Spaces, who determined that the planning proposal should not proceed based on the assessment provided under the Gateway Assessment Report (<b>Attachment C</b>). The reasons for refusal are summarised below.</p> <p><b>Does not give effect to the Regional Plan or Western City District Plan</b></p> <p>As discussed under section 3.1 of the gateway assessment report, the planning proposal is inconsistent with the Greater Sydney Region Plan – a Metropolis of Three Cities (Regional Plan). The proposal seeks to provide diverse housing, being units and terraces (objective 11), however, the subject site is located in a high flood risk area and the Regional Plan requires housing to be located in areas which are not exposed to existing and potential natural hazards (objective 37). Strategy 37.1 of the Regional Plan seeks to 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 exposed to hazards.</p> <p>Section 3.2 of this report discusses the planning proposal against relevant planning priorities of the Western City District Plan (District Plan). Planning priority W5 is about providing housing supply, choice and affordability with access to jobs, services and public transport. Development of Moorebank Precinct is considered to be a “urban renewal” development and when considered against the criteria of an urban renewal development, the planning proposal is:</p> <ul style="list-style-type: none"> <li>• not located in proximity to any regional and district infrastructure, such as Sydney Metro - City and Southwest.</li> <li>• not located within walking distance of centres with public transport access.</li> </ul>

- not located near an area with higher social housing concentration, nor does it propose any form of social housing.
- inclusive of commercial land uses which would enable provisions of jobs within the site.

Planning priority W20 seeks that adaptation mechanisms to the impacts of urban and natural hazards and climate change are considered, which means not placing development in hazardous areas or increasing density in areas with limited evacuation options. The proposed residential and commercial uses would be located in a high hazard area with limited evacuation options.

Assessment for Gateway Review: The proposal does not give effect to the Regional Plan or the District Plan.

### **Is not justifiably inconsistent with Ministerial Directions 1.1 Implementation of Regional Plans and 4.1 Flooding**

The planning proposal intends to facilitate ground floor restaurants and cafes on a Marina development, with high density residential atop. The floor level of these commercial uses would be 1.5m above the flood planning level, which means that the 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 would be 1.4m above the Probable Maximum Flood (PMF) level.

The structures would 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. 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.

When considered against the Ministerial Direction 4.1 Flooding, the planning proposal:

- is inconsistent with Principle 9: Manage flood risk effectively of the Floodplain Development Manual: the management of flood liable land (April 2005) as it reduces evacuation capacity of Chipping Norton and Moorebank East Precinct. Additionally, the planning proposal will locate permanent population in development subject to high hazard flood event.
- is inconsistent with Georges River Floodplain Risk Management Plan and Study 2004 by locating residential and commercial development within a high flood risk area. Additionally, the proposal is inconsistent with the BMT 2020, current draft flood study for Liverpool City Council.
- does not seek to rezone the land, however, the proposed amendments seek to enable residential land uses in a Private Recreation zone that is also in a flood planning area.
- Seeks to:
  - Intensify development in a floodway area
  - located between flood planning area and PMF
  - Introduce high density residential accommodation in high flood hazard areas
  - The proposal would likely result in increased NSW Government spending on emergency management services, flood mitigation and emergency response measures, such as provision of road infrastructure, flood mitigation infrastructure and utilities etc.

The Georges River Regional Flood Study evacuation modelling shows that the current road network (with the planned upgrade) has capacity for 700 evacuating vehicles

from Moorebank East with approximately 360 of the 700 vehicles taken up by existing development to the north (site C).

However, these capacities rely on road upgrades to M5 and M7 which are not complete yet (in some cases, has not commenced). 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.

Assessment for Gateway Review: DCCEEW Biodiversity, Conservation and Science (BCS) has provided comments dated 14 November 2024 (**Attachment D**) on the gateway review package and confirmed that the proposal remains inconsistent with Direction 4.1 Flooding. The flood impact assessment does not use the latest data available, the proposed development remains in a high hazard zone, and the evacuation constraints cannot be lessened without upgrades to Nuwara Road.

In this regard, the planning proposal remains unjustifiably inconsistent with the terms of this direction.

**The proposal is inconsistent with Council's Local Strategic Planning Statement and Local Housing Strategy**

As recognised in the Gateway assessment report, the planning proposal is inconsistent with *Connected Liverpool 2040: Local Strategic Planning Statement (LSPS)* as it proposes housing density outside the Liverpool City Centre, is not close to any existing centre (1.8km from Moorebank town centre) and does not have good public transport accessibility.

