



GATEWAY REVIEW
Justification Assessment

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

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

Background Information			
Details of the planning proposal	Explanation of Provisions		
	The planning proposal (Attachment A) seeks to amend The Liverpool Local Environmental Plan 2008 as follows:		
	Control	Current	Proposed
Zone	RE2 Private Recreation,	No change proposed	

	RE1 Public Recreation, SP2 Infrastructure - Drainage	
Schedule 1 Additional permitted uses	N/A	An additional permitted use for part Lot 3 in DP 1246745 within the RE2 Private Recreation land use zone. The location of the additional permitted use will be mapped on the Key Sites Mapping and would permit: <ul style="list-style-type: none"> • Development for the purposes of residential flat buildings, multi dwelling housing; and • Restaurants/ cafes with a maximum total gross floor area of 1,500m² and limited to the ground floor of the residential flat building. • The proposal is for the additional uses to be situated on an approved Marina development.
Maximum height of the building	21m	35m
Floor space ratio	0.25:1	0.4:1
Minimum lot size	10,000m ²	No change proposed

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



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

The Proposal

The planning proposal:

- Would enable 21 terrace dwellings and 319 units,

- restaurants and cafes (up to 1500m², on the ground floor)

Site description and surrounding area

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

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

In terms of the surrounding locality:

- north of Newbridge Road is an industrial area and north-east is Riverside Park,
- east across the Georges River are public reserves (Canterbury-Bankstown LGA),
- south is a golf course and the southwestern motorway
- west is the established Moorebank residential areas including the Moorebank Town Centre (approximately 1.8km from subject site)

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



Figure 2 Subject site and surrounding locality

Environmental Analysis

Flooding

Relevant flood and evacuation studies for this site include:

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

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

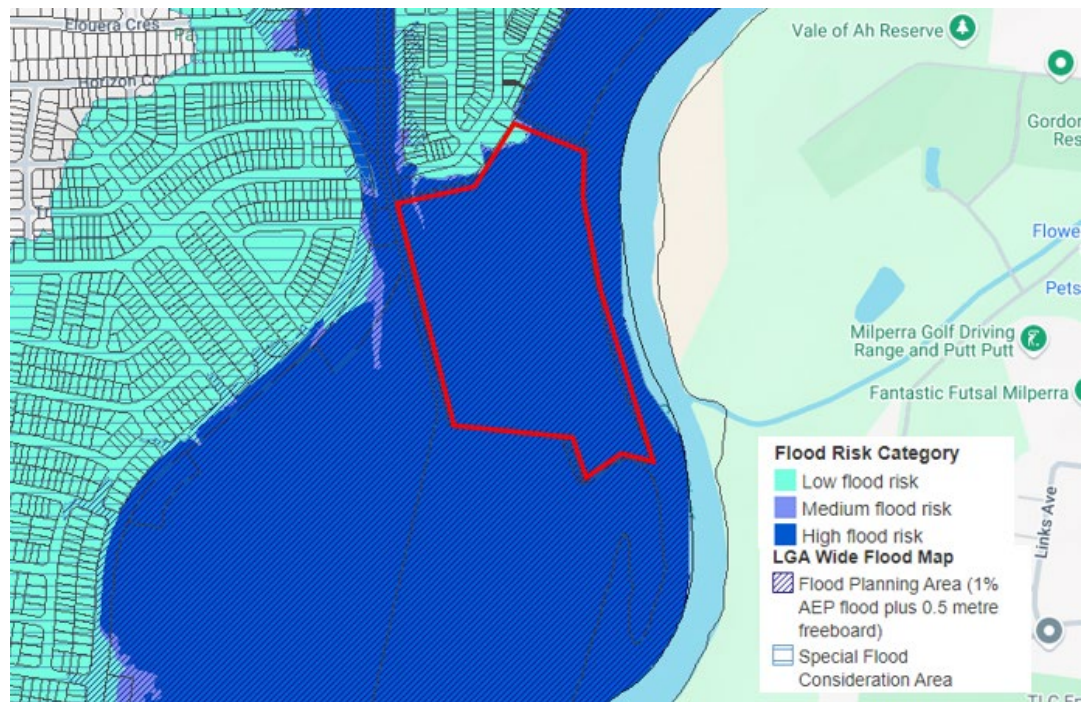


Figure 3 Flood mapping from GRFR 2020

Although the BMT 2020 and Molino Stewart 2022 have not been adopted by Council, they are the most recent and relevant flood related studies assessing how and if all premises within Liverpool LGA's floodplain can evacuate within the available flood warning time, given a 100% evacuation compliance. It also modelled the evacuation capacity of the road network to accommodate future growth identified in planning proposals for land located along the Georges River, including Liverpool CBD, Chipping Norton, Warwick Farm and Moorebank.

