

# COUNCIL AGENDA

ORDINARY COUNCIL MEETING

13 December 2023

Book 1

You are hereby notified that an **Ordinary Council Meeting** of Liverpool City Council will be held at the **FRANCIS GREENWAY CENTRE, 170 GEORGE STREET, LIVERPOOL** on **Wednesday, 13 December 2023** commencing at 2.00pm. Doors to the Francis Greenway Centre will open at 1.50pm.

Liverpool City Council Meetings are livestreamed onto Council's website and remain on Council's website for a period of 12 months. If you have any enquiries, please contact Council and Executive Services on 8711 7493.



**Hon John Ajaka**  
CHIEF EXECUTIVE OFFICER

## **Statement of Ethical Obligations**

### **Oath or Affirmation of Office**

In taking the Oath or Affirmation of Office, each Councillor has made a commitment to undertake the duties of the office of councillor in the best interests of the people of Liverpool and Liverpool City Council and that they will faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act to the best of their ability and judgment.

### **Conflicts of Interest**

A councillor who has a conflict of interest in any matter with which the council is concerned, and who is present at a meeting of the council when the matter is being considered, must disclose the interest and the nature of the interest to the meeting as soon as practicable. Both the disclosure and the nature of the interest must be recorded in the minutes of the Council meeting where the conflict of interest arises. Councillors should ensure that they are familiar with Parts 4 and 5 of the Code of Conduct in relation to their obligations to declare and manage conflicts of interests.

# ORDER OF BUSINESS

PAGE TAB

## Opening

## Acknowledgment of Country and Prayer

## National Anthem

## Apologies

## Condolences

## Confirmation of Minutes

Ordinary Council Meeting held on 22 November 2023 .....7

## Declarations of Interest

## Public Forum

## Mayoral Report

MAYOR 01 Planning, Housing and Urban Development.....58 1

## Notices of Motion Of Rescission

NIL

## Chief Executive Officer Reports

NIL

## Planning & Compliance Reports

PLAN 01 Planning Proposal to amend the Liverpool Local Environmental Plan at  
Lot 3 of 146 Newbridge Road Moorebank - Georges Cove Marina.....66 2

PLAN 02 Planning Proposal to amend the Liverpool Local Environmental Plan  
2008 at Lot 2 Newbridge Road Moorebank .....86 3

PLAN 03 Development Assessment Policy .....97 4

PLAN 04 Draft Regional Affordable Housing Contribution Scheme .....109 5

PLAN 05 Post exhibition report- Renaming street sections Southern Cross  
Avenue/Seventeenth Avenue East and Hall Circuit, Middleton Grange .....119 6

## Community & Lifestyle Reports

COM 01 Grants Donations and Community Sponsorship Report .....160 7

COM 02 Council Meeting Dates - January to December 2024.....173 8

## Corporate Support Reports

CORP 01 Investment Report November 2023.....178 9

## Customer & Business Performance Reports

NIL

## ORDER OF BUSINESS

PAGE TAB

### City Futures Reports

CFD 01 Review of the City Development Fund Policy ..... 189 10

### Operations Reports

NIL

### Committee Reports

CTTE 01 Minutes of the Liverpool Local Traffic meeting held on 8 November 2023. 197 11

CTTE 02 Minutes of the Tourism and CBD Committee held 31 October 2023.....207 12

### Questions with Notice

QWN 01 Question with Notice - Clr Goodman - Library Books.....213 13

### Presentations by Councillors

### Notices of Motion

NOM 01 Repair and Upgrade of War Memorial Bigge Park.....214 14

NOM 02 Traffic mitigation due to school pick-up and drop-off at Nuwarra Public  
School.....216 15

NOM 03 Harris Creek Bridge.....219 16

### Council in Closed Session – Confidential Book 3

The following items are listed for consideration by Council in Closed Session with the public excluded, in accordance with the provisions of the Local Government Act 1993 as listed below:

	Page No
CONF 01 Minutes of the Liverpool Heritage Advisory Committee Meeting of 18 September 2023	1028
<i>Reason: Item CONF 01 is confidential pursuant to the provisions of s10A(2)(a) of the Local Government Act because it contains personal matters concerning particular individuals (other than councillors).</i>	
CONF 02 Liverpool Civic Place Tender ST3279 Tendering Civic Place Facilities Management	1034
<i>Reason: Item CONF 02 is confidential pursuant to the provisions of s10A(2)(d ii) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed confer a commercial advantage on a competitor of the Council.</i>	
CONF 03 Fire and Rescue NSW Referrals	1041
<i>Reason: Item CONF 03 is confidential pursuant to the provisions of s10A(2)(g) of the Local Government Act because it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.</i>	

## ORDER OF BUSINESS

CONF 04	Biochar	1051
<i>Reason:</i>	<i>Item CONF 04 is confidential pursuant to the provisions of s10A(2)(d i) of the Local Government Act because it contains commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.</i>	
CONF 05	Transfer/Dedication to Council as Public Road - Lots 60 and 61 in DP 1284972 Moorebank Avenue, Moorebank	1106
<i>Reason:</i>	<i>Item CONF 05 is confidential pursuant to the provisions of s10A(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</i>	
CONF 06	Minutes of the Liverpool Youth Council meeting held on 24 October 2023	1112
<i>Reason:</i>	<i>Item CONF 06 is confidential pursuant to the provisions of s10A(2)(a) of the Local Government Act because it contains personal matters concerning particular individuals (other than councillors).</i>	
CONF 07	Hammondville Precinct	1123
<i>Reason:</i>	<i>Item CONF 07 is confidential pursuant to the provisions of s10A(2)(c) of the Local Government Act because it contains information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.</i>	
CONF 08	Civic Place – Early Education and Care (To be provided in a confidential addendum book)	Confidential Addendum book 5

**Close**

<b>PLAN 01</b>	<b>Planning Proposal to amend the Liverpool Local Environmental Plan at Lot 3 of 146 Newbridge Road Moorebank - Georges Cove Marina</b>
----------------	---

<b>Strategic Objective</b>	Liveable, Sustainable, Resilient Deliver effective and efficient planning and high-quality design to provide best outcomes for a growing city
<b>File Ref</b>	362765.2023
<b>Report By</b>	Stephen Peterson - Senior Strategic Planner
<b>Approved By</b>	Lina Kakish - Director Planning & Compliance