Liverpool Local Housing Strategy requires that housing proposals in the LGA consider housing diversity, affordability, location and sustainability. Like any other residential development, the proposal can be made to satisfy housing diversity (providing a range of apartment sizes and terrace dwellings to suit a diverse demographic) and sustainability (encouraging good built form outcomes and sustainability in housing and neighbourhood design. However, the proposal would not increase housing stock in a dense area or area where housing demand is high (thus reducing housing demand pressure), nor does it propose any affordable housing as part of the planning proposal. The proposal is also not located in Council's identified investigation area. Even when assessed against the criteria for housing outside of the investigation area, the subject site was identified as a "low" opportunity for housing. The planning proposal fails to demonstrate consistency for the 2 considerations (affordability and location) which determine the suitability of any proposal relying on merit.

Assessment for Gateway Review: the proposal is inconsistent with the Council's Local Strategic Planning Statement and Local Housing Strategy

**The proposal does not adequately demonstrate site-specific merit in relation to flooding risk**

The planning proposal is inconsistent with the NSW Flood prone land policy as it does not satisfy the primary objective of the policy being to reduce the impacts of flooding and flood liability on communities. The proposal 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 proposal was to proceed, it would have impacts on established surrounding communities in relation to flood evacuation capacity.

The proposal would facilitate intensified urban development including residential in a flood planning area and in areas between the flood planning area and the PMF.

	<p><u>Assessment for Gateway Review:</u> assessment outcome unchanged from Gateway determination.</p> <p><b>The proposal will absorb evacuation capacity for future development within Moorebank East and Chipping Norton</b></p> <p>As per Molino Stewart 2022, the available evacuation capacity of 340 vehicles is based on the committed road network upgrades. Additional government spending is required for Nuwarra Road widening to ensure the existing community's evacuation capacity would not be impacted in the case of further growth at this site or other nearby sites.</p> <p><u>Assessment for Gateway Review:</u> The package was also referred to NSW State Emergency Service (SES) who provided a detailed response (<b>Attachment E</b>). SES noted that the hydrographs provided showed less than 15 hours of warning time available for evacuation of any sort. While BCS noted only 9-12 hours evacuation warning time would be available.</p> <p>The evacuation strategy recommends a phased evacuation of the site, where the final stage is to "shelter-in-place" above the PMF level. SES noted that the proponent's flood modelling showed flood event for up to 60 hours and residents may be isolated for more than 24 hours at a time.</p> <p>Further, shelter in place strategy can be considered if a holistic flood planning approach for the broader area determined that the last available evacuation mechanism is to shelter in place. For example, Parramatta LEP includes provisions beyond the flood planning level, which require building within Parramatta CBD to provide shelter in place due to the CBD being subject to flash flooding. Parramatta City Council prepared appropriate flood risk management which provided guideline for any shelter in place, flood free pedestrian access and structural integrity for the whole Parramatta CBD, not just individual sites.</p> <p>On the other hand, Liverpool City Council latest flood planning data relies on evacuation for flood effected residents for the broader area. No exceptional circumstances have been granted to the Moorebank broader area or Liverpool City Council for shelter in place to be considered as an acceptable evacuation strategy. Until appropriate flood risk management for the broader area or Liverpool is prepared which supports shelter in place, evacuation will be considered suitable for the intended development and future proposals for Liverpool LGA.</p> <p>As such, the planning proposal is considered to still absorb evacuation capacity for future development within Moorebank East and Chipping Norton.</p>
<b>Council Justification</b>	
Details of justification	<p>Council provided comments on the Proponent's Gateway review request on 11 November 2024 (<b>Attachment D</b>). Key points from submission:</p> <p><b>Council and surrounding community support for the proposal is assumed by the proponent</b></p> <p>In 2020 the planning proposal was considered by Liverpool Local Planning panel (LPP), who noted that it had strategic merit in the sense that whole of Moorebank East precinct is undergoing land use transformation. However, the site-specific merit was yet to be demonstrated due to the flooding on the site. The proposal was exhibited in a pre-Gateway phase between August - September 2020 and received two submissions.</p>

The planning proposal was supported by the Liverpool LPP prior to the policy positions formed by the NSW Government Flood Inquiry and the Council's current draft flood and evacuation studies. Council acknowledged that the planning proposal has constraints and consultation with state agencies was required. Additionally, the proposal was not unanimously supported in a vote and formal public exhibition of the proposal has not occurred yet. The proposal is inconsistent with the objectives of the zone

Council notes that the planning proposal seeks to additional permitted uses via a key sites mapping and local provisions. Additional permitted use provisions are not appropriate as the proposed medium and high density residential land uses are not consistent with the RE2 Private Recreation zone objectives. Council has previously advised the proponent that the appropriate mechanism would be to seek a rezoning of the site as E1 Local Centre and R3 Medium Density (as relevant) for the intention to allow restaurants, cafes, apartments and terrace housing.