State agencies including NSW State Emergency Service (SES), Department of Climate Change, Energy, the Environment and Water (DEECCW) and the Department of Planning, Housing and Infrastructure (DPHI) consider this information the latest available data and should be considered in assessing development and planning proposals. The BMT 2020 Flood Study identifies the site is affected by:

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

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

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

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

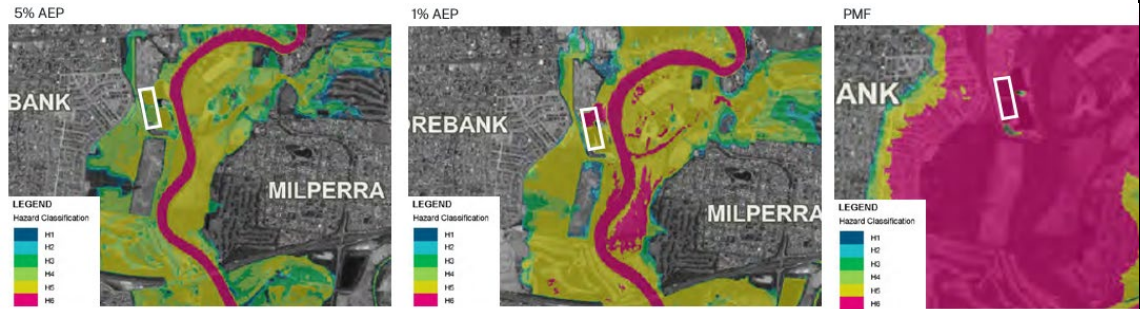


Figure 4 Flood mapping from BMT 2020

Bushfire Prone Land

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

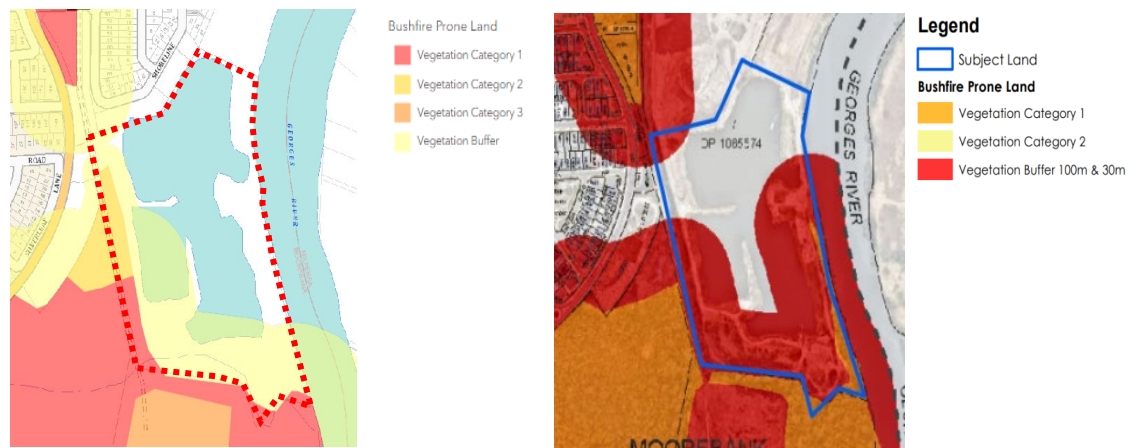


Figure 5 Bushfire Prone Land Extent (Left: NSW Planning Portal 2024, Right: Bushfire Assessment Report, 2018)

