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# SITE COMPATIBILITY CERTIFICATE APPLICATION under the AFFORDABLE RENTAL HOUSING SEPP 1-3 White Street, LILYFIELD, NSW 2040



Submitted to Department of Planning, Industry and Environment  
September 2019

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# 1. Introduction

## 1.1 Overview

This Report has been prepared by Pacific Planning on behalf of Prestige Fisheries Holdings Pty Ltd (landowner) to accompany an application to the NSW Department of Planning, Industry and Environment (DPIE) for a Site Compatibility Certificate (SCC) under Division 5 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP). The application relates to land located at 1-3 White Street, Lilyfield.

The SCC supports the development of the site which will facilitate 16 dwellings, of which a minimum of 50% (8 dwellings) will be designated affordable housing units, managed by Amélie Housing a registered and accredited housing provider, for a period of 10 years in accordance with the provisions of the ARH SEPP.

The subject site is zoned IN2 Light Industrial within which development for the purpose of a 'residential flat building' is prohibited. Further, the site is within 800 metres of the public entrance to Lilyfield light rail station. As per Section 34(a) the provisions of Division 5 of the ARH SEPP therefore apply.

A SCC was issued by the Department of Planning and Environment to St Vincent de Paul Housing (trading as Amélie Housing) for the adjoining land at 5-7 White Street, Lilyfield on 23 May 2017 under clause 37(5) of the ARH SEPP. The SCC was issued for the following purpose:

*“Works to develop the site for affordable rental housing comprising:*

- The demolition of all existing buildings on the site;*
- The construction of an apartment building comprising three-storeys of 22 affordable rental apartments and communal facilities; and*
- Basement parking for cars, motorbikes and bicycles and associated vehicular access and landscaping.”*

Subsequently, a Development Application (DA) was approved by the Sydney Eastern City Planning Panel on 18 October 2017 for a 2-3 storey apartment building with 22 dwellings (16 Affordable units & 6 Social Housing units) over basement parking. The development is currently under construction (as of August 2019).

Due to the high unmet demand for affordable housing in the inner west, Amélie Housing are seeking opportunities in suitable/compatible locations for affordable housing. The subject site at 1-3 White Street, being an isolated industrial site and adjoining residential development, while being located within close proximity to public transport is considered a suitable location for such a development that supports the provision of affordable housing in the Inner West. Its development for affordable housing would offer strong property management and tenancy management benefits to Amélie through co-location of this and the adjoining affordable housing projects at 5-7 White Street.

This report describes the site, its context and existing environment. It also outlines the proposal, the project justification and provides an environmental assessment of the concept facilitated by the SCC against the provisions of the ARH SEPP and relevant matters for consideration under Section 4.15(1) of the EP&A Act, including relevant legislation, environmental planning instruments, planning policies and strategies.

The SCC application is supported and should be read in conjunction with the following reports and documentation:

- Survey Plan, prepared by Sturt De Nett Land Surveyors
- Architectural drawing set, prepared by Prescott Architects
- SEPP 65 Statement, Prescott Architects
- Arboricultural Impact Assessment by Treehaven Environments;
- Letter from Amélie Housing confirming that units will be operated as affordable housing in accordance with ARHSEPP requirements;
- Flood Risk Management Report by Kozarovski and Partners;
- St Vincent de Paul Housing Certificate of Registration as community housing provider.
- Site Compatibility Certificate for 5-7 White Street, issued by the Department of Planning and Environment on 23 May 2017
- DA consent for 5-7 White Street

## 1.2 Background

### 1.2.1 Site Compatibility Certificate: 5-7 White Street

In July 2016, an application was made to the Department of Planning and Environment for a SCC pursuant to the provisions of Division 5 of the ARH SEPP 2009 for adjoining land at 5-7 White Street Lilyfield.

The SCC application was referred to Council for comment on 23 August 2016. Council responded on 1 September 2016 mainly raising concerns with the loss of industrial land. The Department's assessment concluded:

*"Assessment of the application for a SCC has confirmed that the site is appropriate for affordable housing. The site is located on the edge of the Moore Street industrial precinct, is generally separated from employment uses, is serviced by all essential utility infrastructure and is close to a range of public transport services.*

*Furthermore, residential development on the land is unlikely to have a significant adverse impact on the surrounding environment or land uses, considering its location in the Moore Street precinct and surrounding land uses."*

On 23 May 2017, the Deputy Secretary, Planning Services as delegate of the Secretary of the then Department of Planning and Environment issued a Certificate under Clause 37(5) of the Affordable Housing SEPP. The certificate determined:

- *The site described in Schedule 1 is located in the Sydney Region within 800 metres of a light rail station;*
- *The development described in Schedule 1 is compatible with the surrounding land uses, having regard to the matters set out in Clause 37(6)(b); and*



- *That development for the purposes of affordable rental housing of the kind proposed in the application is not likely to have an adverse effect on the environment and will not cause any unacceptable environmental risks to the land uses subject to the requirements specified in Schedule 2 of this certificate”*

Further, and in accordance with the provisions of clause 37(7) of the Affordable Housing SEPP, the SCC imposed the following requirements:

- (1) *All residential accommodation established on the site is made available for affordable rental housing for a minimum of 30 years.*
- (2) *The final layout and number of units in the proposed development will be subject to the resolution of issues relating to access, flood risk management, geotechnical stability, soil contamination and aircraft noise and shall be determined through the assessment of the development application under section 79C of the Environmental Planning and Assessment Act 1979.*
- (3) *Consultation with Sydney Water regarding potential impacts on drainage services is to be undertaken through the development application process.*

The SCC for 5-7 White Street, Lilyfield is included at [Appendix G](#) for reference.

### **1.2.2 Development Application: 5-7 White Street, Lilyfield**

A Development Application was lodged with Inner West Council on 1 June 2017 pursuant to Section 4.12 of Part 4 of the EP&A Act. The application sought consent for the demolition of the existing warehouse and construction of an affordable housing residential flat development containing 22 units within two buildings over a basement car park, and associated works, pursuant to the SCC issued in May 2017.