## EXECUTIVE SUMMARY

In July 2018, Council received a planning proposal request submitted by Mirvac Homes (NSW) Pty Ltd, on behalf of Tanlane Pty Ltd for Lot 3 of 146 Newbridge Road, Moorebank (Lot 3 DP 1246745) seeking to amend Schedule 1 of the *Liverpool Local Environmental Plan 2008* (LLEP) to permit residential accommodation within a key site area and limit commercial gross floor area to 1,500m<sup>2</sup>. The proposal also seeks to amend LLEP 2008 development standards within the key site area only including the floor space ratio (FSR) development standard from 0.25:1 to 0.4:1 (60% Increase) and increase the height of building (HOB) development standard from 21 metres to 35 metres. (66.67% Increase)

The planning proposal aims to facilitate a future high density residential development within the key site map area of the site comprising of approximately 21 terrace dwellings and 319 apartments adjacent to the approved Georges Cove Marina.

Following initial review of the planning proposal, the proposal was referred to the Liverpool Local Planning Panel (LPP) on 31 August 2020. The LPP 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 (**Attachment 1**).

The planning proposal was initially exhibited during August-September 2020 with two submissions received being one objection and one in support (**Attachment 6**).

The planning proposal was then referred to Council at the 30 September 2020 meeting (**Attachment 2**) where it was resolved to forward the planning proposal to the Department of Planning, Industry and Environment (Now known as Department of Environment and Planning (DPE)) for a Gateway determination.

The planning Proposal (Amendment 86) was forwarded to DPE in November 2020 and in December 2020, DPE provided a letter to Council (**Attachment 3**), relating to the subject planning proposal and others current at the time for the Moorebank East precinct. The letter identified that because the Environment, Energy and Science Group (EES) and NSW State Emergency Service (SES) have unresolved issues regarding flooding and evacuation in the Moorebank East precinct and because Council was still undertaking work to finalise the Georges River Regional Flood Study, that the planning proposals for Moorebank East precinct including the subject planning proposal be resubmitted for Gateway request upon completion of Council's Regional Flood Study.

The Georges River Regional Flood Evacuation Study (**Attachment 5**) was completed in March 2022. In April 2023 Council staff held a meeting with DPE regarding the subject planning proposal and others lodged for the Moorebank East precinct and in May 2023, DPE provided advice to Council with requirements to be addressed for planning proposals within the precinct. A request for information letter (**Attachment 7**) was provided to the proponent of the subject proposal in June 2023 and the proponent provided amended information in response to Council in September 2023 (**Attachment 4, 9 and 10 and available on Council's Eplanning Portal**)

(<https://eplanning.liverpool.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=363543>)

Following a Council staff assessment of the updated information, it is considered that the planning proposal has sufficient strategic and site-specific merit to proceed to DPE for a Gateway determination. The complex constraints of the site regarding vehicular access, flooding, infrastructure and contamination can be further discussed and resolved post Gateway with the relevant State Agencies. It is also recommended that a clause to limit the amount of residential dwellings is added to ensure the proposed development outcome is achieved through the planning control changes. It is recommended that Council endorses the planning proposal to proceed to a Gateway determination.

Should a Gateway determination be issued by DPE, it is recommended that the preparation of an amended site specific DCP amendment and a draft VPA is negotiated to support the planning proposal. Both a draft DCP amendment and draft VPA will need to be endorsed in principle by Council prior to the exhibition of the entire planning proposal package.



## RECOMMENDATION

---

That Council:

1. Endorses in principle the planning proposal request to amend Schedule 1 of the *Liverpool Local Environmental Plan 2008* (LLEP) to permit residential accommodation within a key site map area, limit the maximum number of apartments to 319, limit the maximum commercial gross floor area for the site to 1,500m<sup>2</sup> and to amend development standards within the key site area only as follows:
  - a. Increase the floor space ratio from 0.25:1 to 0.4:1; and
  - b. Increase the maximum height of building from 21 meters to 35 meters.
2. Delegates to the CEO authority to prepare the formal planning proposal including any topographical or other minor editing amendments if required.
3. Forwards the planning proposal to the Department of Planning and Environment pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*, seeking a Gateway determination with a request that the Gateway determination be conditioned requiring a site specific Development Control Plan (DCP) and draft Voluntary Planning Agreement (VPA) to be prepared prior to public exhibition;
4. Subject to Gateway determination, undertake community consultation for the planning proposal, site-specific DCP and draft VPA in accordance with the conditions of the Gateway determination and the Liverpool Community Participation Plan 2022.
5. As part of the community consultation period, present the site-specific Development Control Plan to the Design Excellence Panel (DEP), in accordance with clause 15 of Environmental Planning and Assessment Regulations 2021.
6. Receives a further report on the outcomes of public exhibition and community consultation.