**The site is a high flood risk area and proponent's flood risk assessment is inaccurate**

The flood impact assessment submitted for the planning proposal only considered the 5% and 1% AEP events, failing to assess the full range of flooding events, including the impacts of the probable maximum flood (PMF) event and climate change scenarios.

Additionally, the flood response identifies the site being separate to the high flood risk area to the northern side. However, Council has not approved any flood mitigation work under the relevant Development Application (DA). Further, the approved Marina building is below the 1% AEP level and the Flood Planning Level. Any flood studies for the site must consider flood information available under the Georges River Regional Flood Evacuation Study – Molino Stewart 2022 and Georges River Flood Study (BMT 2022).

**Flood evacuation for the site and surrounding has not been considered adequately**

The Planning Proposal has a heavy reliance and focus on locating residential levels of both the proposed apartments and the medium density homes above the flood level as a flood risk reduction measure. Greater emphasis is required on ensuring residents are provided a flood free means of escape and don't further exacerbate evacuation difficulties that currently exist for established communities in the Moorebank / Chipping Norton peninsula.

Lot 1 of 146 Newbridge Road, Moorebank and part of 124 Newbridge Road Moorebank are zoned E3 Productivity Support and *shop top housing* is permissible. The existing zoning on these two sites could consume the remaining 340 vehicle evacuation capacity of the Moorebank East Precinct, even with upgrades to the M5 Motorway (two additional westbound lanes) and M7 Motorway (additional third lane and ramp capacity increase).

Notwithstanding the additional evacuating traffic from the proposal, current evacuation capacity is reliant on additional planned road upgrades to the M5 westbound (not commenced), an additional third lane northbound on the M7 (under construction) and improvements to M7 on ramp capacities through ramp metering (not commenced). The proposal would need local road upgrades however the proponent's offer letter to enter into a VPA does not include any infrastructure upgrades.

**Surrounding road network is constructed below the PMF and does not have the evacuation capacity for the additional population**



	<p>The existing roads of Spinnaker Drive, Promontory Way and Brickmakers Drive have all been designed and constructed without the consideration of the growth in this planning proposal and are constructed below the PMF level. Some parts of the surrounding roads will be inundated from 5% AEP flood event, and completely inundated before the PMF event has reached its peak.</p> <p>Additionally, Molino Stewart 2022 recommends the investigation of an additional southbound lane on Nuwarra Road between Brickmakers Drive and Heathcote Road to increase the evacuation capacity of the Moorebank East precinct and to reduce the queuing that severely limits the evacuation of Chipping Norton onto the M5.</p> <p><b>The site is not well located</b></p> <p>Despite the site being located in Greater Sydney, it is not considered to be 'well located' for the intended restaurants, cafes and medium to high density residential accommodation due to environmental and infrastructure constraints.</p> <p><b>The proposed housing is not critical to Liverpool LGA</b></p> <p>Liverpool LGA is on track to meet the 5-year target set by the National Housing Accord. The Accord target does not invalidate the need for appropriate land use planning considerations. Notwithstanding the suitability of the proposal, the proposed housing will not significantly contribute to Liverpool LGA meeting the housing target per the Accord.</p>								
Material provided in support of application/proposal	<p>Council has provided a detailed response (<b>Attachment F</b>) to the documentation provided as part of the Gateway Review. Council and the Local Planning Panel report and minutes are also included as part of this brief.</p> <table border="1"> <tr> <th>Attachment</th><th>Title</th></tr> <tr> <td>Attachment F</td><td>Council response to Gateway review</td></tr> <tr> <td>Attachment F1</td><td>Local Planning Panel Report and Minutes - 31 August 2020</td></tr> <tr> <td>Attachment F2</td><td>Council Meeting Report and Resolution – 13 December 2023</td></tr> </table>	Attachment	Title	Attachment F	Council response to Gateway review	Attachment F1	Local Planning Panel Report and Minutes - 31 August 2020	Attachment F2	Council Meeting Report and Resolution – 13 December 2023
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Proponent views									
Details of justification	<p>The Proponent requested a Gateway review (<b>Attachment G</b>) and provided supporting reports and studies on 4 October 2024. Key points from submission:</p> <p><b>The local community and Liverpool City Council unanimously support this development</b></p> <p>Liverpool Council considered its own plan and unanimously supported this proposal. It is evident that Council believe that this proposal fits well with their vision for housing and for this precinct. Both the surrounding community and Liverpool City Council unanimously support this development from a social, economic and ecological perspective, providing many benefits for the wider community including the recreational and retail uses provided by the Proposal.</p> <p><b>The site is a Low Flood Hazard Category</b></p> <p>Except for Newbridge Road Entrance, the planning proposal is for a site where the agreed benchmark (by Council) for pre-development landform is above the 100 year</p>								

ARI(1% AEP) flood level and above the flood planning level. Hence the site is defined as a Low Flood Hazard category land.

### **Flood behaviour of Georges River is slow rising**

The development is not located on a floodway, rather flood storage and flood fringe. The residents are only directly exposed to inundation and flood hazards in events greater than around a 5,000 year Average Recurrence Interval or ARI (0.02% AEP) flood and Extreme Flood Event (EFE) 36 hr floods (PMF). In all flood condition, the velocity remains low. The rise of waters is slower as the flood magnitude grows above the 100 year ARI (1% AEP) due to the widening of the floodwater flow path.

### **Intended development can withstand hydraulic forces in PMF flood**

Based on the flood depths and velocities for PMF flood and the structural engineering consultation, the future built form can be structurally designed and constructed to remain stable and withstand hydraulic forces in floods up to the EFE 36 hour (PMF) event.

### **All habitable floor levels are flood free**

The planning proposal is for a low flood hazard zone and all the habitable floors (retail and commercial) will be located at or above the PMF level and will be flood free.

Except for the piles and the basement structure, the development will be located above the flood planning level and the building will be constructed with flood compatible materials below the flood planning level.

### **Shelter-in-place is appropriate final stage of phased evacuation**

The proposal intends to rely on shelter in place or vertical evacuation as a last phase of evacuation where vehicular and pedestrian options have not been taken by residents, and safe refuge can be found on site as the developments all have many floor levels above the PMF level suitable for the tertiary evacuation option. In a flooding emergency, the non-residential use for the Marina is not likely to be operational. Proposed vertical evacuation would not impact on the wider community (Chipping Norton residents).

### **Similar development already exists in high hazard zones**

Multi-storey residential buildings have been approved, constructed and/or under constructed are-

- Parramatta River and Clay Cliff Creek confluence area (west of James Ruse Drive)
- Summer Hill (beside Hawthorne Canal).

These developments support shelter-in-place in floods that exceed the flood planning level.

Note: Similar developments are observed to be separated from waterbody through vegetation buffer, levee bank and /or road infrastructure.

### **The proposal has site specific merit in relation to flooding risk**

The proposal is justified as follows-

- Provides social benefit by activating open space to be enjoyed by public
- Provides economic benefit by creating long term and operational jobs in the area, as well as creating opportunities for visitors to contribute to the local and broader economy.

- Is ecologically sustainable as there are no constraints from an ecological perspective
- Mitigates the hazard by developing building which can withstand PMF event

**The proposal is justifiably consistent with section 9.1 Direction for Flooding**

The proposal is consistent with the relevant direction as follows-

- The buildings have been specifically located west of the main flood flows and designed to comply with its flood hazard and the associated requirements of Liverpool LEP 2008 and Liverpool DCP 2008.
- The building structures will be constructed from flood compatible building components. The building design would incorporate piles and columns capable of resisting the flood forces. If required, a concrete slab can be constructed Infront of the basement and piles structure to reduce scouring.
- The planning proposal does not rezone land within flood planning area.
- The planning proposal will facilitate development above the flood planning level.
- The planning proposal does not propose any special flood consideration uses between the flood planning level and the PMF.
- The Floodplain Development Manual 2005 has been superseded by the Flood Risk Management Manual 2023 which 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” and proposed development has merit.

**The proposal is consistent with Metropolis of Three Cities and Western City District Plan**

The planning proposal is consistent with regional plan by locating development in close proximity to existing services, public transport and Liverpool City Centre. The proposal will create jobs and provide links for active and passive. The proposed residential development is located significantly above the flood planning level.