**Figure 1:** Photomontage of approved development at 5-7 White Street, Lilyfield



**Figure 2:** 5-7 White Street under construction (July 2019)



**Figure 3:** Western Perspective – 5-7 White Street, Lilyfield



**Figure 4:** Eastern Perspective – 5-7 White Street, Lilyfield



The application was approved by the Sydney Eastern City Planning Panel as consent authority on 18 October 2017, as follows:

*“The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 (now 4.16) of the Environmental Planning and Assessment Act 1979.*

*The decision to approve the application was unanimous.*

*The reasons for the decision of the Panel were:*

- 1. The proposal provides for a much needed local affordable housing to be available for a minimum of 30 years.*
- 2. The amenity of the local area lends itself to residential use. The current industrial activity is dormant.*
- 3. With the proposed conditions of consent imposed, there will be no unacceptable adverse impact on the surrounding natural or built environments. The introduction of new stormwater infrastructure will reduce the impacts of flooding.*
- 4. The Panel considered concerns raised by objectors with regard to waste management and the issue of insufficient information to determine the application. With regard to waste management, the issue does not justify refusal of the application.*

The consent is included at Appendix H for reference.

### 1.3 Affordable Rental Housing SEPP

The Affordable Housing SEPP (ARH SEPP) was introduced on 31 July 2009 to increase the supply and diversity of affordable rental and social housing throughout NSW by promoting infill affordable rental housing in existing residential areas that are accessible by public transport. Developments are required to be well located and to be designed to be compatible with the character of the locality.

Throughout NSW there is a strong need for a range of affordable housing options amongst the community, and it is well recognised that government at all levels, private industry and the non-government sector must work in partnership towards finding innovative ways to provide more affordable housing. The Affordable Housing SEPP is a policy mechanism to facilitate this co-operation.

The SCC for adjoining land at 5-7 White Street determined on 23 May 2017 that the ARH SEPP applies to that land. Clause 34 *Land to which Division applies* states:

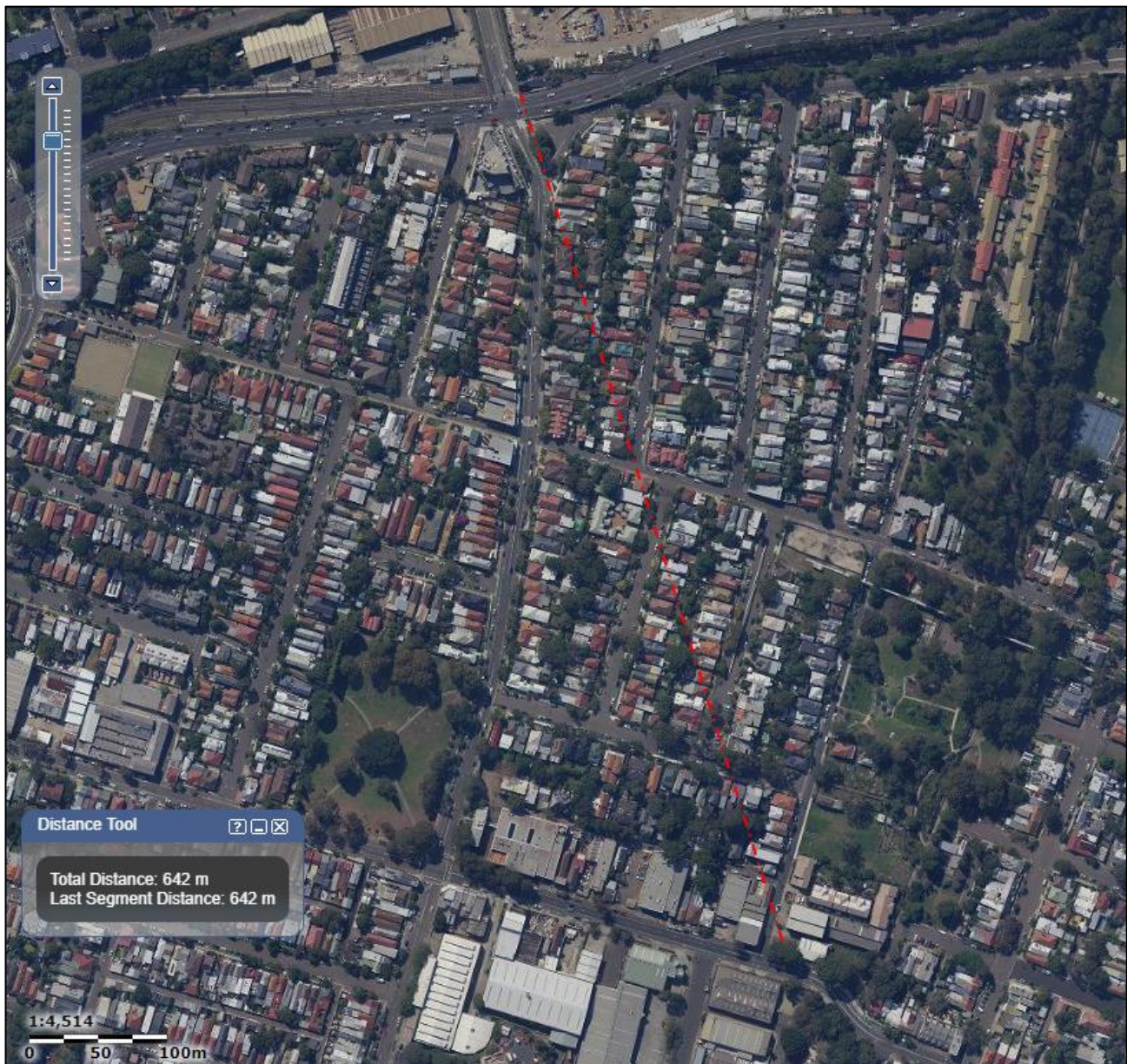
*This Division applies to the following land, but not if development for the purposes of a residential flat building is permissible on the land under another environmental planning instrument:*

- (a) land in the Sydney region that is within 800 metres of:*
  - (i) a public entrance to a railway station or light rail station, or*
  - (ii) in the case of a light rail station with no entrance—a platform of the light rail station,*
- (b) land in one of the following towns that is within 400 metres of land in Zone B3 Commercial Core, Zone B4 Mixed Use or a land use zone that is equivalent to either of those zones:*

*Albury, Ballina, Batemans Bay, Bathurst, Bega, Bowral, Cessnock, Charlestown, Coffs Harbour, Dapto, Dubbo, Glendale–Cardiff, Gosford, Goulburn, Grafton, Lismore, Maitland, Morisset, Newcastle, Nowra, Orange, Port Macquarie, Queanbeyan, Raymond Terrace, Shellharbour, Tamworth, Taree, Tuggerah– Wyong, Tweed Heads, Wagga Wagga, Warrawong, Wollongong.*

Therefore, the SEPP applies as follows:

- the land is within 800 metres of the public entrance to Lilyfield light rail station (see Figure 5 below); and
- is zoned IN2 Light Industrial under the Leichhardt LEP 2013 under which ‘residential flat buildings’ are not permitted.