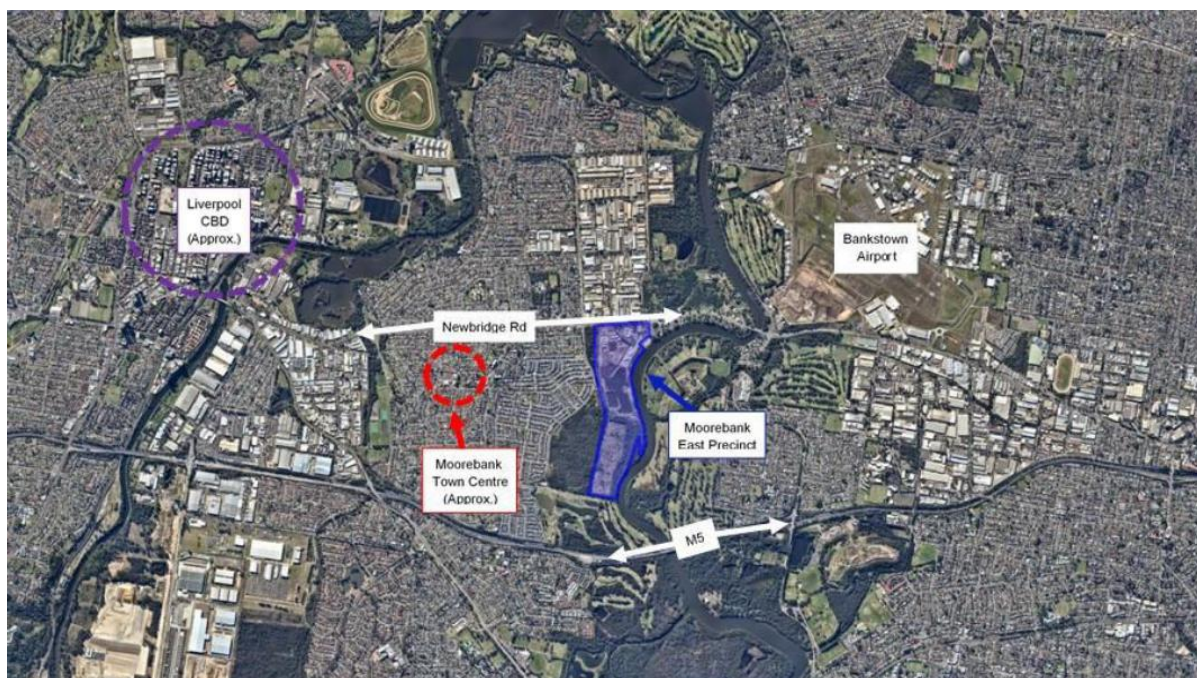
**REPORT****Moorebank East Precinct**

Figure 1 - Context map of the subject precinct (Source Nearmap)

The Moorebank East Precinct is a collection of sites that are largely undeveloped and located along the western bank of the Georges River on the eastern border of the Liverpool LGA. The precinct is bounded by the Georges River to the east, Brighton Lakes Golf Club to the south, Wurrungwuri Reserve to the west and Newbridge Road to the north.

**The Site and Locality**

The subject site is known as 146 Newbridge Road Moorebank which comprises of 3 lots. Lot 3 is the subject lot of this planning proposal and is shown in *Figure 2* below. Lot 3 is approximately 123,500m<sup>2</sup> in area and approximately 400m south of Newbridge Road. The subject site is approximately 3.65km east of Liverpool CBD and 4km east of Liverpool railway station. The nearest bus stop is located on Newbridge Road (Minimum 367m north of the subject site) and is serviced by the M90 bus route.



Figure 2 - Aerial view of the Moorebank East precinct and the subject site outlined in red (Source: Nearmap)

Surrounding the subject site are the following neighbouring sites:

- North - Lot 2 (Georges Cove) of 146 Newbridge Road which is currently under construction to deliver approximately 179 dwellings within a community titled development;
- South – The EQ Riverside-Concrete Crushers site which benefits from previous heavy industrial use and is subject to a Council initiated planning proposal to rezone part of the site to E4-General Industrial;
- East – The Georges River and Canterbury-Bankstown LGA; and
- West – Site E access handle, Council’s Wurrungwuri Reserve, Brickmakers Drive and Georges Fair residential area.

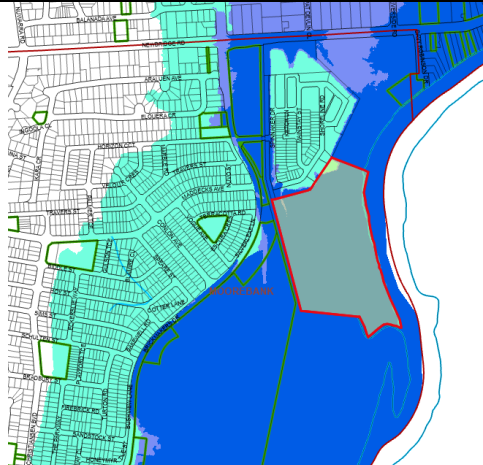
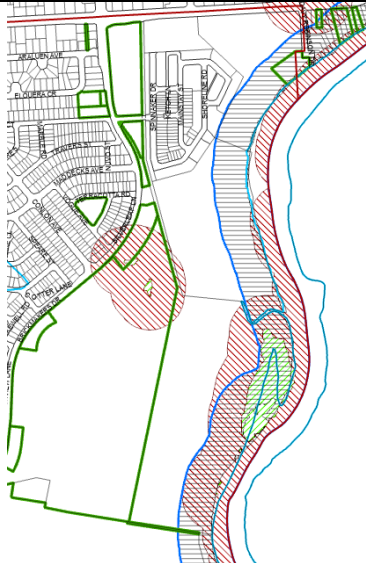
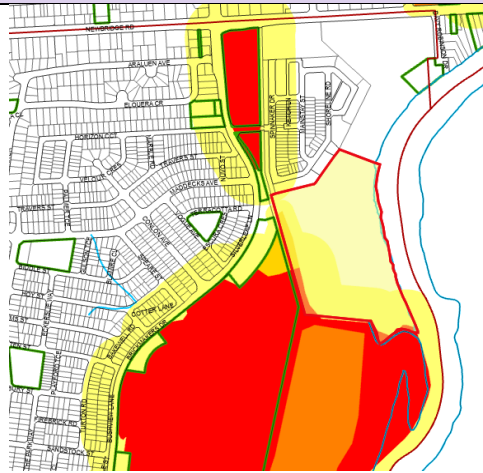

The subject property is under the single ownership of Tanlane Pty Ltd. It contained a former sand mining operation by Benedict Sands, which has reached its end of its life cycle. In May 2021, DA-611/2018 was approved as a deferred commencement consent to enable the construction of a marina development comprising the following components:

