

4 October 2024

The Hon. Paul Scully  
Minister for Planning and Public Spaces

**Re: Planning proposal PP-2024-658 to amend Liverpool Local Environmental Plan 2008**

Dear Mr Scully,

## 1 Background

A planning proposal, prepared by Mirvac and supported by Liverpool City Council, was forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) seeking to amend Liverpool LEP 2008 by including a new Schedule 1 Additional Permitted Uses Clause to enable a mixed-use development of 340 dwellings, restaurant/cafe uses and amend supporting development standards at Moorebank Marina, Lot 3, 146 Newbridge Road, Moorebank.

The Department also prepared a Gateway determination report (June 2024) with respect to this planning proposal.

In a letter dated 11 July 2024, Mr Daniel Thompson, on behalf of the Minister, advised Mirvac that the Department's decision for the gateway determination of the planning proposal was that the planning proposal should not proceed.

Mr Thompson identified a number of reasons for the decision, noting a need to more adequately address strategic and site-specific merit matters.

The matters raised by Mr Thompson are addressed in Section 2 below.

## 2 Matters raised by Mr Thompson and proponent responses

### 2.1 Item 1

*The proposal demonstrates limited consistency with the Greater Sydney Region Plan – a Metropolis of Three Cities and Western City District Plan's criteria for the location of new housing in an urban renewal context.*

### 2.1.1 Response

#### i Key points:

**The proposal aligns with the criteria for ‘well located’ new housing under both *Greater Sydney Region Plan – a Metropolis of Three Cities* and *Western City District Plan*.**

#### ii Discussion:

The consistency of the planning proposal with the Greater Sydney Region Plan – a Metropolis of Three Cities and Western City District Plan is further demonstrated below.

#### **Greater Sydney Region Plan**

The planning proposal already illustrates alignment with the directions set for:

- A city for people
- A city of great places
- Housing the city
- A city in its landscape

A principal vision for the Urban Renewal area is for opportunities to improve sustainability through a precinct-based approach. This is part of the ‘Housing the city’ direction, and specifically Objective 10 ‘Greater housing supply’.

An important theme in this direction is diversity in housing types. The Plan notes:

As part of this unprecedented level of supply, a range of housing types, tenures and price points will be needed to meet demand.

Planning and designing for better places respects and enhances local character.

Challenges relating to a lack of access to shops, services and public transport or other necessary infrastructure, and local amenity constraints require careful consideration. Other considerations include proximity to special uses. (p 60)

All of these outcomes are achieved by the Planning Proposal. The Moorebank East precinct is being developed at precinct scale; the proposed development qualifies as urban renewal, noting the former industrial and extractive uses; and delivers a range of desired outcomes for the community consistent with the expressions of government and community vision in the Region Plan and Local Strategic Planning Statement respectively.

It should be noted that three of the components of the Moorebank East precinct (identified as Site A – Georges Cove Village; Site C – Georges Cove; and Site D – Marina) are being developed through a coordinated program between Benedict Industries and Mirvac. This enables a coherent vision for the precinct to be delivered and the Planning Proposal has been prepared in that framework.

The planning vision for ‘well located’ housing – expressed through both the Region Plan and District Plan – is delivered through the planning proposal and the development it is intended to enable. The Georges Cove renewal project will deliver a lifestyle location rarely seen in Western Sydney, this fundamentally provides housing diversity. Apartments within the Liverpool local government area cannot practically or favourably all be provided within the CBD, people strive for amenity and different lifestyle options outside of train connectivity, particularly downsizers. The Department’s response takes the view that the site’s “lack of shops, services and public transport or other necessary infrastructure and local amenity constraints... require careful consideration”. This assertion fails to consider the precinct wide proposals and ongoing redevelopment which provide a mix of

services and access to natural amenities. The current planning proposal includes restaurants and cafes, and the Georges Cove Village proposal by the same landowner (which has received gateway approval and may be constructed concurrently) will provide convenient access to a supermarket and speciality shops. The proposal also notes the existence of the M90 high frequency bus route (every 10 minutes during peak periods) within 800 m walking distance of the site.