Acid Sulphate Soil

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

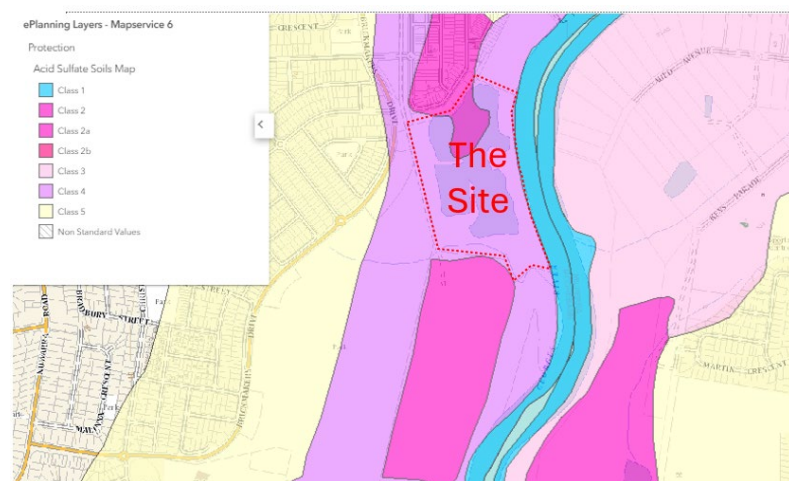


Figure 6 Acid Sulphate Soil

Infrastructure and Services

Public Transport

The M90 Bus service runs along Newbridge Road (800m away from subject site) on both directions, between Liverpool and Burwood, and is scheduled for frequent services; every 10 minutes in peak hours and every 15 minutes otherwise.

The 902 Bus service is accessed from Moorebank Town Centre (1.8 km away from subject site), running every 30 minutes during peak hour and hourly on the hour otherwise.

DCP Road

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

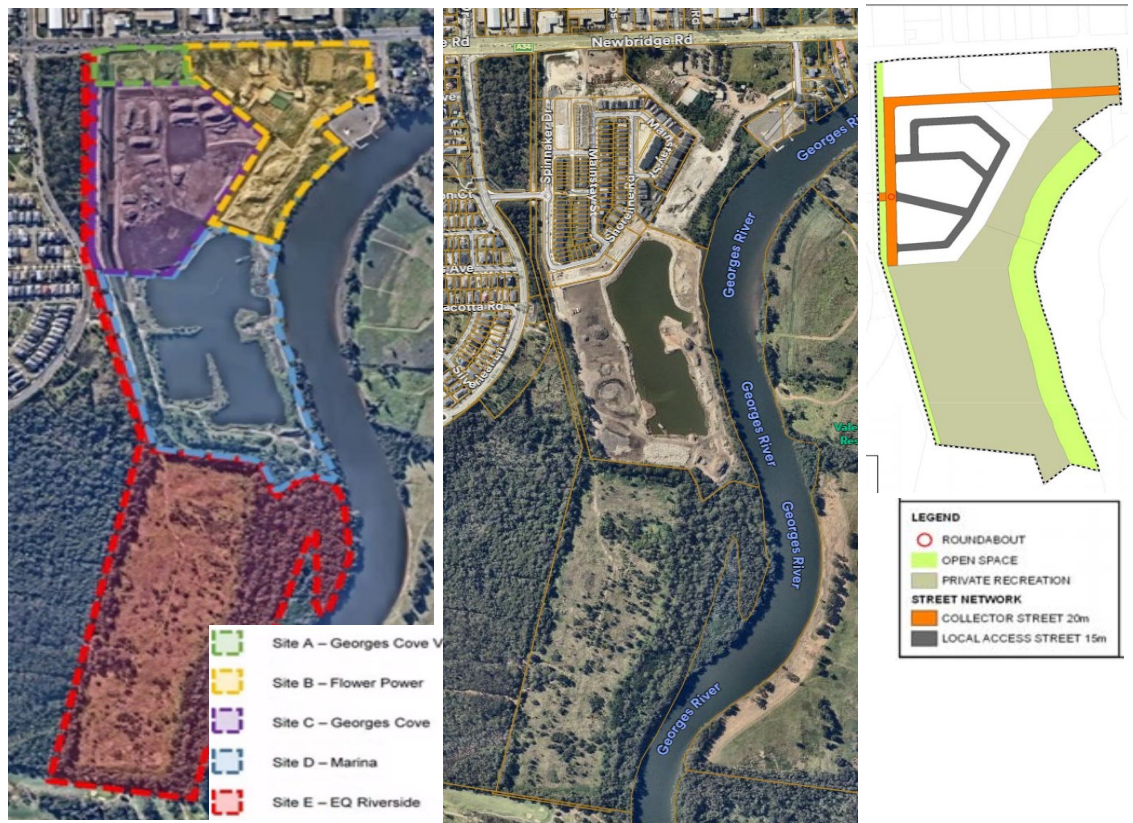


Figure 7 Moorebank East Precinct (Left), Precinct aerial image March 2024 NearMap(Middle), Liverpool DCP Part 2.10 – Road Layout (Right)

Background

Moorebank East Precinct

The broader area is known as Moorebank East Precinct and a site specific DCP applies to the site. The DCP identifies the site as private recreation land. In 2018, Council engaged Tract Consultants to provide urban design advice on the individual planning proposals and assist with integration within the precinct.