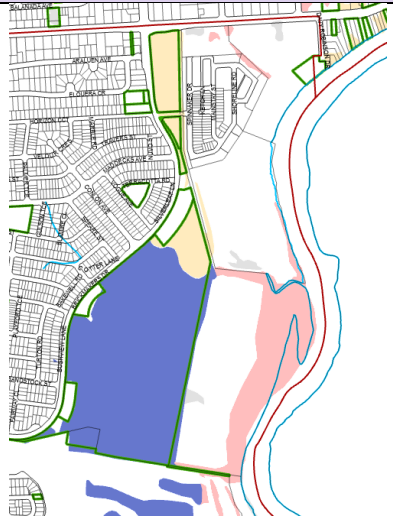
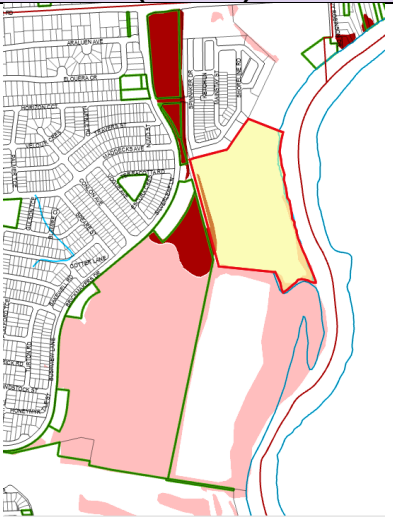
- A maritime building which will house a dry berth facility providing 250 berths, a function centre, tourist, entertainment, recreation and club facilities, a petrol storage tank (60,000 litres) and a diesel storage tank (60,000 litres);
- A wet berth facility for 186 craft (including casual berths) which will consist of a marina basin, rock protection of the basin and foreshore, including embellishment and revegetation of the river foreshore, construction of a navigation channel, construction of public recreational facilities on the foreshore, floating berths and walkways, fuel pumping facilities, sewage pumpout facilities and emergency berth access;
- Construction of three external car parking areas and basement car park providing a total of 637 car spaces;
- A private marina clubhouse; and
- Associated works and support infrastructure including power, water and sewerage.

Construction is underway to deliver this approved development.

The subject site has the following environmental constraints as per table 1 below:

Table 1 - Summary of Environmental Constraints

Flooding	Coastal Wetlands
 <p data-bbox="236 875 798 904">Figure 3 - Flood mapping of site. Source: Geocortex</p> <p data-bbox="220 931 813 1234">Council mapping indicates that the site is affected by flooding from the Georges River, is within the flood planning area and the site is categorised as high-risk flood zone. The key flood levels at the site are as follows: 4.6m AHD for the 5% Annual Exceedance Probability (AEP), 5.6m AHD for the 1% AEP, and 10.4m AHD for the Probable Maximum Flood (PMF).</p>	 <p data-bbox="874 972 1353 1028">Figure 4 - Coastal Wetlands mapping of site. Source: Geocortex</p> <p data-bbox="839 1055 1388 1155">The site is located within a coastal environment area under SEPP Resilience and Hazards 2021-Coastal Management.</p>
Bushfire	Environmentally Significant Land
 <p data-bbox="225 1794 812 1823">Figure 5 - Bushfire mapping of site. Source: Geocortex</p> <p data-bbox="220 1850 813 1975">The subject site is identified as Bushfire prone Land mainly on the western boundary. The majority of the site highlighted yellow identifies vegetation buffer of 30m and 100m.</p>	 <p data-bbox="890 1771 1342 1827">Figure 6 - Environmentally significant land mapping of site. Source: Geocortex</p> <p data-bbox="839 1854 1388 1955">Sections of the eastern boundary of the site are identified as Environmentally significant land (ESL) highlighted green.</p>

<b>Biodiversity</b>	<b>Threatened Ecological Communities (BC Act)</b>
 <p data-bbox="263 907 766 958"><i>Figure 7 - Biodiversity mapping of site. Source: Geocortex</i></p> <p data-bbox="220 987 810 1084">The western and eastern edges of the site highlighted light yellow and light red contain significant biodiversity.</p>	 <p data-bbox="865 907 1367 958"><i>Figure 8 - Threatened Ecological Communities mapping of site. Source: Geocortex</i></p> <p data-bbox="837 987 1391 1151">The western boundary of the site contains critically endangered and the eastern boundary adjoining the Georges River contains Endangered threatened Ecological Communities (BC Act).</p>
<p><b>Contamination</b></p>	
<p>The subject site is 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 subject allotment is subject of an approved Marina development. The Marina development application was approved with various Environmental Impact Assessments, Site Audit Reports and statements, and remediation strategies and Action Plans. This report concluded that the site is contaminated as per the EP&amp;A Act 1979 definition however that the subject allotment can be remediated to be suitable to accommodate the Marina development as well as high density residential uses with minimal opportunities for soil access.</p>	

**Background**

At its meeting on 31 August 2016, Council resolved to support a planning proposal to amend the LEP to enable residential uses within the RE2 Private Recreation zone (limited to a key site area) and included a zone boundary adjustment in which 4190sqm of land would be rezoned from RE2 Private Recreation to R3 Medium Density Residential. The proposal was to facilitate the development of approximately 125 dwellings alongside the marina development, and nine additional lots to the south of the existing R3 Medium Density Residential land.

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

On 21 December 2017, the Class 4 appeal Moorebank Recyclers Pty Ltd v Tanlane Pty Ltd (No 2) [2017] NSWLEC 186 was dismissed. Moorebank Recyclers subsequently lodged an appeal against this decision in the NSW Supreme Court and the Gateway determination was declared invalid by the Court of Appeal on 18 December 2018.

Given the outcome of previous legal proceedings, the proponent lodged a new request in July 2018 to prepare a planning proposal which seeks to permit residential uses within the RE2 zone (limited to a key site area). This proposal was to facilitate approximately 353 apartments and 21 terrace dwellings. The zone boundary adjustment was also lodged as a separate planning proposal that was endorsed by Council at its meeting in July 2020 and ultimately gazetted in May 2022.

At its meeting on 27 July 2020, Council resolved to exhibit all planning proposals that have been lodged within Moorebank (excluding Site C as it had already been supported by Council) in accordance with Council's Community Participation Plan. The exhibition period concluded on 10 September 2020 with two submissions being received, including one objection (**Attachment 6**).

At its meeting on 31 August 2020, the Liverpool Local Planning Panel (LPP) considered the planning proposal request and agreed that the proposal demonstrates strategic and site-specific merit and supported the planning proposal proceeding to a Gateway determination (**Attachment 1**). The proposal was then reported to Council in September 2020 (**Attachment 2**) where it was resolved that Council:

1. *Note the advice of the Liverpool Local Planning Panel;*
2. *Endorses in principle the planning proposal request;*
3. *Delegates to the Acting Chief Executive Officer authority to prepare the formal planning proposal including any typographical or other editing amendments if required;*
4. *Forwards the planning proposal to the Department of Planning, Industry and Environment pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979, seeking a Gateway determination with a request that Council be authorised as the local plan making authority and that the Gateway determination be conditioned requiring a site specific DCP be prepared prior to public exhibition;*
5. *Subject to Gateway determination, undertakes public exhibition and community consultation in accordance with the conditions of the Gateway determination and Council's Community Participation Plan; and*

6. *Receives a further report on the outcomes of public exhibition and community consultation.*
7. *Negotiate a possible VPA with the developer.*

Council referred the planning proposal to DPE (DPIE at the time) requesting a Gateway determination in accordance with Council's September resolution. A response letter was received in December 2020 from DPIE (**Attachment 3**) that all planning proposals within Moorebank East, including the subject proposal be resubmitted once the findings of Council's Regional Flood Study can inform these proposals.