The nearest marina on the Georges River is in Lugarno, at the edge of Botany Bay, yet some 80% of all boats are registered in Sydney's western suburbs. The residential development not only meets the general requirements for a good location – such as proximity to transport, jobs, services and regional centres – but also the niche benefits of also being located close to a new contemporary boating facility, open space and recreational opportunities.

The latter is not specifically expressed in the strategic planning documents, because they are generic in nature, but the compelling suitability of the location for residential dwellings, and the desirability of the riverside address, should nevertheless be considered.

At the time of writing, the DPHI website ('Demand for housing in NSW' (2022)) states that the implied dwelling demand for NSW is 904,000 new homes needed by 2041, which represents approximately 45,000 homes per year in New South Wales. However, the Housing Accord which has set revised housing targets in 2024, has recently updated these numbers and significantly increased them to represent approximately 75,000 homes per year in New South Wales. Liverpool Council alone, has a housing target of 16,700 new homes to be completed by 2029. There is wide recognition that the housing crisis has become more severe in the period since the Region and District plans were written in 2018.

Further, the Department has specified the importance of Objective 11 of the Region Plan which states "A diversity of housing types, sizes and price points can help improve affordability. Increasing the supply of housing that is of universal design and adaptable to people's changing needs as they age". This is inherently what is delivered under this proposal. The Proposal aims to provide housing which suits a different demographic who do not wish to live in high rise CBD towers but are seeking to 'right-size' with amenity and lifestyle opportunities which are not currently provided within the Western City District.

The stated aim of Objective 37 is 'Exposure to natural and urban hazards is reduced' and the further advice is to "consider options to limit the intensification of development in existing urban areas most exposed to hazards". Given that the development enabled by the planning proposal is above the flood planning level, this development is not 'exposed to hazards'. It would be inappropriate to classify a development which occupies a stratum above flood risk as being exposed to a hazard (as further discussed in the response provided by Tooker and Associates dated September 2024). This is why, for example, a bridge over a river or flood channel is not considered to be exposed to that hazard. The vertical dimension is key. Additionally, this strategy does not provide an unequivocal direction that no development can occur on any land near a river but rather seeks to consider exposure of development that is within a hazard zone.

Other discussions within the Region Plan with respect to flooding are focussed on the considerably different flood risk in the Hawkesbury-Nepean Valley, which is not relevant to this location or this proposal.

Given the above, the relevant strategic objectives noted by the Department in their Gateway Determination report provide no justification to refuse the current application. If anything, the sections of strategic planning documents referenced by the Department provide evidence of policy alignment for the Planning Proposal and should be a basis for progressing the proposal.

### **Western City District Plan**

The Western City District Plan identifies the need for Urban Renewal. It is noted that the Department considers the site of the Planning Proposal is a close, but not direct, alignment to Urban Renewal due to the scale of the Key Site Area.

The Department also needs to consider the statement in The District Plan which stipulates “in older more established parts of Greater Sydney, urban renewal opportunities may exist around regional transport and strategic centres where links for walking and cycling promote a healthy lifestyle and contribute to liveability”. The connectivity achieved through the development of this Site and its ability to deliver the Georges River foreshore active transport trails and the cycleways envisaged through the Liverpool Bike Plan 2018-2023 cannot be rivalled in creating a healthy lifestyle for the community. The vision for the Planning Proposal is clearly to create an amenity-driven precinct, where people can live, work and play, and this conforms with the intent of the Urban Renewal provisions of the District Plan. The Greater Sydney Region Plan references the concept of “transformative urban renewal” and the subject site supports a textbook case study in transformative urban renewal through the repurposing of a former sand quarry into a recreational, retail and residential precinct with a high degree of ‘liveability’, which is a key theme in both the Greater Sydney Region Plan and the Western City District Plan.