The consultants proposed a draft structure plan which identified the subject site as “Site D – Marina” suitable for high density development (7-8 storeys) in the southern part of the key site and medium density (3-4 storeys) in the northern part. The draft Structure Plan was not exhibited and was not adopted by Council.

Development Application- DA 611/2018

	<p>The Sydney Western City Planning Panel approved DA 611/2018 for the Georges Cove Marina on 07 May 2021 with a 24 month deferred commencement for the following works:</p> <ul style="list-style-type: none"> • a function centre, tourist, entertainment, recreation and club facilities • a wet berth facility predominantly for small craft (boats less than 15m long) and some vessels up to 20m long • three external carparks and two basement carparks providing a total of 637 car spaces • a private marina clubhouse • servicing infrastructure including a site access road, power, water and sewerage <p>Historical Planning Proposal for the site</p> <p>On March 2017, The Department issued a Gateway Determination to proceed for a proposal to introduce 125 dwellings on the site, amend the land use zone boundary to increase the R3 Medium Density Residential land by 0.41ha to facilitate an additional nine dwellings. The NSW Supreme Court declared the determination invalid in December 2017 as the proposal did not comply with the procedural requirements under clause 6 of the State Environmental Planning Policy 55 – Contaminated Land.</p> <p>On September 2020, the planning proposal in its current form was forwarded to the Department and was not deemed adequate as it did not address the findings of the NSW Government Flood Inquiry or address the draft shelter in place policy. The Department advised to resubmit the proposal once Council's Georges River Regional Flood Evacuation study was completed and can inform all planning proposals within Moorebank East. The current planning proposal is a resubmission of this proposal.</p>
<p>Reasons for Gateway determination</p>	<p>The planning proposal was determined to not proceed on 10 July 2024, and a Gateway refusal (Attachment B) was signed by the Executive Director, Local Planning and Council Support, as delegate of the Minister for Planning and Public Spaces, who determined that the planning proposal should not proceed based on the assessment provided under the Gateway Assessment Report (Attachment C). The reasons for refusal are summarised below.</p> <p>Does not give effect to the Regional Plan or Western City District Plan</p> <p>As discussed under section 3.1 of the gateway assessment report, the planning proposal is inconsistent with the Greater Sydney Region Plan – a Metropolis of Three Cities (Regional Plan). The proposal seeks to provide diverse housing, being units and terraces (objective 11), however, the subject site is located in a high flood risk area and the Regional Plan requires housing to be located in areas which are not exposed to existing and potential natural hazards (objective 37). Strategy 37.1 of the Regional Plan seeks to avoid locating new urban development in areas exposed to natural and urban hazards and consider options to limit the intensification of development in existing urban areas exposed to hazards.</p> <p>Section 3.2 of this report discusses the planning proposal against relevant planning priorities of the Western City District Plan (District Plan). Planning priority W5 is about providing housing supply, choice and affordability with access to jobs, services and public transport. Development of Moorebank Precinct is considered to be a “urban renewal” development and when considered against the criteria of an urban renewal development, the planning proposal is:</p> <ul style="list-style-type: none"> • not located in proximity to any regional and district infrastructure, such as Sydney Metro - City and Southwest. • not located within walking distance of centres with public transport access.

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

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

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

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

The planning proposal intends to facilitate ground floor restaurants and cafes on a Marina development, with high density residential atop. The floor level of these commercial uses would be 1.5m above the flood planning level, which means that the areas would only be inundated in a 1 in 5,000 year flood event (0.02% AEP). The minimum floor level for all apartments and terraces would be 1.4m above the Probable Maximum Flood (PMF) level.

The structures would be supported on piles to form more flood storage. The basement carpark would extend under the terraces and apartment buildings, and flood flows would be designed to pass under the carpark over the width of the apartment buildings. The proposed development's supporting piles would be exposed to high hazard (H6) during flood events including the 1% AEP. The building platform will be designed to withstand flood debris and uplift loads and will consist of flood compatible materials to minimise flood damages.

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

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

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

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

However, these capacities rely on road upgrades to M5 and M7 which are not complete yet (in some cases, has not commenced). Any additional vehicles above 340 would pose a problem for where traffic converges onto a single lane at Brickmakers Drive and Nuwarra Road, there is insufficient road capacity for timely evacuation for Chipping Norton evacuees.