The Georges River Regional Flood Evacuation Study (**Attachment 5**) was finalised in March 2022 following consultation with DPE (including the Planning Delivery Unit), relevant state agencies and proponents. In summary, the study model's road capacity to determine whether development (existing and proposed) can evacuate within the available flood warning time given a 100% evacuation compliance rate as required by the State Emergency Service (SES). It should be noted 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.

In summary, the study finds that there is restricted capacity for additional development within the floodplain areas of the Liverpool Collaboration Area and Moorebank East. In considering future outcomes, including active planning proposal, the model indicates that during evacuation in a Probable Maximum Flood (PMF), tens of thousands of vehicles attempting to evacuate would not be able to given the capacity constraints.

Evacuation capacity has been investigated at a high level for the large planning proposals modelled. The high-level "spare capacity" calculations need to be further modelled to confirm the impact of potentially reduced vehicle numbers, i.e., reducing development yield or reduced car parking rates. DPE and Transport for NSW will also need to be engaged at the Gateway stage to agree to appropriate rates of cars per dwelling / commercial space. The study noted that the widening of Nuwarra Road 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.

A meeting was held with DPE discussing flooding across the Moorebank East precinct in April 2023 and in May 2023, DPE advised that the planning proposals for the Moorebank East precinct are to address the findings of the 2022 flood enquiry findings and address the draft shelter in place policy.



In June 2023, a request for information letter was sent by Council to the proponent with a way to progress the planning proposal once again (**Attachment 7**). This was in part informed by advice from DPE that the proponent should do the following:

- Address the findings of the Flood Inquiry findings; and
- Address the draft shelter in place policy.

An amended planning proposal (**Attachment 4**) and supporting studies were then provided to Council on 15 September.

### **Proposed Amendments to the Liverpool Local Environmental Plan 2008**

The current planning proposal request, seeks to amend LLEP 2008 in the following manner:

- Include a site-specific provision under Schedule 1 to enable two additional permitted uses:
  - Development for the purpose of residential accommodation (limited to multi-dwelling housing and residential flat buildings) within a new Key Site; and
  - Development for the purpose of restaurants or cafés (limited to the ground floor of the residential apartment buildings and up to 1,500 m<sup>2</sup> gross floor area in total) within a new Key Site.
- Amend the Key Sites map to include a designated area for residential accommodation in the RE2 Private Recreation zone at the Georges Cove Marina development site.
- Amend the maximum permissible Floor Space Ratio from 0.25:1 to 0.4:1 (limited to the Key Site).
- Amend the maximum permissible Height of Building from 21m to 35m (limited to the Key Site).

Council staff recommend adding a clause to limit the number of residential dwellings to ensure the proposed development outcome is achieved through the planning control changes.



Figure 9 - Indicative proposed subject site layout incorporating proposed residential development and previously approved Marina (Source: Mirvac)

The planning proposal is supported by the following reports and plans:

- Revised Architectural package prepared by Mirvac Design;
- Addendum Traffic Impact Assessment prepared by EMM Consulting;
- Revised Flood Impact Assessment and Flood Emergency Response Plan by Tooker and Associates;
- Updated Contamination Letter prepared by EMM Consulting;
- Updated Acoustic Letter prepared by EMM Consulting;
- Proposed Amendments to the Moorebank East DCP (marked in tracked changes); and
- VPA Letter of Offer.

These documents are available on Council's Eplanning Portal, as well as additional reports lodged with the first planning proposal in 2018.

<https://eplanning.liverpool.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=363543>

## Planning Assessment

### Consistency with Strategies and advice of the Liverpool Local Planning Panel

The proposal has been assessed against the Region Plan (Greater Sydney Regional Plan - A Metropolis of Three Cities), District Plan (Western City District Plan) and relevant strategies including Council's adopted Local Strategic Planning Statement (LSPS) and the Liverpool Local Housing Strategy 2020.

The Local Planning Panel Report from the 31 August 2020 meeting (**Attachment 1**) includes a detailed assessment against these strategies, and outlines that the planning proposal has strategic and site-specific merit and should proceed to a Gateway determination.

The Local Planning Panel advice (**Attachment 1**) recommends Council prepare a regional flood evacuation study. As discussed, this study was completed in March 2022 (**Attachment 5**). The Council meeting report and resolution from the 30 September 2020 (**Attachment 2**) meeting provides further comment regarding the Local Planning Panel meeting.

### Flooding, Evacuation and Vehicular Access

Lot 2 of 146 Newbridge Road to the immediate north of the subject site is currently under construction to deliver approximately 179 dwellings within a community titled development. This includes works for internal roads and separate vehicle and a pedestrian evacuation bridge. It is noted that the internal road created over Lot 2 (Spinnaker Drive), the vehicle evacuation bridge (Known as Promontory Way) and Brickmakers Drive are all one lane in each direction only and do not yet include traffic signal intersections. Access to the subject site is proposed from Brickmakers Drive via the evacuation bridge (Promontory Way) for pedestrians and via Spinnaker Drive located on Lot 2 for vehicles.



Figure 10 - Aerial view of Lot 2 and Lot 3 (Subject lot) and existing surrounding road and evacuation network).