**Figure 5:** Distance of site from Lilyfield light rail station – circa 642 metres

Further, in accordance with the requirements of the SEPP, this report will demonstrate:

- Compatibility with surrounding land uses;
- Acceptable impact, in respect to bulk and scale, on existing and approved uses;
- Sufficient services and infrastructure to meet the demands arising from the development; and
- That the development concerned will not have an adverse effect on the environment.



## 2. Site Description and Context

### 2.1 Site Description

The land to which this SCC application applies is located at 1-3 White Street, Lilyfield. The site is located on the northern side of Moore Street between White Street and Whites Creek Lane. The site is known legally as Lot 1, Section 5, DP 3001 and is owned by Prestige Fisheries Holdings Pty Ltd. It is generally rectangular in shape with an angled & curved rear boundary. A notch from the rear of the property along Whites Creek Lane is owned by Sydney Water.

As shown in the attached survey plan (Appendix A), the site has frontage of 18.29m to White Street, a depth of 79.91m (along the boundary to 5-7 White Street) and 65.835m (along the Moore Street interface) and an area of 1,328m<sup>2</sup>. A stormwater drainage easement diagonally traverses the northern rear part of the site connecting with the Whites Creek channel passing behind the site under a footpath/cycleway.

The subject site comprises three (1) lots and is known legally as follows:

Address	Lot details	Area (m <sup>2</sup> )
1-3 White Street	Lot 1 DP 3001	
<b>Total Area</b>		<b>1,328sq.m</b>

Table 1: Site description

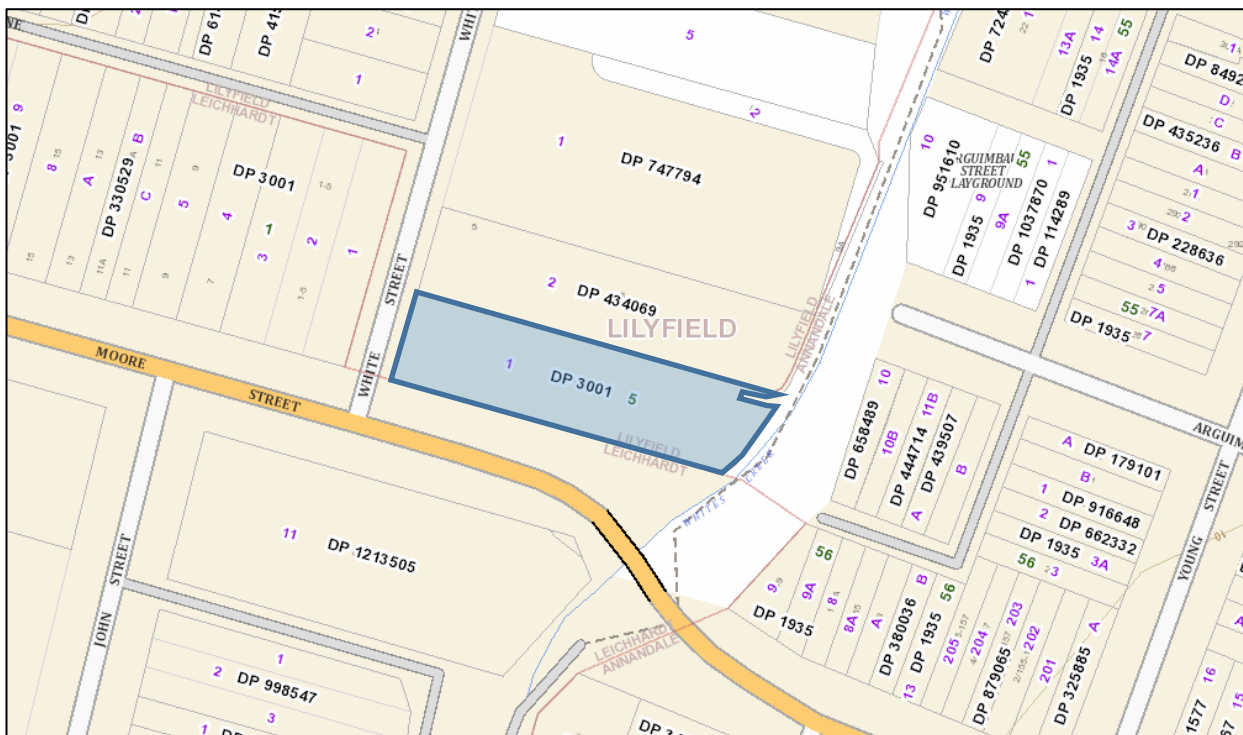


Figure 6: Site Description

The subject site contains a brick factory building which is used for the storage of frozen seafood products. No processing occurs on the site. a concrete paved parking and driveway area occupies the front 19.5m of the property and extends full width of the site apart from a 1m garden strip along the southern side boundary (which widens to 4m against the building).

The brick factory building is set back 19.5 metres from White Street, approximately 4 metres off the northern side boundary and 400mm off the southern side boundary. The building is 7.32 metres high at the ridge and is approximately 275m<sup>2</sup>. The 'industrial' use is now isolated following the issue of a SCC and DA approval for residential flat development on the adjoining land at 5-7 White Street.



Figure 7: 1-3 White Street elevation



Figure 8: 1-3 White Street looking west from Moore Street





Figure 9: Corner of White and Moore Streets

## 2.2 Site Context

The site forms part of the far north-eastern corner of the Moore Street South industrial precinct where it adjoins a public reserve and residential neighbourhoods which are predominantly developed with terrace housing, townhouses and a few walk-up residential flat buildings.