The site provides good access to jobs, and this has not been adequately considered within the Department’s response. The site is in close proximity to the Moorebank Logistics Park, which at full capacity has created approximately 6,800 jobs on the site with a further 5,500 jobs forecast in transport related industries. The Moorebank Intermodal Terminal has received significant investment by the Federal Government (approximately \$570 million) and should be supported by further housing choice in proximity for the associated workforce. There will also be additional jobs attributable to the Moorebank Village planning proposal which recently received Gateway approval for a full line supermarket, as well as the proposed restaurants and cafes that form part of the subject planning proposal.

The plan also promotes “accessibility to regional transport, noting that high frequency transport services can create efficient connections to local transport services and expand the catchment area of people who can access regional transport”. The Department’s assessment fails to acknowledge the high frequency M90 bus service as a local transport service which feeds into the regional transport network. The bus service would have residents accessing the Liverpool CBD by bus within 10 minutes (which is well below the target of 30 minutes). Additionally, the ‘accessibility to regional transport’ criteria is not limited to train or metro transport. Regional bus transport is acknowledged as appropriate and assists in people being able to connect to a regional strategic centre such as Liverpool CBD.

The Department also observes that it is “unclear how the planning proposal is consistent with improving housing affordability as no provisions for dedicated on-site affordable housing...”. It is unrealistic to require any single development to deliver the full spectrum of affordability in housing. The housing market as a whole is capable of this and it is essential to deliver choice across the spectrum of different dwelling typologies, locations and price points. The Planning Proposal enables residential dwellings which fit within that continuum of market offerings and is aligned with the intent of strategic plans to meet the demand for “different housing types, tenure, price points, preferred locations and design”.

## 2.2 Item 2

*The Proposal demonstrates limited consistency with Council’s Local Strategic Planning Statement and Local Housing Strategy in respect of locating housing in the right locations.*

### 2.2.1 Response

#### i Key points:

**There is a high degree of consistency with the LSPS and Local Housing Strategy in terms of locating housing in the right locations.**

These strategies aim to prioritise new housing in areas where social, physical and economic infrastructure can accommodate the housing within existing capacity. When we combine this strategy with the LSPS vision for a walkable community with Georges River at its heart, this development is completely aligned.

Council support for the proposed development is longstanding and unambiguous.

ii Discussion:

There is a high level of consistency with Council’s Local Strategic Planning Statement and Local Housing Strategy in respect of locating housing in the right locations.

Council itself, in supporting the planning proposal, would have considered the close alignment with the strategic directions sought by the community and expressed through documents such as the Local Strategic Planning Statement (LSPS).

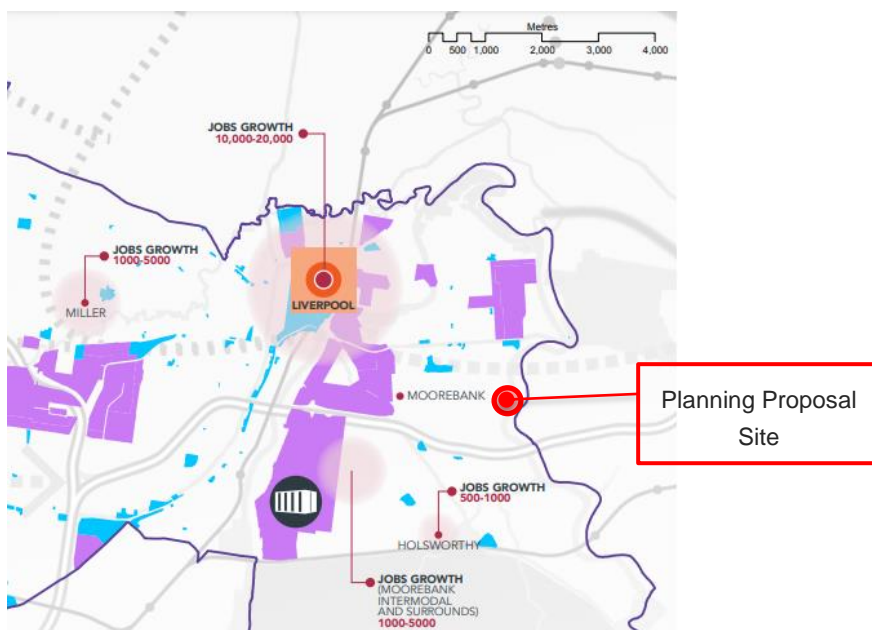
The LSPS vision for local productivity is derived from a number of major development sites, including Western Sydney Airport and the Moorebank Intermodal (LSPS, p 51).