The proponent provided a Flood Impact Assessment and Flood Emergency Response Plan prepared by Tooker and Associates (**Attachment 9**). The following key elements have been stated to justify the flooding response of the proposal:

*“The ground level for both the apartment and terrace buildings will be at RL 7.6m AHD which is equivalent to a 1 in 5000yr flood. This floor level is 1.5m above the flood planning level and 2m above the 100yr ARI flood level. This building platform provides a low flood hazard setting on the site. The minimum floor level for all the apartments and terraces will be RL 11.6m AHD. This is 1.4m above the PMF or the highest estimate of possible flooding that could ever occur. Therefore, all of the habitable floor levels in the apartments and terraces will be flood free.”*

*“The basement carpark has capacity for 500 cars. The basement carpark is a tanked construction with an entry level at RL 7.6m AHD which limits inundation of the carpark to the 5000yr ARI flood. There are 62 additional carparks in the at-grade parklands carpark in the southern part of the development as well as 30 ground floor parking spaces at the terraces at RL 7.6m AHD (1:5000yr flood level).”*

*“The car egress in a flood emergency will be via the Mirvac Georges Cove Residences (site C) residential area (which is already at a higher than the 100 year ARI flood level) and then onto the existing high level road bridge leading to Brickmakers Drive and then onto Maddecks Ave and Nuwarra Road. Nuwarra Road is above the Probable Maximum Flood (PMF) level.”*

*Pedestrian egress in a flood emergency will be via the Mirvac Georges Cove Residences (site C) residential area and via the high-level pedestrian bridge leading to Paine Park at a ground level of RL 7m AHD (which is at the equivalent to a 2000yr flood level) and then to flood-free land along Horizon Circuit towards Nuwarra Rd.”*

*“There will be no loss of flood storage over the three sites A, C and D with the landform and levels as proposed in this PP.”*

Council staff acknowledge the measures proposed to ensure flood risk for residents is effectively managed. In terms of building and floor levels, the approach proposed is broadly supported, noting such controls will need to be further refined and embedded in the Liverpool Development Control Plan 2008 - Part 2.10 Development in Moorebank East (DCP).

In relation to evacuation, further information, analysis and consultation is required with relevant state agencies. The March 2022 Georges River Regional Flood Evacuation Study states that the already-approved developments at Moorebank East will take up half of the potential evacuation capacity and that additional developments in the Moorebank East Precinct, without additional infrastructure, is unable to provide safe flood evacuation from the subject site including for emergency vehicles. As the proposed developments under the planning proposal will theoretically exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood, the planning proposal does not satisfy Clause 5.21(2c) of Liverpool Local Environmental Plan 2008, the NSW Flood prone land policy, Ministerial Direction 4.1 (Flooding).

It is noted that the March 2022 Georges River Regional Flood Evacuation Study used assumptions provided by the SES that remain contested in terms of how conservative and realistic they are for the purposes of informing landuse planning. Nonetheless, the Study is a helpful tool to guide landuse decisions in flood prone areas within Liverpool.

In relation to the shelter in place strategy, the proponent identifies “*a fall-back strategy, which is not recommended, is for people who for some reason have not evacuated Site D; these people can shelter in place on floor levels well above the PMF flood level with access to full amenities.*” It is deemed that shelter in place is not a viable option for the Moorebank East precinct based on the 2022 Flood Enquiry Findings, as the duration of flood waters exceeds the 8 hours maximum recommended by the Enquiry.

Should the proposal be issued a Gateway determination by DPE, further consultation in relation to flood evacuation is crucial to ensure this element of the proposal is effectively considered. State Agency consultation with the SES, NSW Reconstruction Authority and DPE is likely to occur to ensure this element of the proposal is effectively resolved. This will help to identify the required planning controls and infrastructure upgrades required to ensure safe evacuation is achieved for future development being facilitated by the planning proposal. The DCP can incorporate controls to ensure all parking, vehicle roads and pedestrian paths are located above the required flood planning level and any flood mitigation measures do not

impact on the surrounding vicinity or alter the existing flood pathway. Furthermore, any infrastructure such as road widening, intersection upgrades, and pedestrian evacuation paths can be specified, and a delivery mechanism established within the DCP and a VPA.

### Contamination

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 DA for the Marina proposal addressed contamination for the subject site and resulted in the site being deemed suitable for the works sought under the Marina development application and for high density residential uses as there are minimal opportunities for soil access.

The following Environmental Impact Assessments, Site Audit Reports and statements, remediation strategies and Action Plans and Preliminary Investigation Reports have previously been prepared for the subject site:

- Preliminary Investigation of Contamination (EMM, 28 July 2015).
- Supplementary preliminary Investigation Report prepared by EMM Consulting on 11 March 2016.
- Preliminary Site Investigation Proposed Rezoning (Area 1) and Georges Cove Marina (Area 2), 146 Newbridge Road, Moorebank (Douglas Partners, 28 May 2018).
- Site Audit Report 282 (Ian Swane & Associates, 27 April 2019), including Site Audit Statement 282.
- A number of Environmental Impact Statements including most recently the EIS for Georges Cove Marina, prepared by EMM, dated May 2019.
- Interim Advice for Statutory Site Audit 282 – Georges Cove Marina, 146 Newbridge Road, Moorebank (Ian Swaine & Associates, 16 February 2021).
- *Georges Cove Marina Remediation Strategy and Remedial Action Plan* (EMM, 26 March 2021).
- *Interim Advice Report for Georges Cove Marina RAP, 146 Newbridge Road, Moorebank - Statutory Site Audit 282* (Ian Swaine & Associates, 28 March 2021)

The Site Audit Statement 282 concluded that, with remediation, the site can be made suitable for “commercial/industrial” development (consistent with the proposed land use as a marina) and is also suitable for “residential with minimal opportunity for soil access, including units” (consistent with the planning proposal for residential apartment housing and multi-dwelling housing).

Further contamination assessment, including any required remediation measures, is required with any future DA on the subject site. Additionally, it is likely that the Environmental Protection Agency (EPA) will be a listed state agency to be consulted when a Gateway determination is issued by DPE.

#### Site Specific Development Control Plan (DCP)

The Local Planning Panel Report from the 31 August 2020 meeting recommended the implementation of a site specific DCP for the subject site and wider Moorebank East precinct. In this regard, amendments will be undertaken to the existing Liverpool DCP 2008, Part 2.10 (Moorebank East Benedict Sands), should a Gateway determination be issued Gateway stage. This will include design controls such as building design treatments, activation of the east elevation fronting Georges River Marina, integration of vehicles and pedestrians, waste areas, open space, landscaping, tree planting, street and wall art, and any flooding related controls required. Further, as per the LLPP meeting recommendation, the site specific DCP will include controls relating to an easement on title allowing public access along any future pedestrian route.

Further refinement of a site specific DCP amendment will occur when a Gateway determination has been issued.

#### Letter of Offer - Voluntary Planning Agreement

At the Council meeting of 30 September 2020, it was resolved, amongst other things, that Council "*negotiate a possible VPA with the developer*".