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

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

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

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

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

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

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

The planning proposal is inconsistent with the NSW Flood prone land policy as it does not satisfy the primary objective of the policy being to reduce the impacts of flooding and flood liability on communities. The proposal does not avoid causing an increase in the threat to personal safety and property and any unwarranted increase in potential damage to public property and services. If this proposal was to proceed, it would have impacts on established surrounding communities in relation to flood evacuation capacity.

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

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

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

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

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

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

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

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

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

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

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

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

	<p>The existing roads of Spinnaker Drive, Promontory Way and Brickmakers Drive have all been designed and constructed without the consideration of the growth in this planning proposal and are constructed below the PMF level. Some parts of the surrounding roads will be inundated from 5% AEP flood event, and completely inundated before the PMF event has reached its peak.</p> <p>Additionally, Molino Stewart 2022 recommends the investigation of an additional southbound lane on Nuwarra Road between Brickmakers Drive and Heathcote Road to increase the evacuation capacity of the Moorebank East precinct and to reduce the queuing that severely limits the evacuation of Chipping Norton onto the M5.</p> <p>The site is not well located</p> <p>Despite the site being located in Greater Sydney, it is not considered to be ‘well located’ for the intended restaurants, cafes and medium to high density residential accommodation due to environmental and infrastructure constraints.</p> <p>The proposed housing is not critical to Liverpool LGA</p> <p>Liverpool LGA is on track to meet the 5-year target set by the National Housing Accord. The Accord target does not invalidate the need for appropriate land use planning considerations. Notwithstanding the suitability of the proposal, the proposed housing will not significantly contribute to Liverpool LGA meeting the housing target per the Accord.</p>								
<p>Material provided in support of application/proposal</p>	<p>Council has provided a detailed response (Attachment F) to the documentation provided as part of the Gateway Review. Council and the Local Planning Panel report and minutes are also included as part of this brief.</p> <table border="1" data-bbox="347 1070 1409 1339"> <thead> <tr> <th>Attachment</th> <th>Title</th> </tr> </thead> <tbody> <tr> <td>Attachment F</td> <td>Council response to Gateway review</td> </tr> <tr> <td>Attachment F1</td> <td>Local Planning Panel Report and Minutes - 31 August 2020</td> </tr> <tr> <td>Attachment F2</td> <td>Council Meeting Report and Resolution – 13 December 2023</td> </tr> </tbody> </table>	Attachment	Title	Attachment F	Council response to Gateway review	Attachment F1	Local Planning Panel Report and Minutes - 31 August 2020	Attachment F2	Council Meeting Report and Resolution – 13 December 2023
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Attachment F2	Council Meeting Report and Resolution – 13 December 2023								
<p>Proponent views</p>									
<p>Details of justification</p>	<p>The Proponent requested a Gateway review (Attachment G) and provided supporting reports and studies on 4 October 2024. Key points from submission:</p> <p>The local community and Liverpool City Council unanimously support this development</p> <p>Liverpool Council considered its own plan and unanimously supported this proposal. It is evident that Council believe that this proposal fits well with their vision for housing and for this precinct. Both the surrounding community and Liverpool City Council unanimously support this development from a social, economic and ecological perspective, providing many benefits for the wider community including the recreational and retail uses provided by the Proposal.</p> <p>The site is a Low Flood Hazard Category</p> <p>Except for Newbridge Road Entrance, the planning proposal is for a site where the agreed benchmark (by Council) for pre-development landform is above the 100 year</p>								

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

Flood behaviour of Georges River is slow rising

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

Intended development can withstand hydraulic forces in PMF flood

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

All habitable floor levels are flood free

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

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

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

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

Similar development already exists in high hazard zones

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

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

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

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

The proposal has site specific merit in relation to flooding risk

The proposal is justified as follows-

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

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

The proposal is justifiably consistent with section 9.1 Direction for Flooding

The proposal is consistent with the relevant direction as follows-

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

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

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

The planning proposal is consistent with the district plan by

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

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

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

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

Material provided in support of application/ proposal	The proponent has provided and referenced the documents below to support their Gateway review request.	
	Attachment	Title
	Attachment G	Mirvac Gateway Determination Review Request
	Attachment G1	EMM - Planning Response
	Attachment G2	Tooker & Associate - Flood response
Attachment G3	RiskE Business - Evacuation Response Gateway Review	

Assessment summary

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

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

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

Any additional comments: