

# LIVERPOOL CITY COUNCIL

## SUPPLEMENTARY LOCAL PLANNING PANEL MEMO

DA Number	DA-24/2017
Proposed Development	<p>Staged Subdivision of the site:</p> <p>Stage 1: Subdivision of the site to create 3 superlots (being superlot 1, 2 and 3);</p> <p>Stage 2: Subdivision of superlot 2 into residue lots (for future residential lots, drainage reserves and a public reserve/open space for dedication to Council); site remediation works, bulk earthworks, road and drainage and infrastructure construction and connect to services and pedestrian bridge.</p> <p>The proposed works are designated development pursuant to the Environmental Planning and Assessment Regulation 2000, for the purposes of contaminated soil treatment works.</p> <p>The proposed development is Integrated Development pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 and requires concurrence from:</p> <ul style="list-style-type: none"><li>– NSW Environment Protection Authority pursuant to the Protection of the Environment Operations Act 1997;</li><li>– NSW Rural Fire Services under Section 100B of the Rural Fires Act 1997;</li><li>– NSW Department of Primary Industries – Water pursuant to the Water Management Act 2000;</li><li>– NSW Roads Maritime Services – Pursuant to SEPP (Infrastructure) 2007.</li></ul>
Property Address and Description	146 Newbridge Road, Moorebank Lot 70 DP 1065574
Applicant	Mirvac Homes Pty Ltd
Owner	Tanlane Pty Ltd
Date of DA lodgement	23 January 2017
Number of Submissions	3
Cost of Works	\$10,021,576.00
Recommendation	Deferred Commencement
Memo date	12 December 2019

### 1. EXECUTIVE SUMMARY

A meeting is scheduled on 16 December 2019 with the Local Planning Panel (LPP) for the determination of DA-24/2017. Correspondence was received by Council on 12 December 2019 from the Panel requesting additional information for consideration at the meeting. The Panel requested the submission of additional information, which relate to:

- A plan showing the zoning map overlaid on the proposed subdivision;
- A plan showing the zoning map overlaid on the proposed works;
- An assessment of permissibility of each component of stage 2 of the proposed development for each zone;

- iv. An assessment of the zone objectives for each component of stages 1 and 2 of the proposed development; and
- v. Clarification on why clause 5.1 of LEP 2008 is relevant to the assessment when it appears that the land is zoned RE2 not RE1, and therefore not identified for acquisition.

This memo has been prepared as a supplementary memo to the assessment report considered by the LPP for the meeting on the 16 November 2019, and addresses the request for additional information.

It is considered that the applicant has adequately demonstrated that the above issues, previously raised by LPP, have been appropriately addressed. Accordingly, the development is considered acceptable, and is recommended for approval.

## 2. ASSESSMENT OF OUTSTANDING ISSUES

The following comments are provided to each of the matters raised by LPP:

### i. Zoning:

The application proposes three (3) lot subdivision that will take place in two stages. Stage 1 involves the subdivision of the site area into three super lots as shown in Figure 1. A plan showing the zoning map overlaid on the proposed subdivision in Stage 1 is shown in Figure 2 and attached for consideration (Attachment 1).

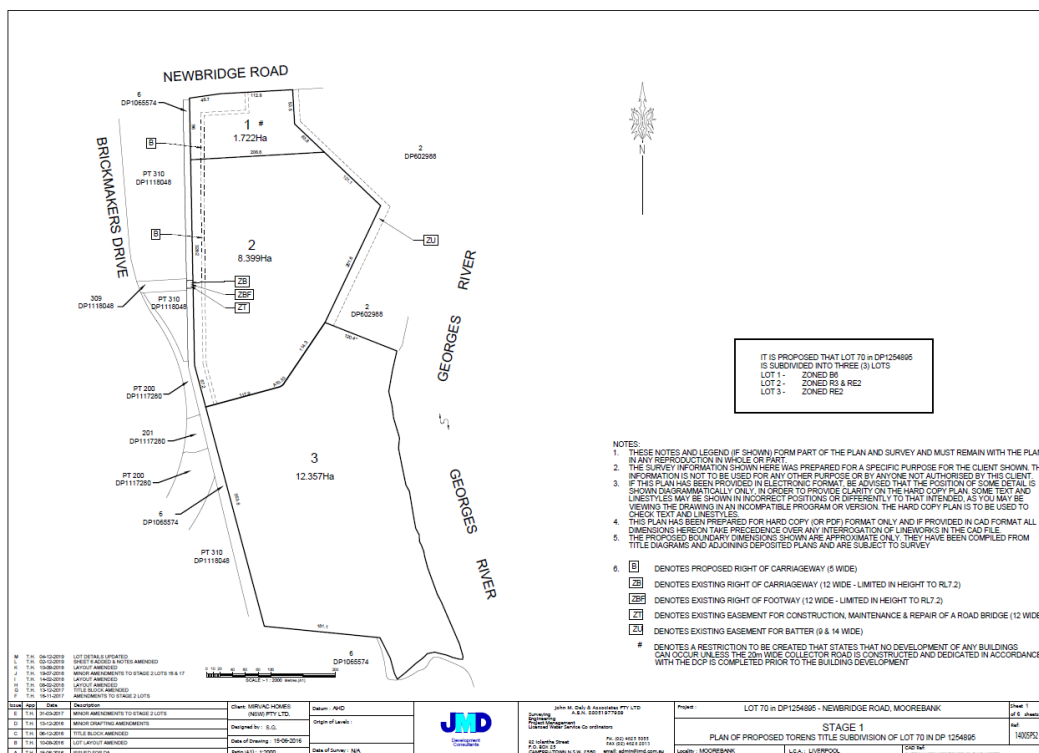
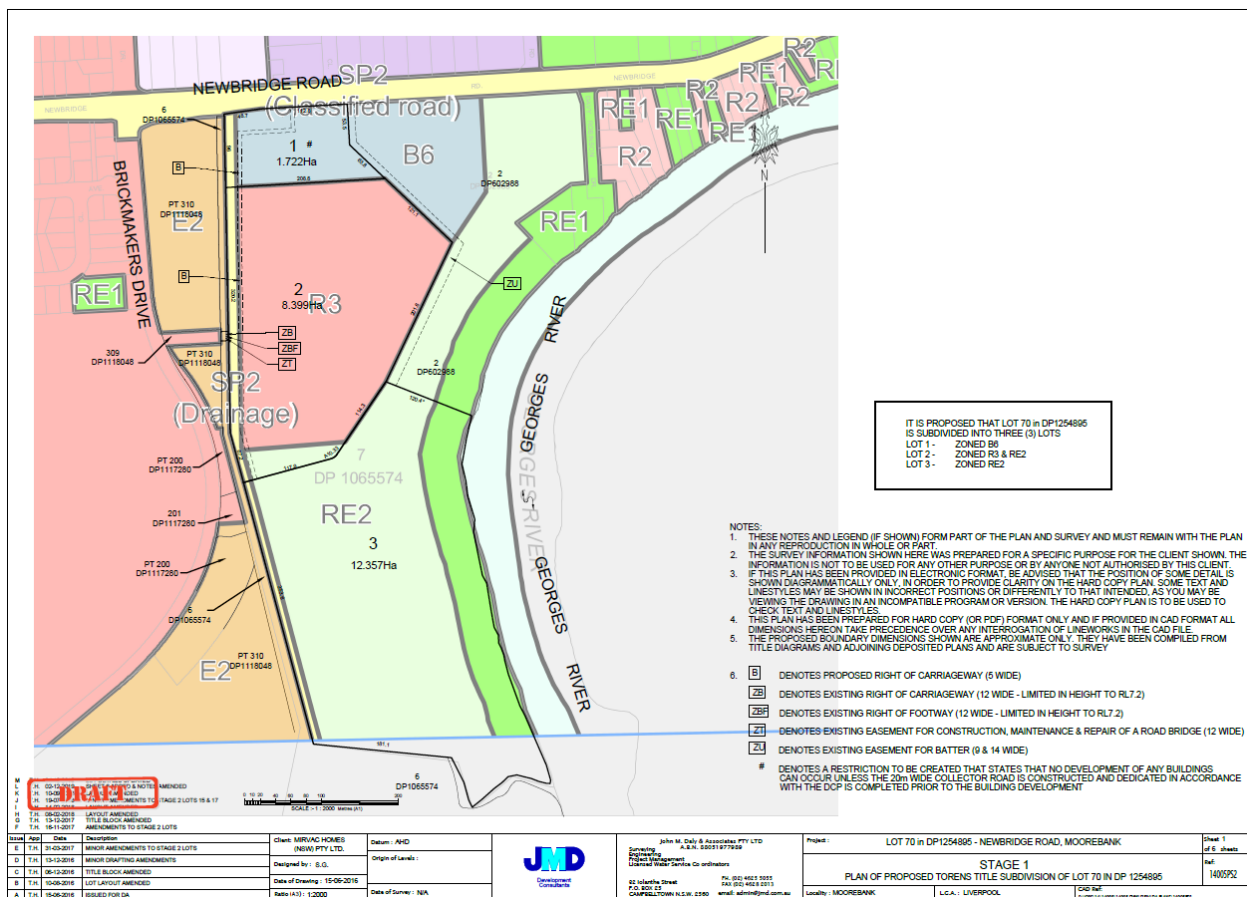
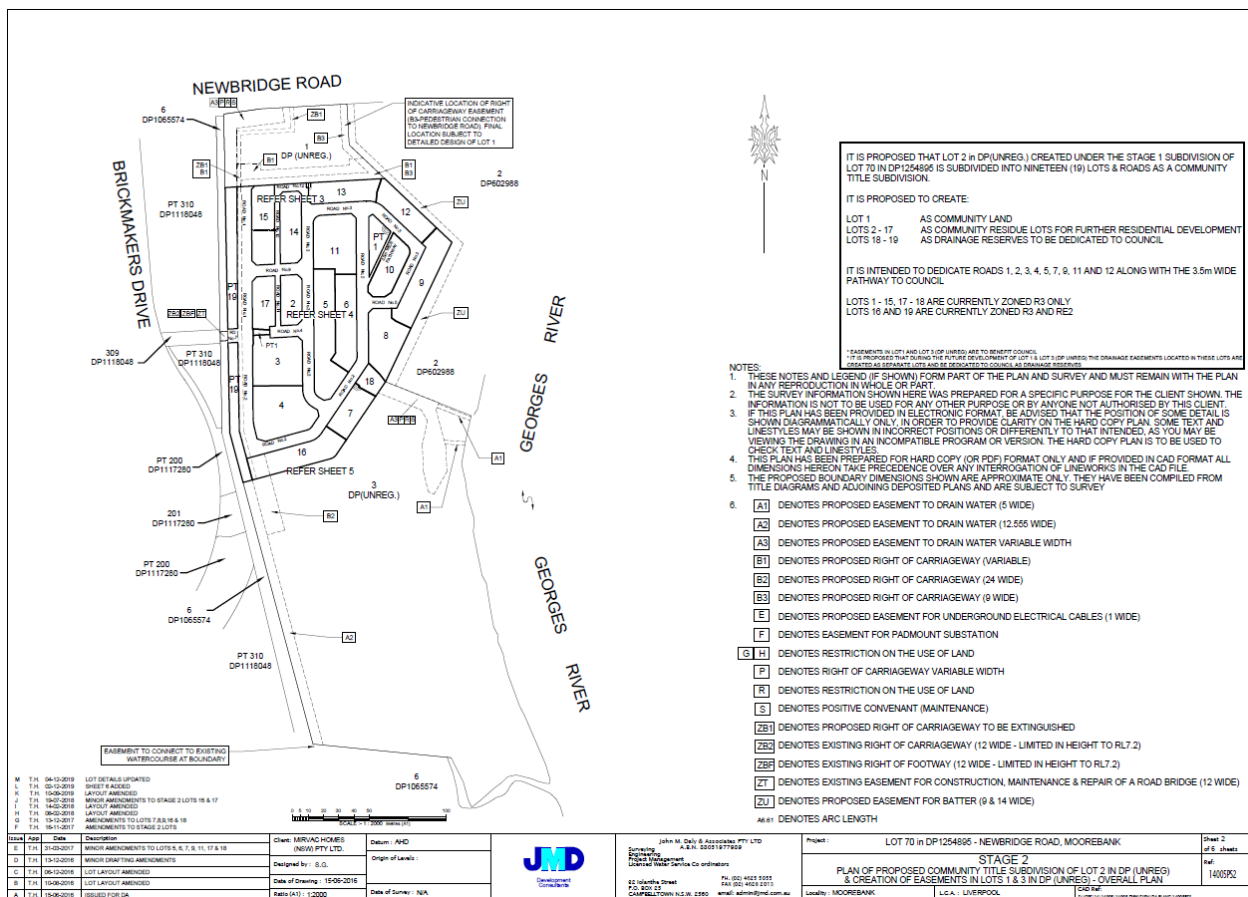


Figure 1: Three (3) lot subdivision in Stage 1 subdivision of 146 Newbridge Road, Moorebank

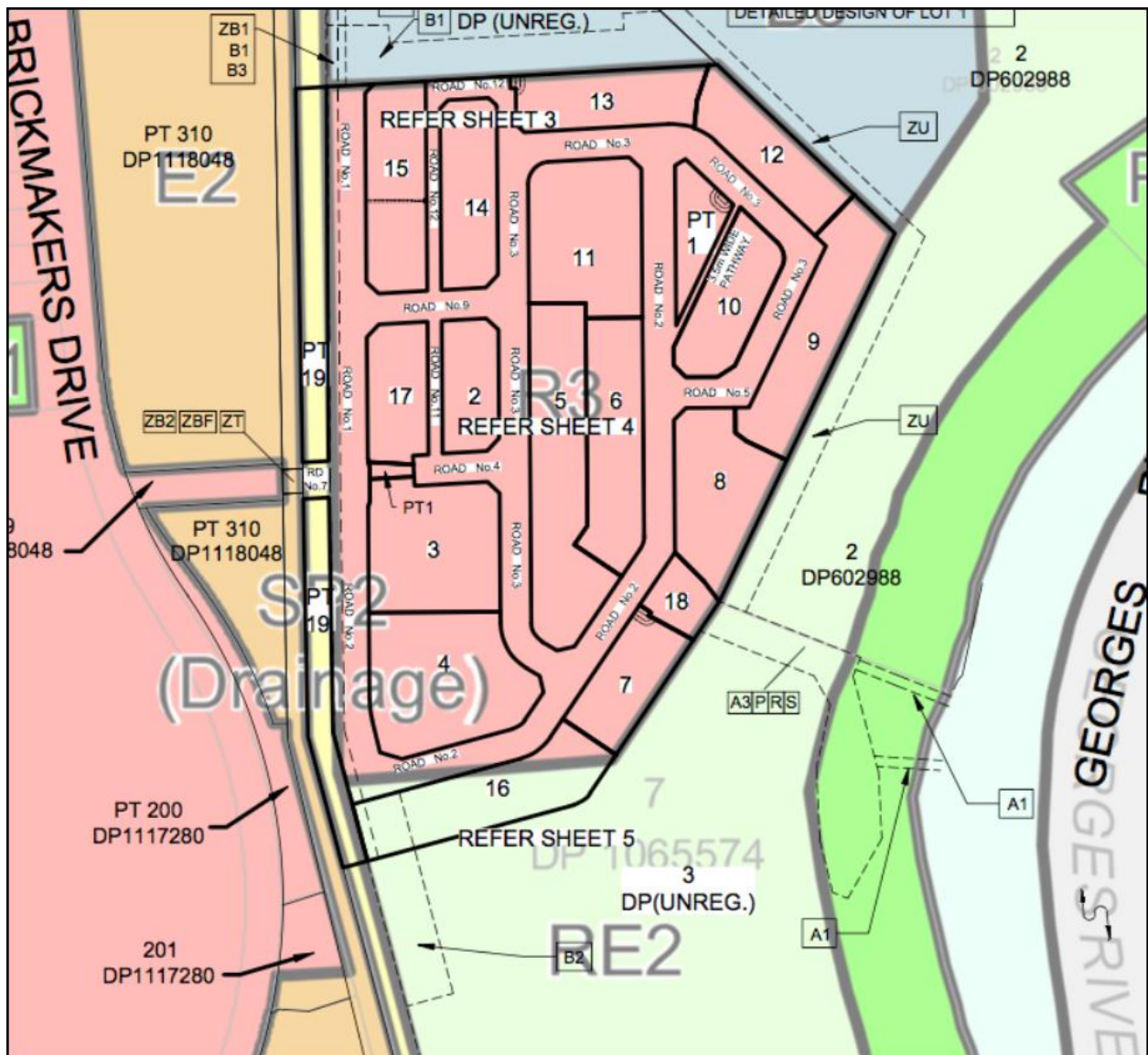


**Figure 2: Zoning Map overlaid over three (3) lot subdivision at 146 Newbridge Road, Moorebank**

Stage 2 of the project includes the subdivision of Lot 2 to create a total of 19 lots as shown in Figure 3. A plan showing the zoning map overlaid on the proposed subdivision in Stage 2 is shown in Figure 4 and attached for consideration (Attachment 2).



**Figure 3: Nineteen (19) lot subdivision in Stage 2 of subdivision of 146 Newbridge Road, Moorebank**



**Figure 4: Zoning map overlaid over nineteen (19) lot subdivision at 146 Newbridge Road, Moorebank**

Stage 2 of the proposed development also involves the following works as shown in Figure 5:

- Bulk Earthworks across the whole of lot 2 and in parts of lot 1 and lot 3 where drainage works will be constructed, including:
  - Site remediation works;
  - Cut and fill; and
  - Importation and placement of VENM.
- Construction of supporting infrastructure in lot 2 and parts of lot 1 and lot 3 that include:
  - Extension of the western retaining wall in the west of the site area;
  - Nine roads to be dedicated to LCC;
  - Services to support residual lots;
- Preservation of lot 1 for the development of uses supported by the B6 zone;
- Preservation of lot 3 to facilitate the future marina development; and
- Evacuation and Access Bridge.

Figure 6 shows the zoning map overlaid over the works proposed in Stage 2 of the proposed development. The plan has been attached for consideration (Attachment 3).



## ii. Permissibility:

The developable area is zoned B6 – Enterprise Corridor, R3- Medium Density Residential, RE1- Public Recreation Zone, RE2 – Private Recreation and SP2 – Infrastructure under Liverpool Local Environmental Plan 2008.

Stage 1 involves the subdivision of the site into three super lots in the following zones:

- Lot 1 – B6 Zone – Enterprise Corridor and SP2 – Infrastructure;
- Lot 2 – R3 Zone – Medium Density Residential, RE2 Zone – Private Recreation and SP2 – Infrastructure; and
- Lot 3 – RE1 Zone – Public Recreation Zone, RE2 Zone – Private Recreation and SP2 – Infrastructure.

Stage 2 involves the further subdivision of Lot 2 created in Stage 1 of the proposed development into 19 residue lots. The residue lots are subject to a separate development application for further development. Accordingly, the permissibility of future uses is not the subject of the current development application.

Stage 1 subdivision of the site into three super lots and Stage 2 subdivision of Lot 2 created in Stage 1 into 19 lots is permitted with consent pursuant to *Clause 2.6 Subdivision – consent requirements* in LLEP 2008.

Stage 2 of the project also includes a number of proposed works associated with the future use of the area as intended in the R3 Medium Density Residential Zone. The permissibility of proposed works in Stage 2 is discussed below with respect to each land use zone:

### **B6 Zone – Enterprise Corridor**

The following Stage 2 work is proposed in the B6 Zone – Enterprise Corridor:

- Bulk earthworks, including;
  - Site remediation works;
  - Cut and Fill; and
  - Importation and placement of VENM.
- Construction of supporting infrastructure that include:
  - Extension of the western retaining wall in the west of the site area;
  - Construction of a temporary turning head at the end of Road No. 1 to facilitate vehicle turning and provide access to local road network for any future redevelopment in Lot 1;
  - Drainage infrastructure and services to support residential development in Lot 2 and future development in Lot 1.

The works can be defined as ‘roads’, ‘earthworks’ and ‘drainage’. It is noted that ‘roads’ are permitted in the B6 zone. It appears that ‘earthworks’ and ‘drainage’ are both defined in the LLEP 2008 but not as land use terms. Notwithstanding this, it should be noted that works proposed in the B6 zone are ancillary in nature and not a dominant purpose in its own right. The dominant purpose of the land is the subject to future applications. Until then, the proposed works supports the redevelopment of Lot 2 for medium density residential uses and Lot 1 for enterprise uses.

### **R3 Medium Density Residential Zone**

The following Stage 2 work is proposed in the R3 Zone – Medium Density Residential Zone:

- Bulk earthworks, including;

- Site remediation works;
  - Cut and Fill; and
  - Importation and placement of VENM.
- Construction of supporting infrastructure that include:
  - Construction of roads to be dedicated to Council;
  - Construction of a temporary turning head at the end of Road No. 1 to facilitate vehicle turning and provide access to local road network for any future redevelopment in Lot 1;
  - Drainage infrastructure and services to support residential development in Lot 2 and future development in Lot 1.
- Evacuation and Access Bridge.

The works can be defined as 'roads', 'earthworks' and 'drainage'. It is noted that 'roads' are permitted in the R3 zone. It appears that 'earthworks' and 'drainage' are both defined in the LLEP 2008 but not as land use terms. Notwithstanding this, it should be noted that works proposed in the R3 zone are ancillary in nature and not a dominant purpose in its own right. The dominant purpose of the land is the subject to future applications. Until then, the proposed works supports the redevelopment of Lot 2 for medium density residential uses.

### **RE1 Public Recreation Zone**

The following Stage 2 work is proposed in the RE1 Public Recreation Zone:

- Bulk earthworks, including;
  - Site remediation works;
  - Cut and Fill; and
  - Importation and placement of VENM.
- Construction of supporting drainage infrastructure for medium density residential development In Lot 2 that includes the construction of a raingarden that discharges to Georges River.

The works can be defined as 'earthworks' and 'drainage'. It is noted that 'roads' are permitted in the RE1 zone. It appears that 'earthworks' and 'drainage' are both defined in the LLEP 2008 but not as land use terms. Notwithstanding this, it should be noted that works proposed in the RE2 zone are ancillary in nature and not a dominant purpose in its own right. The dominant purpose of the land is the subject to future applications in accordance with the executed VPA for the site. Until then, the proposed works supports the redevelopment of Lot 2 for medium density residential uses.

### **RE2 Private Recreation Zone**

The following Stage 2 work is proposed in the RE2 Private Recreation Zone:

- Bulk earthworks, including;
  - Site remediation works;
  - Cut and Fill; and
  - Importation and placement of VENM.
- Construction of supporting infrastructure that include:
  - Extension of the western retaining wall in the west of the site area;
  - Extension of Road No. 2 into Lot 3 to facilitate vehicle turning and provide access to local road network for any future redevelopment in Lot 3; and
  - Drainage infrastructure and services to support residential development in Lot 2 and future development in Lot 1.

The works can be defined as 'roads', 'earthworks' and 'drainage'. It is noted that 'roads' are permitted in the RE2 zone. It appears that 'earthworks' and 'drainage' are both defined in the LLEP 2008 but not as land use terms. Notwithstanding this, it should be noted that works

proposed in the RE2 zone are ancillary in nature and not a dominant purpose in its own right. The dominant purpose of the land is the subject to future applications. Until then, the proposed works supports the redevelopment of Lot 2 for medium density residential uses.

### **SP2- Infrastructure**

The following Stage 2 work is proposed in the SP2 – Infrastructure Zone:

- Construction of raingarden including channel reconstruction and 3m wide concrete maintenance access.

The purpose of the SP2 zone is shown in the Land Zoning Map as Drainage. The above work is permitted in the SP2 zone as it is development for the purpose of Drainage.

### **iii. Objectives:**

An assessment of the zone objectives for each component of Stages 1 and 2 of the proposed development are discussed as follow:

### **B6 Zone – Enterprise Corridor**

The objectives of the B6 Zone are as follows:

- *To promote businesses along main roads and to encourage a mix of compatible uses.*
- *To provide a range of employment uses (including business, office, retail and light industrial uses).*
- *To maintain the economic strength of centres by limiting the retailing activity.*
- *To provide primarily for businesses along key corridors entering Liverpool city centre, major local centres or retail centres.*
- *To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.*
- *To provide for residential uses, but only as part of a mixed use development.*

Land zoned B6 is proposed to be subdivided into Proposed Lot 1 created in Stage 1. Stage 2 of the development proposes a number of ancillary drainage, earthworks and road works that are designed to support residential development in proposed Lot 2. The works will not prejudice the ability of Proposed Lot 1 to be redeveloped in the future for a range of employment uses. In fact, it is considered that the works unlocks development dependencies between Proposed Lots 1 and 2. For instance, the collector road proposed within the R3 zone with access to Brickmakers Drive will be extended into Proposed Lot 1 thereby providing vehicular access to any future development without relying on Newbridge Road.

### **R3 Medium Density Residential Zone**

The objectives of the R3 Zone are as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a concentration of housing with access to services and facilities.*
- *To provide for a suitable visual transition between high density residential areas and lower density areas.*
- *To ensure that a high level of residential amenity is achieved and maintained.*

Land zoned R3 is proposed to be subdivided into proposed lot 2 created in Stage 1. Stage 2 of the development proposes to further subdivide proposed lot 2 into residue lots that will eventually be redeveloped in the future for the purpose of residential accommodation. Works within proposed lot 2 includes earthworks, drainage and road works that will service the future development of residue lots into housing. In this case, it is considered that the proposed development will enable land zoned R3 to provide for the housing needs of the community.

### **RE1 Public Recreation Zone**

The objectives of the RE1 Zone are as follows:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To provide sufficient and equitable distribution of public open space to meet the needs of residents.*
- *To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.*

Land zoned RE1 is proposed to be subdivided into proposed Lot 3 created in Stage 1. Works are proposed within RE1 zoned land that is designed to support residential development in R3 zoned land, including drainage infrastructure and earthworks. Notwithstanding this, the work proposed is not considered to be inconsistent with the objectives of the zone. For instance, the drainage infrastructure proposed also retains the ability to be planted out with local native species and does not preclude the RE1 zoned land from being used as a recreation area. Accordingly, the proposed works are compatible works that enables RE1 zoned land to meet the recreation needs of residents.

### **RE2 Private Recreation Zone**

The objectives of the RE2 Zone are as follows:

- *To enable land to be used for private open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To enable land uses that are compatible with, and complimentary to, recreational uses.*

Land zoned RE2 is proposed to be subdivided into proposed Lot 2 and 3 as created in Stage 1. Land zoned RE2 in proposed Lot 2 will be further subdivided into residue lots that is intended for compatible land uses. The use of RE2 zoned land in proposed lot 2 will be subject of future development applications. Notwithstanding this, the subdivision of RE2 zoned land does not prejudice the ability of the land to be used for private open space or recreational purposes. In addition, it is noted that ancillary works for the future residential development in proposed Lot 2 are proposed in RE2 zoned land. The works will not prejudice the ability of Proposed Lot 3 to be redeveloped in the future for recreational purposes.

### **SP2- Infrastructure**

The objectives of the SP2 Zone are as follows:

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To reserve land for the provision of infrastructure.*

Land zoned SP2 Infrastructure is mapped for drainage purposes. The application proposes upgrades to the channel to accommodate additional drainage infrastructure. In this regard, the proposed development is consistent with the objectives of the zone.

Given the above, it is considered that the proposed development is consistent with the objectives of all land use zones within the site.

#### **iv. Clause 5.1 of LLEP 2008:**

The land is zoned RE1 and RE2 in accordance with LLEP 2008. Land zoned RE1 Public Recreation and marked “Local open space” is identified in Clause 5.1 of the LLEP to be acquired by Council.

The proposal involves work in areas zoned RE1 Public Recreation and marked “Local open space”. More specifically, the application proposes the construction of supporting drainage infrastructure for medium density residential development in Lot 2 that predominately comprises of a raingarden that discharges to Georges River.

Clause 5.1A states that development is not permitted in land zoned RE1 Public Recreation and marked “Local open space” unless it is for ‘earthworks’ and ‘recreation areas’. LLEP 2008 defines ‘recreation areas’ as the follows:

***recreation area** means a place used for outdoor recreation that is normally open to the public, and includes—*

- (a) a children’s playground, or*
- (b) an area used for community sporting activities, or*
- (c) a public park, reserve or garden or the like,*

*and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).*

The proposed raingarden is a water quality treatment device that will improve stormwater runoff generated by development to the north in the R3 zone. Despite its drainage function, the raingardens also retains the ability to be planted out with local native species.

Given the above, it is considered that the proposal is consistent with Clause 5.1A of LLEP 2008 in that the works does not preclude the RE1 zoned land from being used for its intended purpose as a recreation area.

### **3. CONCLUSION**

As demonstrated in the assessment of the outstanding LPP matters above, the applicant is considered to have addressed the concerns raised by LPP. As the outstanding LPP matters have been adequately addressed by the applicant and supported by Council’s technical officers, the proposed development is considered an acceptable form of development for the site. Accordingly, there does not appear to be any impediment for the determination of the application.

### **4. RECOMMENDATION**

That pursuant to Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application DA-24/2017 be approved, subject to conditions of consent.

### **5. ATTACHMENTS**

1. Stage 1 Subdivision Plan with Zoning
2. Clause 4.6 Variation Request Liverpool Local Environmental Plan 2008
3. Overall Plan with Zoning