Part of the strategy to deliver an environment that supports productivity is to attract and retain a skilled workforce.

The proposal will provide 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 (refer to Figure 2.1). There are public transport (bus) linkages between the site of the planning proposal and jobs growth areas such as the Liverpool CBD.

The LSPS also promotes a clear vision for a walkable community with Georges River at its heart. The planning proposal yields a significantly invigorated precinct which showcases the river and enables the active enjoyment of that environment. The former use of the site as a sand quarry was a type of industrial land use which was not suitable to integrate with public foreshore access. The planning proposal is part of the transformation of the precinct to a mix of residential, retail and recreational uses which not only enable public access to the foreshore but actively facilitate it.

This precinct, including the marina, achieves precisely what is sought by the community, and expressed through the LSPS, which is attractive choices in housing with a high level of amenity, transport connection and river orientation. This is also the reason why the LSPS identifies this site as an urban investigation area (LSPS, p 20).



## Figure 2.1 LSPS - Productivity

Liverpool Council's housing target of 16,700 completed homes by 2029 supports the State government target of 377,000 new homes across NSW in the next five years. The Housing Strategy states that:

The targets help us address the housing shortage and prioritise more diverse and well-located homes in areas with existing infrastructure capacity – such as transport, open spaces, schools, hospitals and community facilities.

It is not necessary, or feasible, for the housing target to be met if a new housing area is required to possess proximity to all of the noted infrastructure. The correct interpretation of this statement is to prioritise new housing in areas where social, physical and economic infrastructure can accommodate the housing within existing capacity. In this sense, the proposed Georges Cove development is activating the latent capacity of the precinct in terms of open space and transport, and also providing additional social and economic infrastructure within the precinct through the mixed-use development which includes shops, commercial and recreational facilities (e.g. the marina and foreshore trails).

The fact that the infrastructure capacity is being delivered concurrently with the planning proposal is key. The site may not have been specifically identified as a priority location for housing delivery simply because at the time of preparing the 2020 Local Housing Strategy, the site was in transition from a former industrial land use and the 'infrastructure capacity' was not manifested at the time.

As the Department itself notes in the Gateway determination report, the Local Housing Strategy 2020 provides criteria for housing outside of the investigation areas. The merits of the planning proposal in terms of strategic planning merit therefore need to be considered in terms of the locational requirements for new housing (Local Housing Strategy, section 3.6.1) being:

- Areas rezoned for increased housing density should be located within 800m of major transport nodes
- New housing should have good access (within 400m) of open space, employment opportunities and retail facilities
- New housing should be located and designed to preserve the character of existing local neighbourhoods, areas of high ecological value and existing heritage.
- New housing must be supported by infrastructure improvements including the provision of affordable housing where appropriate

The proposal is therefore, not inconsistent with these.

The Local Housing Strategy (section 2.7) also states:

There is sufficient capacity under Council's current planning controls to feasibly deliver the approximately 43,500 additional dwellings forecast to be required by 2036 to meet the needs of the Liverpool community.

However, under both the base case and adjusted demand model there is expected to be a shortfall in the provision of medium density housing by between approximately 4500-8000 dwellings.

If insufficient medium density housing is provided this is likely to force families into unsuitable dwellings, and insufficient supply of dwellings to meet the needs of the ageing population.