The planning proposal is consistent with the district plan by

- activating the marina with relevant infrastructure,
- providing high quality riverfront open space,
- facilitating walkability and public transport connectivity,
- enabling medium density housing and diverse housing options locally,
- providing community facilities adjacent to the marina,
- and locating development above flood planning level and providing appropriate evacuation for residents

**The proposal is consistent with Council’s Local Strategic Planning Statement (LSPS) and Local Housing strategy**

The proposal is consistent with the LSPS by providing an extremely attractive residential opportunity for the workforce in Liverpool and is located within easy access to key sites such as the Moorebank Logistic Park, which is set to support a workforce of up to 5,000. The planning proposal will activate the Marina for community and contribute to Council’s housing target.

The proposal is consistent with the Local Housing Strategy by providing a diverse range of housing, in the right location - located with 800m of major transport nodes, and has good access to open space, employment opportunities and retail facilities. The planning proposal will optimise use of existing and planned infrastructure and renew existing urban precincts.

Material provided in support of application/ proposal	<p>The proponent has provided and referenced the documents below to support their Gateway review request.</p> <table border="1" data-bbox="352 241 1401 611"> <tr> <th>Attachment</th><th>Title</th></tr> <tr> <td>Attachment G</td><td>Mirvac Gateway Determination Review Request</td></tr> <tr> <td>Attachment G1</td><td>EMM - Planning Response</td></tr> <tr> <td>Attachment G2</td><td>Tooker &amp; Associate - Flood response</td></tr> <tr> <td>Attachment G3</td><td>RiskE Business - Evacuation Response Gateway Review</td></tr> </table>	Attachment	Title	Attachment G	Mirvac Gateway Determination Review Request	Attachment G1	EMM - Planning Response	Attachment G2	Tooker & Associate - Flood response	Attachment G3	RiskE Business - Evacuation Response Gateway Review
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Assessment summary											
Department's assessment	<p>The Department has considered Proponent's submission, responses from Liverpool City Council, DCCEEW - BCS and SES. The Department maintains and reaffirms that the proposal should not proceed based on-</p> <ul style="list-style-type: none"> <li>• The planning proposal remains inconsistent with the Greater Sydney Region Plan – a Metropolis of Three Cities and Western City District Plan</li> <li>• The planning proposal remains inconsistent with the Liverpool City Council's LSPS and Liverpool Housing Strategy.</li> <li>• The proposal remains unjustifiably inconsistent with Local Planning Directions 1.1 Implementation of Regional Plans and 4.1 Flooding</li> <li>• The proposed phased evacuation is not supported by BCS and SES.</li> </ul> <p>The planning proposal is located in a high flood risk area which forms part of the flood way and flood storage from Georges River. In a major flood event including the PMF, the site can be isolated for more than 24 hours. Council's current (not adopted) flood data identify Moorebank East Precinct to have limited evacuation capacity reliant on upgrades to the road network which are not commenced or completed yet. Notwithstanding, the spare evacuation capacity is likely to be taken up by future developments which are already permissible and/or commenced in the area. The intended development will absorb evacuation capability from surrounding residents thus posing risk to human life.</p> <p>The subject site is zoned RE2 Private Recreation, and the proposed land uses of restaurants, cafes, residential flat buildings and multi dwelling housing are not permissible in the zone and do not meet the objectives of the zone. The proposed land uses are not considered to be ancillary or complementary to the RE2 Private Recreation zone. The proposal is effectively seeking rezoning for part of the land, which requires demonstrating consistency with the strategic planning framework .. The proposal seeks to permit unplanned non compatible land uses on land that is heavily environmentally constrained.</p> <p>The planning proposal does not demonstrate strategic and site-specific merit and Council needs to consider the planning for the precinct holistically, including flooding impact and mitigation measures. Further work with state agencies, including Transport for NSW is to be undertaken to investigate required road network upgrades for future rezoning in the Moorebank East Precinct, Moorebank and Chipping Norton Area.</p> <p>In this regard, the Department's position for the planning proposal to not proceed remains unchanged.</p>										

COMMISSION'S RECOMMENDATION

Reason for review: A determination has been made that has imposed requirements (other than consultation requirements) or makes variations to the proposal that the proponent or council thinks should be reconsidered.

Recommendation	The planning proposal should proceed past Gateway with the amendments suggested to the original determination.
	The planning proposal should proceed past Gateway in accordance with the original Determination (ie no amendments are suggested to the original determination)

Any additional comments:



**New South Wales Government**  
Independent Planning Commission

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