It is noted that the subject site contains an existing VPA agreement being VPA-11 which is based on the previously approved Marina development and proposes:

- Dedication of embellished river foreshore land to Council.
- Restoration and maintenance ( 1 year) of river foreshore land.
- Construction of passive recreation facilities on the river foreshore land.
- Construction of a bike/pedestrian path link to Brickmakers Drive.
- Dedication of drainage channel.
- Construction and dedication of road bridge over drainage channel, embankment and road to Brickmakers Drive.
- Construction and dedication of pedestrian access to Newbridge Road and pedestrian path along Newbridge Road.
- Dedication of an easement for maintenance across the river foreshore land.
- Exclusion of S7.11/S7.12 Contribution fees.

A variation to VPA-11 is currently being negotiated which seeks to remove the bridge over the Marina vessel ingress/egress and relocate the bike path to go around the Marina vessel ingress/egress instead.

A Voluntary Planning Agreement (VPA) letter of offer was submitted to Council in September 2023 (**Attachment 10**). The VPA letter of offer nominates the following items to be negotiated with Council:

- 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.

Upon initial review, Council staff see significant inadequacies in the VPA letter of offer. The proposed development should contribute to supporting recreation, traffic management, and stormwater quality management facilities rather than simply community facilities as currently offered in the VPA letter of offer. Additionally, it is assumed that a more complete schedule of infrastructure items to support a future high density residential development is offered beyond the bike/pedestrian path item given the uplift to be facilitated by the planning proposal unforeseen in the current Contributions Plan.

Further negotiations can occur in tandem with DCP amendment work when a Gateway determination is issued.

### **Next Steps**

If Council supports the planning proposal request, a formal planning proposal will be prepared and submitted to the Department of Planning and Environment (DPE) seeking a Gateway determination.

Should a Gateway determination be issued by DPE, it is recommended that the preparation of an amended site specific DCP amendment and a draft VPA is negotiated to support the planning proposal. Both a draft DCP amendment and draft VPA will need to be endorsed in principle by Council prior to the exhibition of the entire planning proposal package.

Subject to the above, public agency and community consultation can occur in accordance with the Gateway determination and Councils Community Participation Plan. A draft DCP amendment will also need to be referred to the Design Excellence Panel in accordance with clause 15 of environmental Planning and Assessment Regulations 2021.

Following consultation, a further report will be prepared for Council prior to proceeding with the making of any amendment to the LEP, DCP and execution of a VPA.



### Conclusion

It is considered that the planning proposal has sufficient strategic and site-specific merit to proceed to DPE for a Gateway determination. The complex constraints of the site regarding vehicular access, flooding, infrastructure and contamination can be further discussed and resolved post Gateway with the relevant State Agencies. It is recommended that Council endorses the planning proposal to proceed to a Gateway determination.

### FINANCIAL IMPLICATIONS

There are no financial implications relating to this recommendation.

### CONSIDERATIONS

<b>Economic</b>	Facilitate economic development.
<b>Environment</b>	Manage air, water, noise and chemical pollution. Enhance the environmental performance of buildings and homes.
<b>Social</b>	Regulate for a mix of housing types that responds to different population groups such as young families and older people.
<b>Civic Leadership</b>	Encourage the community to engage in Council initiatives and actions. Provide information about Council's services, roles and decision making processes.
<b>Legislative</b>	Environmental Planning and Assessment Act 1979.
<b>Risk</b>	The risk is deemed to be Low. If Council does not support the planning proposal request, there is a risk that the landowner will seek a review of Council's decision by the Sydney Western City Planning Panel.  The risk is considered within Council's risk appetite.

### ATTACHMENTS

1. Local Planning Panel Report and Minutes - 31 August 2020 (Under separate cover)
2. Council Report and Resolution - 30 Sept 2020 (Under separate cover)

3. DPE Letter to Council – December 2020 (Under separate cover)
4. Planning Proposal (Under separate cover)
5. Georges River Regional Flood Evacuation Study (Under separate cover)
6. Pre gateway exhibition submissions – August - September 2020 (Under separate cover)
7. Request For Information Letter (Under separate cover)
8. Flood Impact Assessment Report and Flood Emergency Response Plan (Under separate cover)
9. VPA Letter of Offer (Under separate cover)
10. ASIC and Title Search (Under separate cover)

### **OTHER DOCUMENTS**

---

All other technical reports and plans are available on Council's Eplanning Portal.

<https://eplanning.liverpool.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=363543>



**MINUTES OF THE ORDINARY MEETING  
HELD ON 13 DECEMBER 2023**

---

**PRESENT:**

Mayor Ned Mannoun  
Councillor Ammoun  
Councillor Goodman  
Councillor Green  
Councillor Hadid  
Councillor Hagarty  
Councillor Harle  
Councillor Kaliyanda  
Councillor Karnib (online)  
Councillor Macnaught (online)  
Councillor Rhodes  
Hon John Ajaka, Chief Executive Officer  
Ms Tina Bono, Director Community & Lifestyle  
Mr William Attard, Acting Director Planning & Compliance  
Ms Michelle Mcilvenny, Director Customer & Business Performance  
Mr Shayne Mallard, Director City Futures  
Mr Luke Oste, Coordinator Strategic Planning  
Mr Jason Breton, Director Operations  
Mr David Galpin, General Counsel, Manager Governance, Legal and Procurement  
Mr Vishwa Nadan, Acting Director Corporate Support  
Ms Susan Ranieri, Coordinator Council & Executive Services  
Ms Melissa Wray, Committees Officer

The meeting commenced at 2.05pm.

**STATEMENT REGARDING WEBCASTING  
OF MEETING**

The Mayor reminded everyone that in accordance with Council's Code of Meeting Practice (other than the Public Forum Section), the meeting is being livestreamed.

**ACKNOWLEDGMENT OF COUNTRY,  
PRAYER OF COUNCIL AND  
AFFIRMATION**

The prayer of the Council was read by Pastor Stephen Reddish from New Life Ministries.

**NATIONAL ANTHEM**

The National Anthem was played at the meeting.

**COUNCILLORS ATTENDING REMOTELY**

Deputy Mayor Macnaught and Councillor Karnib have requested permission to attend this meeting via MS Teams.