The NSW Government's own former initiative for Urban Activation Precincts similarly sought to optimise use of existing and planned infrastructure, and to transform 'renewal' sites (such as Wentworth Point) for high quality housing. This principle of good planning is reflected in the Liverpool Housing Strategy and in the proposed development at the Moorebank Marina.

Furthermore, the fact that Liverpool Council considered its own plan and unanimously supported this proposal is more evidence that Council believe that this proposal fits well with their vision for housing and for this precinct.

## 2.3 Item 3

*The proposal is unjustifiably inconsistent with Section 9.1 Directions 1.1 Implementation of Regional Plans and 4.1 Flooding*

### 2.3.1 Response

#### i Key points

**The development is consistent with each strategic direction, delivery mechanism and planning priority under Local Planning Directions 1.1 and 4.1.**

#### ii Discussion

Direction 4.1 of the Local Planning Directions provide that a planning proposal must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy, the principles of the Floodplain Development Manual 2005, the Considering flooding in land use planning guideline 2021, and 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.

As detailed throughout the responses prepared by Tooker and Associates and Risk-e Business the policies listed above have been addressed and accommodated for. Fundamentally, it needs to be recognised that the site has historically been used as a sand mining site and the flood model in which the planning proposal is being measured against is not based on the approved landform under DA611/2018 or as proposed in Planning Proposal 2024-658 and therefore the assessment of the planning proposal against Direction 4.1 undertaken by the Department is fundamentally flawed.

#### a Local Planning Direction 1.1 – Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. It requires that a planning proposal must be consistent with a Regional Plan.

##### Consistency with the Greater Sydney Region Plan

*A Metropolis of Three Cities* is the Region Plan for Greater Sydney. Greater Sydney’s Three Cities reach across five Districts, including the Western City District.

The ten Strategic Directions for the Metropolis of Three Cities

**Table 2.1 Consistency with Region Plan strategic directions**

Direction	Delivery mechanism	Indicator	How the planning proposal is consistent
A city supported by infrastructure	Infrastructure supporting new developments	Increased 30-minute access to a metropolitan centre/cluster	Liverpool city centre is approximately 25 minutes on the M90 bus from Newbridge Road.

Direction	Delivery mechanism	Indicator	How the planning proposal is consistent
A collaborative city	Working together to grow a Greater Sydney	Increased use of public resources such as open space and community facilities	The planning proposal is part of a precinct-scale initiative to transform former industrial land which will provide boating access for the enjoyment of the Georges River to the public. It opens up previously unavailable access to the waterway and foreshores and will provide currently unavailable boating support infrastructure such as fuel, servicing, and provisions.
A city for people	Celebrating diversity and putting people at the heart of planning	Increased walkable access to local centres	The development of Moorebank East will include shops and services, and these are within a 10 minute walk of the proposed development. Public transport (bus) is also in close proximity which connects residents to Moorebank Town and Liverpool City Centres, if needed.
Housing the city	Giving people housing choices	Increased housing completions (by type) Number of councils that implement Affordable Rental Housing Target Schemes	Locational criteria are articulated in the Region Plan. The 'right location' is characterised by: Urban renewal. This site is transitioning from a former extractive and industrial site to a recreationally focused residential area. Accessibility to jobs. This development site is close to Moorebank Intermodal which is a jobs growth site. Proximity to transport. The M90 bus service is a 5 minute walk away. Links to walking, cycling and healthy lifestyle opportunities. This site introduces important foreshore links to a regional network of active transport, such as cycling.
A city of great places	Designing places for people	Increased access to open space	The proposal creates residential dwellings immediately adjacent to public walking and cycling paths along a network of riverside open space. The linkages in the green transport routes is only possible through the redevelopment of the Moorebank East precinct.
A well connected city	Developing a more accessible and walkable city	Percentage of dwellings located within 30 minutes by public transport of a metropolitan centre/ cluster Percentage of dwellings located within 30 minutes by public transport of a strategic centre	Liverpool city centre is approximately 25 minutes on the M90 bus from Newbridge Road.