**Motion:**                                   **Moved: Mayor Mannoun    Seconded: Cllr Rhodes**

That Deputy Mayor Macnaught and Councillor Karnib be granted permission to attend the meeting via MS Teams.

On being put to the meeting the motion was declared CARRIED.

**APOLOGIES**

Nil.

**CONDOLENCES**

**ITEM NO:**    COND 01  
**SUBJECT:**    Salim 'Sam' Habib

It is with great sadness that I offer my deepest condolences to the family of Salim 'Sam' Habib.

Sam’s journey was not just a testament to longevity, but a story of resilience, hard work, and unwavering commitment to his family.

Sam's life was a story of triumph against the odds. He was a devoted and loving person who lived for his family. He was always there for his parents and siblings. He stayed in Blouza Lebanon until he was 21 to help his mum with the younger children and came to Australia in 1959. Sam arrived in Australia with nothing but the money in his pocket and determination in his heart.

Sam worked extremely hard, from working in the family store during the day to the steel factory of an evening. He then moved into construction with his brother Herb, qualified for a builder’s licence going on to build apartment blocks.

Sam met the love of his life Christine, and they were married in 1967. Together they moved

**CONFIRMATION OF MINUTES**

**Motion:** **Moved: Clr Green** **Seconded: Clr Ammoun**

That the minutes of the Ordinary Meeting held on 22 November 2023 be confirmed as a true record of that meeting subject to the following amendment to be made.

**Item:** MOU 01  
**Subject:** Conflict in the Middle East.

The vote was recorded as unanimous. Clr Harle stated that he did not agree with all the wording and therefore requests the removal of the following:

“Councillors voted unanimously for the motion”

On being put to the meeting the motion was declared CARRIED.

**DECLARATIONS OF INTEREST**

Clr Hagarty declared a non-pecuniary, less than significant interest in the following item:

**Item:** COM 01 - Grants Donations and Community Sponsorship Report.  
**Reason:** Clr Hagarty has had dealings, in his capacity as a Member of Parliament, with some of the organisations listed in the report.

Clr Hagarty remained in the Chambers for the duration of the item.

Mayor Mannoun declared a non-pecuniary, less than significant interest in the following items:

**Item:** PLAN 01 - Planning Proposal to amend the Liverpool Local Environmental Plan at Lot 3 of 146 Newbridge Road Moorebank - Georges Cove Marina.  
**Item:** PLAN 02 - Planning Proposal to amend the Liverpool Local Environmental Plan 2008 at Lot 2 Newbridge Road Moorebank.  
**Reason:** Mayor Mannoun has indicated a strong position in support of both of these projects in the past and there is a potential to be perceived as bias towards them.

Mayor Mannoun left the Chambers for the duration of the items.

The Hon. John Ajaka CEO declared a non-pecuniary interest in the following items:

**Item:** PLAN 01 - Planning Proposal to amend the Liverpool Local Environmental Plan at Lot 3 of 146 Newbridge Road Moorebank - Georges Cove Marina.

**Item:** PLAN 02 - Planning Proposal to amend the Liverpool Local Environmental Plan 2008 at Lot 2 Newbridge Road Moorebank.

**Reason:** He has provided advice previously to the adjoining owner prior to becoming CEO of this Council.

The Hon. John Ajaka left the Chambers for the duration of the items.

## **PUBLIC FORUM**

### **Presentation – items not on agenda**

1. **Ms Pamela Rodoreda** addressed Council on the following item:

#### **Planning Proposal – 93-145 Hoxton Park Road.**

**Motion:** **Moved: Mayor Mannoun**

That a three minute extension of time be given to Ms Rodoreda.

On being put to the meeting the motion was declared CARRIED.

### **Representation – items on agenda**

1. **Mr Robert Megarrity** addressed Council on the following item:

#### **NOM 03 - Harris Creek Bridge.**

**Motion:** **Moved: Mayor Mannoun**

That a three minute extension of time be given to Mr Megarrity.

On being put to the meeting the motion was declared CARRIED

**Mayor Mannoun and Mr John Ajaka, CEO left the Chambers at 3.01pm.  
Clr Macnaught, as the Deputy Mayor, then assumed the Chair.**

**PLANNING & COMPLIANCE REPORTS**

**ITEM NO:** PLAN 01  
**FILE NO:** 362765.2023  
**SUBJECT:** Planning Proposal to amend the Liverpool Local Environmental Plan at Lot 3 of 146 Newbridge Road Moorebank - Georges Cove Marina

**COUNCIL DECISION**

**Motion:** **Moved: Clr Rhodes** **Seconded: Clr Harle**  
That Council:

1. Endorses in principle the planning proposal request to amend Schedule 1 of the *Liverpool Local Environmental Plan 2008* (LLEP) to permit residential accommodation within a key site map area, limit the maximum number of apartments to 319, limit the maximum commercial gross floor area for the site to 1,500m<sup>2</sup> and to amend development standards within the key site area only as follows:
  - a. Increase the floor space ratio from 0.25:1 to 0.4:1; and
  - b. Increase the maximum height of building from 21 meters to 35 meters.
2. Delegates to the CEO authority to prepare the formal planning proposal including any typographical or other minor editing amendments if required;
3. Forwards the planning proposal to the Department of Planning and Environment pursuant to Section 3.34 of the *Environmental Planning and Assessment Act 1979*, seeking a Gateway determination with a request that the Gateway determination be conditioned requiring a site specific Development Control Plan (DCP) and draft Voluntary Planning Agreement (VPA) to be prepared prior to public exhibition;
4. Subject to Gateway determination, undertake community consultation for the planning proposal, site-specific DCP and draft VPA in accordance with the conditions of the Gateway determination and the Liverpool Community Participation Plan 2022;
5. As part of the community consultation period, present the site-specific Development Control Plan to the Design Excellence Panel (DEP), in accordance with clause 15 of Environmental Planning and Assessment Regulations 2021;
6. Receives a further report on the outcomes of public exhibition and community consultation.

On being put to the meeting the motion was declared **CARRIED**.

**Vote for:** Clr Ammoun, Clr Goodman, Clr Green, Clr Karnib, Clr Harle, Clr Macnaught, Clr Rhodes and Clr Hadid.

**Vote against:** Clr Hagarty and Clr Kaliyanda.

Mayor Mannoun was not in the Chambers when this item was voted on.