Direction	Delivery mechanism	Indicator	How the planning proposal is consistent
Jobs and skills for the city	Creating the conditions for a stronger economy	Increased jobs in metropolitan and strategic centres	The development facilitated by the proposal will create jobs through construction and is within easy reach of areas identified for jobs growth. This is in addition to the jobs created by cafes and restaurants within the development.
A city in its landscape	Valuing green spaces and landscape	Increased urban tree canopy Expanded Greater Sydney Green Grid	The green grid is expanded by the renewal of the former extractive and industrial site. As part of the redevelopment, linkages are provided to the existing walking and cycling trails which allow community access to the Georges River waterfront and open space. The master planning of the precinct also includes landscaping, and therefore additional green space, which is not available through the former use as a sand quarry.
An efficient city	Using resources wisely	Reduced transport related greenhouse gas emissions Reduced energy use per capita	The medium density housing enabled by the proposal creates less reliance on private vehicles and opportunities for reduced energy consumption per capita. The new buildings will achieve NABERS standards for energy and resource efficiency.
A resilient city	Adapting to a changing world	Number of councils with standardised statewide natural hazard information	The proposal enables residential development significantly above the flood planning level. The risk is reduced to a 1-in-5000-year events, which have a likelihood well below any risk anticipated through climate modelling for standard planning horizons (i.e. 100 years).

### Consistency with the Western City District Plan

The Western City District Plan provides a series of priorities and actions to give effect to the Greater Sydney Region Plan.

Relevant planning priorities are included in Table 2.2.

**Table 2.2 Consistency with District Plan planning priorities**

Direction	Delivery mechanism	Planning priority	How the planning proposal is consistent
A city supported by infrastructure	Infrastructure supporting new developments	Planning Priority W1: Planning for a city supported by infrastructure	Infrastructure includes the marina, foreshore activation and associated services, which are part of the vision served by the planning proposal.

Direction	Delivery mechanism	Planning priority	How the planning proposal is consistent
A city for people	Celebrating diversity and putting people at the heart of planning	Planning Priority W3: Providing services and social infrastructure to meet people's changing needs	The planning proposal needs to be seen in the broader context of the Moorebank East precinct which includes social infrastructure (e.g. shops (including a proposed full line supermarket within the Georges Village Planning Proposal and other recreational activity options) and services (e.g. transport). The proposal will deliver medium density housing which is both appropriate for the site and needed in terms of market offerings.
		Planning Priority W4: Fostering healthy, creative, culturally rich and socially connected communities	The proposal facilitates social connection and healthy lifestyles by situating housing opportunities immediately adjacent to social attractants (e.g., the marina) and active community facilities (e.g., riverside trails and further community offerings proposed as part of the development).
Housing the city	Giving people housing choices	Planning Priority W5: Providing housing supply, choice and affordability with access to jobs, services and public transport	The proposal can enable diverse housing options in a region generally dominated by conventional freestanding dwellings. The location is also close to bus transport and to identified areas for jobs growth.
A city of great places	Designing places for people	Planning Priority W6: Creating and renewing great places and local centres, and respecting the District's heritage	Central to the planning proposal is the need to design desirable places for people to both live and visit. The renewal of the former extractive and industrial site enables the creation of a 'great place' which will be available for enjoyment by the public. It will be a unique offering for western Sydney. No other Georges River site has capacity to provide a marina coupled with residential premises as well as dedicated publicly owned parklands. There are no heritage constraints on the site.
A well-connected city	Developing a more accessible and walkable city	Planning Priority W7: Establishing the land use and transport structure to deliver a liveable, productive and sustainable Western Parkland City	Walkability and public transport connectivity for the precinct is enhanced by the proposal, as it is situated close to foreshore trails and the bus routes on Newbridge Road.

Direction	Delivery mechanism	Planning priority	How the planning proposal is consistent
A city in its landscape	Valuing green spaces and landscape	Planning Priority W12: Protecting and improving the health and enjoyment of the District's waterways	The planning proposal is part of a precinct-scale initiative to transform former industrial land which will provide river access for recreational boaters and importantly will address the current lack of boating services for the enjoyment of the Georges River. It opens up previously unavailable access to the waterway and foreshores, while also improving the health and integrity of the foreshore area. The master planning for the precinct will also add tree canopy to a site which, other than along the periphery, does not currently support mature vegetation.
		Planning Priority W16: Protecting and enhancing scenic and cultural landscapes	The planning proposal is part of a precinct-scale initiative to transform former industrial land into a destination and to enhance the enjoyment of river vistas.
		Planning Priority W18: Delivering high quality open space	The planning proposal is part of a precinct-scale initiative to transform former industrial land into high quality riverfront open space, including linkages to regional active transport networks.
A resilient city	Adapting to a changing world	Planning Priority W20: Adapting to the impacts of urban and natural hazards and climate change	The development facilitated by the planning proposal is built above the flood planning level and provides evacuation for residents.

**b Local Planning Direction 4.1 – Flooding**

The objectives of this direction are to:

- (a) ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and
- (b) ensure that the provisions of an LEP that apply to flood prone land are commensurate with flood behaviour and includes consideration of the potential flood impacts both on and off the subject land.

As referenced above, the responses prepared by Tooker and Associates and Risk-e Business provide in depth discussion around the flooding issues raised in the Department's letter.

**Table 2.3 Consistency with flooding requirements**

Item	How the planning proposal is consistent
<p>(1) A planning proposal must include provisions that give effect to and are consistent with:</p> <ul style="list-style-type: none"> <li>(a) the NSW Flood Prone Land Policy,</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> <li>(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.</li> </ul>	<p>The assessment report, prepared by Council with regard to DA-611/2018 (Georges Cove Marina), considers flood risk at the site. The Georges Cove Marina development, which was approved by the Western City Planning Panel on 2 May 2021, occupies the same footprint as the current development facilitated by the planning proposal, and the Council found:</p> <p>The proposed development is in accordance with the NSW Government Floodplain Development Manual.</p> <p>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 LLEP 2008 and LDGP 2008 for example, 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 which have been verified by a structural engineer and annexed to the Tooker and Associates report. A well-designed building would be able to resist the hydraulic loads from a flood in the proposed conditions.</p> <p>The development controls under section 7.8 of the Liverpool LEP 2008 are also satisfied.</p> <p>As noted above further discussion around the flood response is provided in the Tooker and Associates response and the Risk-e Business response.</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 is to facilitate development which will have a ground level at RL 7.6 AHD, which is above the flood planning level of RL 6.1 m AHD. The planning proposal therefore does not rezone land within 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> <li>(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,</li> <li>(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,</li> <li>(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</li> <li>(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.</li> </ul>	<p>The planning proposal is to facilitate development which will have a ground level at RL 7.6 AHD, which is above the flood planning level of RL 6.1 m AHD. This clause therefore does not apply to the development.</p>

Item	How the planning proposal is consistent
<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> <p>(a) permit development in floodway areas,</p> <p>(b) permit development that will result in significant flood impacts to other properties,</p> <p>(c) permit a significant increase in the dwelling density of that land,</p> <p>(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,</p> <p>(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or</p> <p>(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.</p>	<p>The planning proposal does not propose any Special Flood Consideration uses between the flood planning level and the PMF.</p>
<p>(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.</p>	<p>The Floodplain Development Manual 2005 has been superseded by the <i>Flood Risk Management Manual 2023</i>. The Flood Risk Management Manual 2023 is addressed within the Flooding response prepared by Tooker and Associates, however, it is to be noted that the manual states that the “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”.</p>

## 2.4 Item 4

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

### 2.4.1 Response

#### i Key points

The definition of a merits-based approach within the Flood Risk Management Manual provides:

‘Weighs social, economic, ecological and cultural impacts of land-use options for different flood prone areas together with flood damage, hazard and behaviour implications, and environmental protection and wellbeing of the states’

The arguments throughout this response and the flooding response highlight the significant social, economic and ecological benefits of the site being developed from an old sand mine to a mixed-use urban renewal precinct which has mitigated and responded to the flood risks of the site.

#### ii Discussion

A merits-based assessment broken down below provides clear justification for the development:

1. Social: The redevelopment of an old sand mining site which is inaccessible to the public to an urban renewal project which provides café and restaurants as well as opening up the Georges River

foreshore for public benefit and enjoyment, provides a variety of social benefits to encourage the meeting of people and the improvement of people's day to day life by fostering social connection through place making.

2. Economic: The economic benefits of providing a mixed-use urban renewal development are significant and multifaceted. The project not only provides construction jobs but also long-term on-site jobs through the retail opportunities on site. The development of the Site also provides a marina development which is not provided within Western Sydney providing diversification of jobs and amenity opportunities, which are likely to provide further spending within the Liverpool local government area.
3. Ecological: The site has limited to no constraints from an ecological perspective. The site has historically been cleared due to its former land use and therefore there is no significant vegetation impacted by the proposal.
4. Mitigation: As detailed throughout the Tooker and Associates and Risk-e Business responses the development has been designed with a floor level above the flood planning level, as well as all residential dwellings being located above the PMF level (however it is noted within the Flood Planning Manual as being "neither feasible nor socially or economically justifiable to use the PMF as a basis for determining Flood Planning Levels". The building is also able to be designed to withstand up to a PMF event as verified by a structural engineer to allow for shelter in place if required.

## 2.5 Item 5

*While the development facilitated by the proposal can evacuate during flood events, this development will absorb spare capacity for development within Moorebank East.*

### 2.5.1 Response

#### i Key points

**Evacuation is discussed within the response by Risk-e Business, whereby it is concluded that there would be additional capacity in the road network to allow for the development in addition to the evacuation of existing residents.**

#### ii Discussion

The Risk-E Business report concludes that "reliance of the Georges River Evacuation Study by Molino Stewart 2022 commissioned by the Council but not adopted, is fraught with danger as it clearly fails to address significant inputs into the modelling that would clearly provide different outputs of vehicles that could be evacuated within the timeframes". There are multiple inputs that if slightly refined (with clear justification) would determine that the site can be evacuated without having any impact on existing Chipping Norton residents.

## 3 Other matters

### 3.1 Acid sulfate soils

We note that an acid sulfate soil (ASS) management plan was provided pursuant to DA-611/2018 which provided for the construction and operation of the Georges Cove Marina, and which was determined (approval) by Western City Planning Panel on 2 May 2021. The ASS Management Plan was provided as Appendix D6 to the EIS for the Marina.

The development facilitated by the planning proposal does not materially alter the exposure to ASS and it is also noted that the site, being a former facility for both sand extraction and subsequently landfill, is comprised of generally imported material or fill, and therefore (notwithstanding the ASS mapping) the ASS risk is low. As part

of the original development consent granted for extractive industry activities at the site, the rehabilitation of the land was also approved in ensuring that the site be returned to a restored landform – however that landform is an engineered solution rather than naturally occurring material, including ASS.

We also note that Liverpool Local Environmental Plan 2008 includes development standards for ASS at section 7.7 of the LEP. The Council assessment report for the determination of DA-611/2018 states that the provisions of LEP section 7.7 have been satisfied.

As a result, we find the Departments comments regarding ASS not applicable.

### 3.2 Wetland proximity area

The Department has sought further evidence that the proposed Key Site Area does not intersect with the mapped Wetland Proximity Area.

There is a very minor encroachment for the Key Site Area into the Wetland Proximity Area.

Although minor, this encroachment nevertheless requires a response to Local Planning Direction 4.2 Coastal Management.

Please refer to the Planning Proposal Addendum which demonstrates consistency with the Local Planning Direction 4.2.

## 4 Consultation

Mirvac has continuously consulted with Liverpool City Council regarding the matters raised over the past six year period since lodgement of the Planning Proposal.

Yours sincerely

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