The site is zoned IN2 - Light Industrial under Leichhardt LEP 2013, as are the industrial properties on the opposite side of White Street and on the southern side of Moore Street. The area to the east and south-east of the site is zoned residential and predominantly developed with one and two-storey terrace houses and detached dwellings. As previously discussed, the adjoining land at 5-7 White Street is also zoned IN2 Light Industrial, however, given it adjoins residential development to the north, was granted a SCC that permits residential flat development as affordable housing under the ARHSEPP. A development application has been granted and development well advanced.

Two-storey townhouses zoned R1 General Residential are located further to the north of the adjoining 5-7 White Street, and have long operated as social housing by Housing NSW (9-15 White St).

The land to the east and to the north of these townhouses forms part of a public reserve running along Whites Creek Valley and is zoned RE1 Public Recreation. A pedestrian and cycle way along the reserve runs directly behind the subject site and connects facilities such as a community garden, children's playground, basketball courts, skateboard area, BBQ and picnic ground.

Whites Creek itself is within a concrete channel beneath the cycleway. To the east of this is the residential neighbourhood of Annandale which is zoned R1 General Residential.





Figure 10: Site context



Figure 11: R1 zoned land to the north





**Figure 12:** Bottom of Arguimbau Street looking west at 1-3 (subject site); 5-7 (under construction); and 9-15 (existing townhouses) White Street

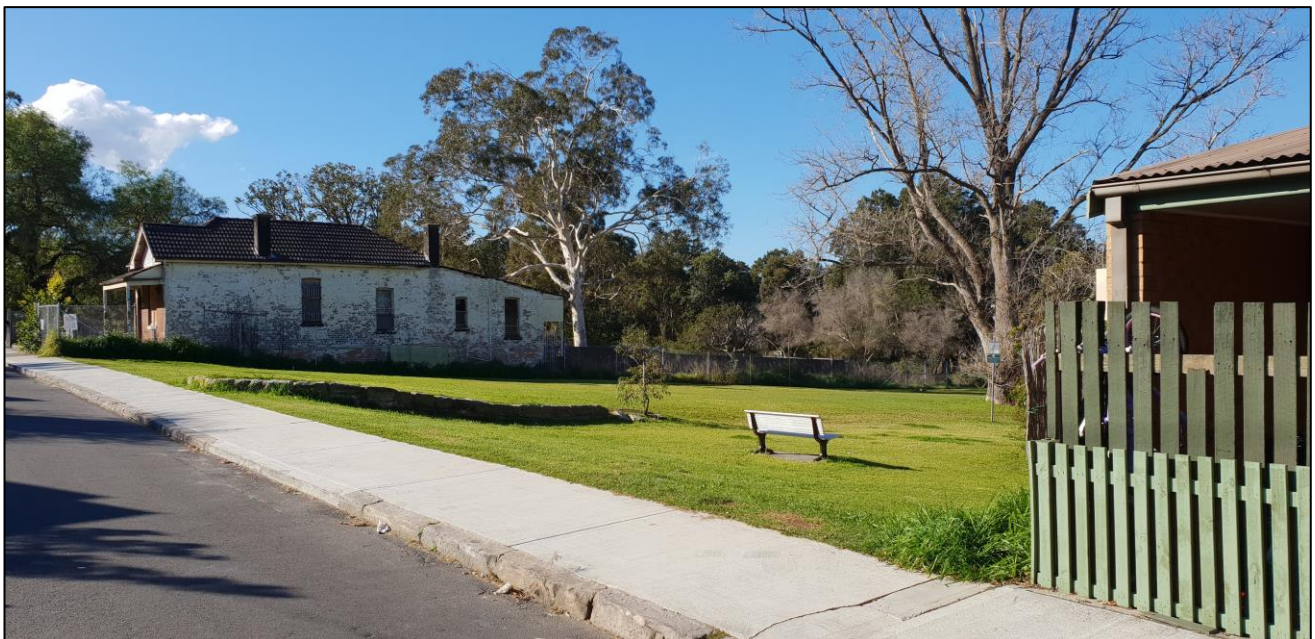


**Figure 13:** Whites Creek pathway





**Figure 14:** White Street looking north



**Figure 15:** Open space to the north

As previously discussed, the site is less than 650 metres or a 10-minute walk to the entrance of the Lilyfield light rail station. Booth Street is also a major bus route with the nearest eastbound bus stop approximately 80 metres away and the nearest westbound bus stop approximately 190 metres away. The 370 bus route connects Leichhardt Marketplace with Coogee and the 470 bus route Lilyfield to Martin Place via Moore/Booth Street.

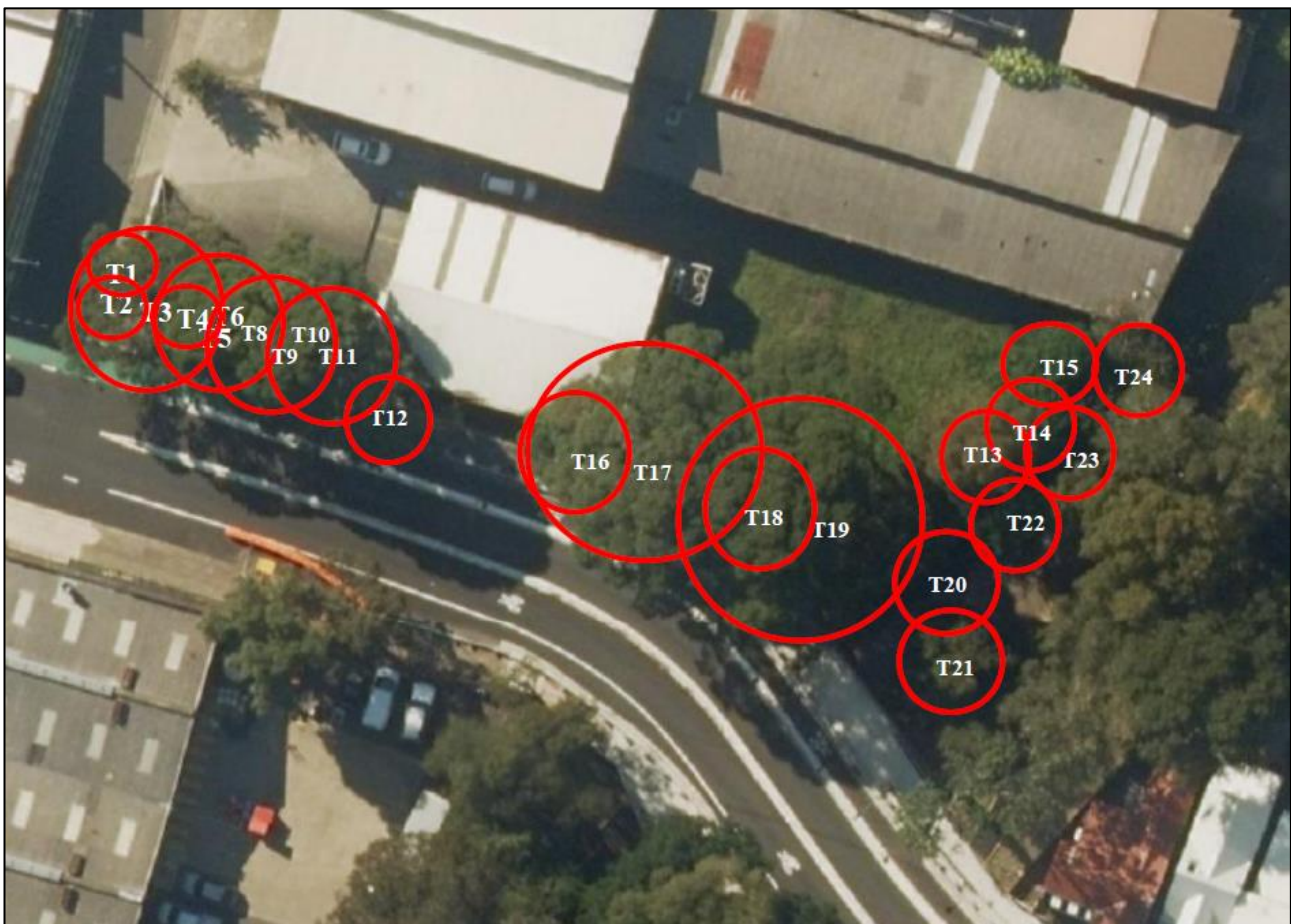


Other nearby amenities including the Annandale shopping centre along Booth Street at Johnston Street which is a 6-minute walk (450 metres); Whites Creek wetland and valley park, Annandale skatepark and Willian Stuart Playground immediately to the north; War Memorial Park 250 metres to the west; and the Catherine Street (Piper Street) neighbourhood centre approximately 550 metres to the north west.

## 2.3 Existing Environment

### 2.3.1 Vegetation

There are 24 trees within and nearby the boundaries of the site. An Arboricultural Impact Assessment has been prepared by Treehaven Environsapes in support of the SCC application and is included at Appendix D. An aerial extract of the site and location of the trees is included in the figure below. The Assessment included an examination of all trees and tree root examination in considering the proposed future development layout.



**Figure 16:** Aerial identification of trees at 1-3 White Street

The report concludes that a number of trees are exempt species and can be removed without Council approval. Further, ten (10) trees should be retained as they are Council assets, however, some will require limbs removed to accommodate the new structure. New planting and replacement planting will be included as recommended by the report.

Notwithstanding, further detailed assessment and replacement screening will occur at development assessment stage, however, the report demonstrates that a structure as proposed can be accommodated, and does not impact the compatibility of the proposal with its surroundings.

### 2.3.2 Contamination and Geotech

A preliminary soil contamination investigation was carried out for the neighbouring SCC application at 5-7 White Street. The soil samples showed slightly elevated levels of specific contaminants in some samples, probably due to uncontrolled fill. The fill was classified as General Solid Waste, suitable for disposal to a licensed landfill site. The report recommended a Stage 2 investigation and Remedial Action Plan.

A Stage 2 Investigation was undertaken by Environmental Investigation Services (EIS) in August 2017 in support of the DA for 5-7 White Street. The Report concluded that remediation is required, but that the site could be made suitable for the proposed development subject to the implementation of the Remediation Action Plan (RAP) outlined in the report.

It is expected that similar findings would be found if a Stage 2 investigation was carried out for the subject site. A Stage 2 Investigation and RAP will be required for any future DA for the site and will be studied further following approval of the SCC application.

### 2.3.3 Flooding

The cycleway/footway at the rear of the site is built over the top of the Whites Creek channel. The Leichhardt LEP 2013 does not include the subject site as flood effected on the Flood Planning Map, which applies to land *“(a) at or below the projected sea level rise, and (b) other land at or below the flood planning level”*. (flood planning level means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard).

The Council issued a flood advice for No. 5 White Street indicating a peak discharge value of 7.25 m<sup>3</sup>/s for the 100 year ARI flood and the 100 year and the Probable Maximum Flood (PMF) levels. Therefore, a Flood Risk Management Report has been prepared by Kozarovski and Partners in support of the SCC application.

The Report identifies the floor levels required to achieve the required standard of the 100 year flood level plus 500mm freeboard. Further, a drainage easement is running between No. 5 and No. 3 White Street. The consent for 5-7 White Street required a new 1500 mm diameter pipe be constructed to carry the 1 in 20 year flood flow. The new pipe would be fully contained within the property of No. 5 White Street. The proposed future drainage system will reduce the flood levels in White Street by more than 200 mm, reduce the flood levels between White Street and Whites Creek Lane and reduce the velocity and the flood hazard along the overland flow path.

Further assessment will be undertaken during the development assessment process and will be referred to Council's Development Engineer.

## 3 Description of the Proposal

This report provides a detailed description of the development proposal in support of the application for a SCC that will facilitate 16 dwellings, of which 50% (8 dwellings) will be affordable rental housing managed by Amélie Housing. The dwellings form part of a residential flat development across three levels within 800 metres of the Lilyfield light rail station.

### 3.1 Development Overview

An overview of the development proposal is included in Table 2 below:

Address	1-3 White Street, Lilyfield
Site Description	Lot 1 DP 3001
Area	1,328m <sup>2</sup> .
Social Housing Provider	Amélie Housing
LGA	Inner West
Zoning	IN2 Light Industrial
Permissibility	The site is zoned IN2 Light Industrial under the Leichhardt LEP 2013. 'Residential accommodation' is prohibited in the IN2 Light Industrial zone, which includes 'residential flat buildings'. Therefore, Division 5 of the Affordable Rental Housing SEPP applies.
Development Description	The application seeks a SCC to facilitate the demolition of all existing buildings on the site; the construction of an apartment building comprising three-storeys of 16 apartments; and basement parking for cars, motorbikes and bicycles and associated vehicular access and landscaping.

**Table 2:** Proposal Overview

### 3.2 Development Background

The site is currently used for the receipt and despatch of frozen seafood shipped into Port Botany in refrigerated containers from Australian and offshore sources. Orders are received and despatched by truck and van for delivery to metropolitan Sydney, regional NSW and interstate seafood outlets, mostly wholesalers who onsell to restaurants and retailers. The site is operated by 5 employees, all who commute in from metropolitan Sydney from outside the local area.

The site's long term operational capability to accommodate this and a range of industrial uses is heavily constrained.

Firstly, its location on an intersection, together with the narrow width of White St, (7m kerb-kerb) means that only trucks with 20 foot standard containers can use the driveway. The now industry-standard 40 foot container truck cannot use the site. This has economic implications for a use such as the existing one which relies on frequent and efficient delivery and despatch of goods, as well as nuisance implications for neighbours (smaller containers mean more frequent deliveries and despatches).

Secondly, since the demolition of the St Vincent's building, complaints are being received from a wider area regarding the full-time refrigeration units running on site and from the truck movements. In time, the affordable housing project will itself create a buffer, but not as effective as the higher, boundary-to boundary St Vincent de Paul factory building that previously occupied the site.

Food industries generally have refrigeration units running 24/7 and these are a source of disturbance to neighbours not previously exposed. It is expected that residents of 5-7 White St will themselves find the refrigeration noise disturbing and will apply pressure for reductions in noise levels or running time which will further impact the utility of the site for this line of business and make other potentially noise-generating operators wary to take up use of the property.

As is now evident, the site has become an industrial 'outlier' enclosed by residential and is no longer an integral part of the industrial zone. A residential use is appropriate and compatible with the site's surroundings.

### 3.3 Development and Design Principles

#### 3.3.1 Development Overview

Future development proposes the demolition of the existing structure and clearing of certain trees, and the construction of a part two to three storey residential flat building comprising 16 dwellings. The development is depicted in the indicative architectural drawing set prepared by Prescott Architects at Appendix B.

The development is similar in design to the 22-unit development now under construction on 5-7 White St. The development addresses the design principles of SEPP65 and key controls of the *Apartment Design* Guide and Leichhardt DCP.

It closely follows the design principles established over months of negotiation of the DA for that development, including:

- Stepped form with two-storeys to the street and rear;
- Maximum height circa RL19.06m to match the original building on 5-7 White Street;
- Similar FSR (0.89:1 compared to 0.93 for 5-7 White St).

The stepped design of the development ensures compatibility with local residential and industrial development by presenting two-storey facades to the front and rear streets.

The three-storey central portion of the development references the height of the former warehouse building on the St Vincent’s site but is stepped in from the boundaries to effectively avoid the undesirable bulk and scale of that structure.



Figure 17: Indicative south elevation



Figure 18: Indicative north elevation

### 3.3.2 Apartment Size and Layout

The indicative floor plans attached demonstrate that future development of the site will be able to achieve a range of apartment sizes and layouts in line with the Objectives of the Apartment Design Guide (ADG), and the aims of the ARH SEPP to deliver affordable housing supply in Lilyfield and the Inner West area.

The indicative yields include:

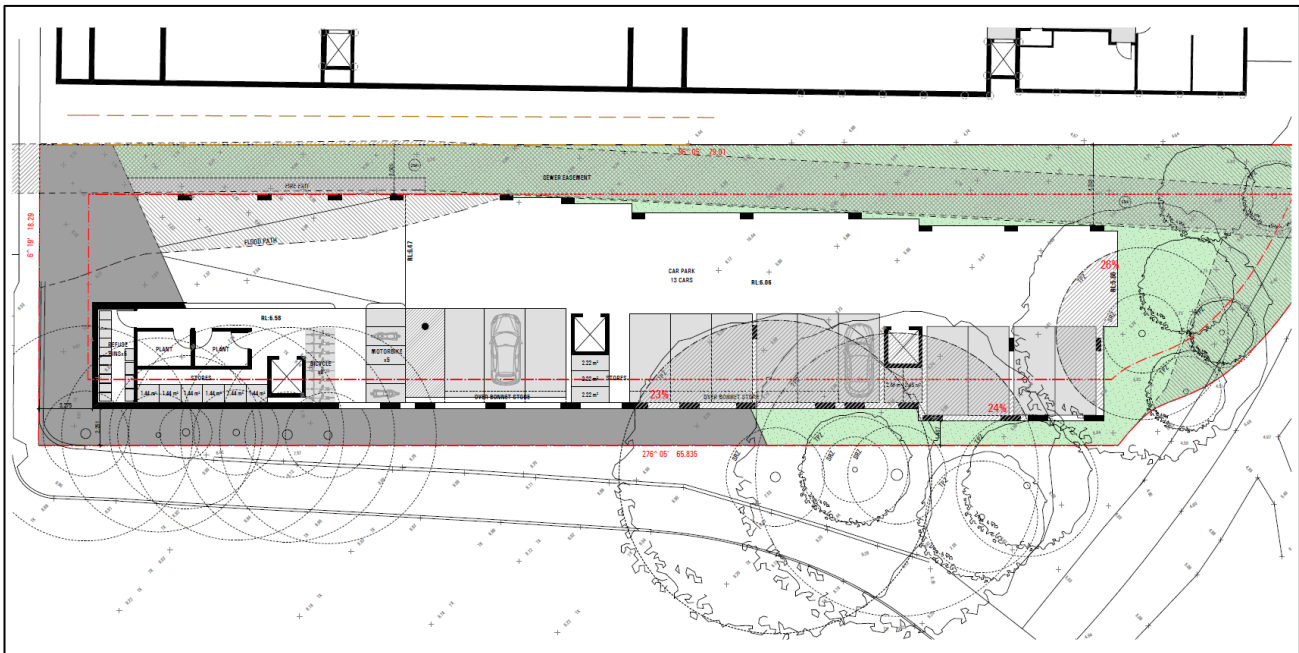
- 16 units, including:
  - 4 one bedroom;
  - 3 one bedroom plus study;
  - 3 two bedroom;
  - 3 two bedroom plus study; and
  - 3 three bedroom.

More detailed layouts and plans are included at Appendix B. The design supports the ability of future development to achieve SEPP 65 compliance.



### 3.3.3 Access and Vehicular Movement

While not required by the ARH SEPP, the indicative development seeks to provide 13 parking spaces, five (5) motorbike spaces and eight (8) bicycle spaces in a basement level. The indicative basement plan is included in Figure 19 below.



**Figure 19:** Indicative basement layout

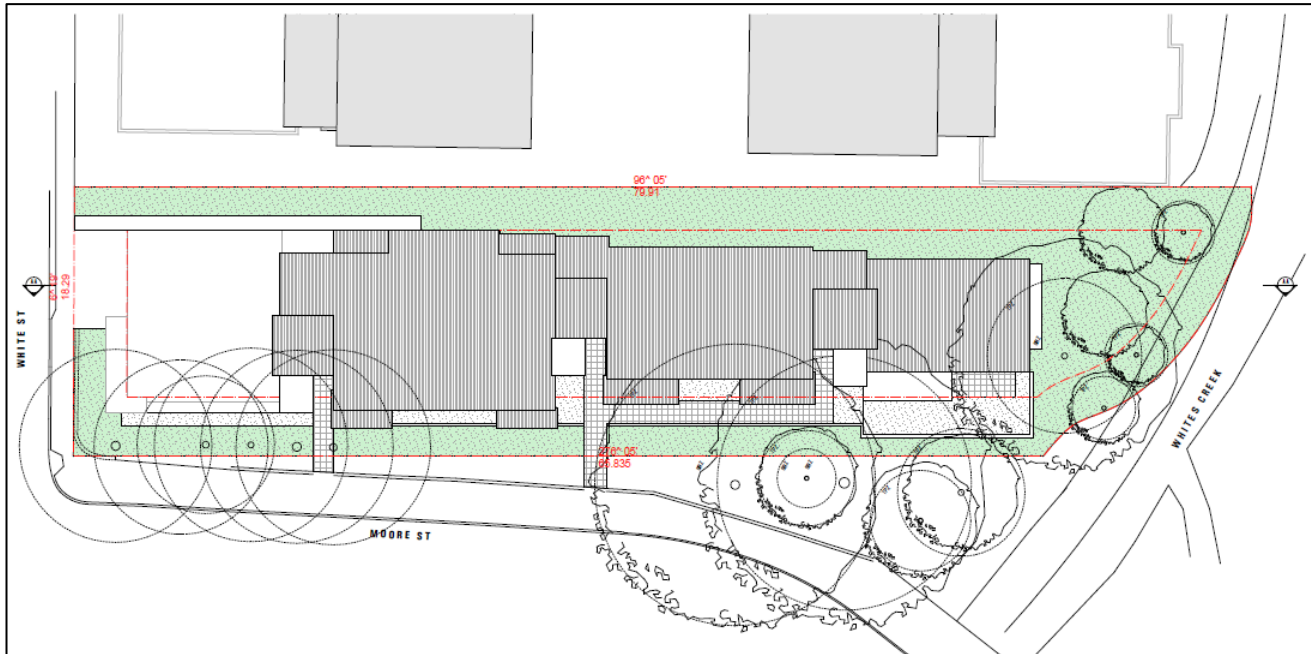
Vehicle access is proposed from White St, but has been minimised to ensure maximum landscaped area, including along the drainage easement along the northern boundary. This access is similar to other properties such as the townhouses at 9-15 White Street. Further assessment is proposed to be undertaken at DA stage in relation to access arrangements, sweep paths, impact on the road network and waste collection.

### 3.3.4 Landscape and Common Areas

The future development outcome will provide for future communal open space in accordance with the ADG. A Landscape Plan will also be prepared as part of a future DA to provide a comprehensive landscape setting to proposed buildings, with suitable interface with adjoining streetscapes and neighbours, and provide strong internal site activation and amenity for residents, tenants and various visitors to the site.

Further, the Plan will identify locations of open space, soft and hard landscaping, design elements, plant and tree species, and areas for planting or passive recreation.

Indicative landscaped area and communal open space are identified in green in Figure 20 below, with further opportunities for communal open space on roof top areas.



**Figure 20:** Green/Open Space Provision

### 3.3.5 Infrastructure and Services

The site is adjacent to long established residential and industrial areas which are well served by all urban services and infrastructure. The site has historically been utilised for commercial purposes and adjoins residential development. The site is well serviced by utilities infrastructure required to support residential land uses in accordance with the ARH SEPP. It was previously advised by Council that Ausgrid may require a substation.

Notwithstanding, a utilities, infrastructure and services will be addressed and relevant utility providers consulted as part of future development applications for the site to support the provision of gas, water, sewer and electricity.

## 4 Statutory Context

### 4.1 Environmental Planning & Assessment Act 1979

The proposal is consistent with the objects of the EP&A Act as it is considered to promote the orderly and economic use and development of land without resulting in an adverse impact on the environment while promoting the delivery and maintenance of affordable rental housing.

Relevant objectives under Section 1.3 Objects of the Act of the EP&A Act 1979 include:

- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (g) to promote good design and amenity of the built environment,*

The development is consistent with the above objectives as follows:

- The application for a SCC will facilitate the orderly and economic development of a site that contains an isolated industrial building.
  - The development is orderly in that it provides a scale and bulk that reflects the approved building to the north. It provides an appropriate two storey height interface to White Street increasing to three storeys as the land falls to the east. The building will contribute to the streetscape.
  - The development is economic in that the site is underutilised given the small footprint of the existing building. At the scale and yield proposed future development can provide additional affordable housing supply to meet the social needs of the community.
- The Development will directly achieve the objectives of Section 1.3 of the EP&A Act 1979 to promote the delivery and maintenance of affordable rental housing. It does this by facilitating the development of 16 dwellings, of which 8 will be affordable homes in accordance with the Affordable Housing SEPP in an area of Sydney with increasingly significant housing stress;
- As previously discussed, the design and layout of future development has been well advanced due to the recent approval and progression of development at the adjoining 5-7 White Street.

### 4.2 State Environmental Planning Policies

#### 4.2.1 SEPP (Affordable Rental Housing) 2009

The State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Housing SEPP) applies to land in the Sydney region within 800 metres of a public entrance to a railway station of light rail station “*but not if development for the purposes of a residential flat building is permissible on the land under another environmental planning instrument*”.

The aims of the Affordable Rental Housing SEPP are to:

- (a) *to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) *to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) *to facilitate the retention and mitigate the loss of existing affordable rental housing,*
- (d) *to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) *to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) *to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) *to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

Point (2) above provides for incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards. As the site is zoned part IN2 Light Industrial, under which “Residential flat buildings” are prohibited, this application is made to the Department of Planning, Industry and Environment for a SCC pursuant to the provisions of Division 5 of the ARH SEPP.

On 23 May 2017, the Deputy Secretary of the Department of Planning and Environment issued a SCC under clause 37(5) of the ARH SEPP in relation to the adjoining site at 5-7 White Street, as follows:

*I certify that in my opinion:*

- *The site described in Schedule 1 is located in the Sydney Region within 800 metres of a light rail station;*
- *The development described in Schedule 1 is compatible with the surrounding land uses, having regard to the matters set out in Clause 37(6)(b); and*
- *That development for the purposes of affordable rental housing of the kind proposed in the application is not likely to have an adverse effect on the environment and will not cause any unacceptable environmental risks to the land uses subject to the requirements specified in Schedule 2 of this certificate”*

In effect, the SCC approved an additional permitted use, being a “residential flat building” for the purposes of affordable rental housing. The form of development and the residential flat building certified under Schedule 1 of the SCC included:

*Works to develop the site for affordable rental housing comprising:*

- *The demolition of all existing buildings on the site;*
- *The construction of an apartment building comprising three-storeys of 22 affordable rental apartments and communal facilities; and*
- *Basement parking for cars, motorbikes and bicycles and associated vehicular access and landscaping.*

The Application which supported the description under Schedule 1 was prepared by Prescott Architects and submitted with the SCC application made by St Vincent de Paul Housing (trading as Amélie Housing).

As provided for by clause 34(7) of the SEPP, the adjoining development was certified to be ‘compatible with surrounding land uses’ if it meets the following three (3) requirements:

- (1) *All residential accommodation established on the site is made available for affordable rental housing for a minimum of 30 years.*
- (2) *The final layout and number of units in the proposed development will be subject to the resolution of issues relating to access, flood risk management, geotechnical stability, soil contamination and aircraft noise and shall be determined through the assessment of the development application under section 79C of the Environmental Planning and Assessment Act 1979.*
- (3) *Consultation with Sydney Water regarding potential impacts on drainage services is to be undertaken through the development application process.*

These matters were considered and addressed in detail as part of the DA preparation and lodgement, which was subsequently approved by the Sydney Eastern City Planning Panel.

The subject proposal has been designed to reflect the adjoining development and closely follows the design principles established and negotiated with Council during the preparation of that application. This includes the stepping of development from two storeys to the front and rear of the development to three storeys through the centre, the height therefore being very similar. The subject proposal has therefore been designed to be compatible with its context as per the requirements of the SEPP.

A detailed consideration of Division 5 of the Affordable Housing SEPP is included below:

<b>SEPP (Affordable Housing) 2009</b>	
<b>Clause</b>	<b>Comment</b>
<b><u>3 Aims of Policy</u></b>	
(a) to provide a consistent planning regime for the provision of affordable rental housing,	<p>The SCC will facilitate the development of 8 affordable dwellings (50% of the development) to be managed by a social housing provider for a minimum of 10 years in an area where it is urgently required.</p> <p>Council’s Community Strategic Plan and Leichhardt Municipal Council Affordable Housing Strategy 2011 includes an analysis of the local housing market which noted at that time that the local community housing provider (South West Inner Sydney Housing Cooperative Limited – now part of Bridge Housing) had only 27 units of affordable housing in the LGA for which there was a waiting list of 406 applicants and an average of 8-15 new applications each week. While the study is now 9 years old, housing prices and rents have escalated over that period, suggesting that the situation for low income households is likely to have deteriorated.</p> <p>A site compatibility certificate has been issued for adjoining land at 5-7 White Street, and in doing so expanded the permissibility and development controls</p>
(b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,	
(c) to facilitate the retention and mitigate the loss of existing affordable rental housing,	
(d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,	
(e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,	

<p>(f) to support local business centres by providing affordable rental housing for workers close to places of work,</p> <p>(g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.</p>	<p>that apply to the site, subject to conditions, to facilitate the redevelopment of an underutilised site close to public transport to the benefit of the community.</p> <p>The development facilitated by the subject SCC supports the aims of the ARH SEPP by providing affordable dwellings close to the Lilyfield light rail station and subsequently places of work, services and amenities and entertainment and recreation.</p> <p>The subject site is such land that the SEPP contemplates for such development. A site within the middle of an industrial area for example, surrounded by industrial land would not necessarily be the right location for affordable housing under the SEPP as it is not compatible with the surrounding land. The subject site, however, is adjoined by a similar residential flat building to the north and is physically separated from any other land uses by roads or pathways on three sides. It is a logical extension of residential land use and completes the White Street/Whites Creek block. The proposed development is therefore consistent with the objectives, and meets the locational requirements for compatibility.</p>
<p><u>34 Land to which Division applies</u></p> <p>This Division applies to the following land, but not if development for the purposes of a residential flat building is permissible on the land under another environmental planning instrument:</p> <p>(a) land in the Sydney region that is within 800 metres of:</p> <p>(i) a public entrance to a railway station or light rail station, or</p> <p>(ii) in the case of a light rail station with no entrance—a platform of the light rail station,</p> <p>(b) land in one of the following towns that is within 400 metres of land in Zone B3 Commercial Core, Zone B4 Mixed Use or a land use zone that is equivalent to either of those zones:</p> <p>Albury, Ballina, Batemans Bay, Bathurst, Bega, Bowral, Cessnock, Charlestown, Coffs Harbour, Dapto, Dubbo, Glendale–Cardiff, Gosford, Goulburn, Grafton, Lismore, Maitland, Morisset, Newcastle, Nowra, Orange, Port Macquarie,</p>	<p>As illustrated in Figure 5 on page 6, the land is within 800 metres of the entrance to Lilyfield light rail station and is zoned IN2 Light Industrial under the Leichhardt LEP 2013 under which ‘residential flat buildings’ are not permitted.</p> <p>Further, the adjoining land at 5-7 White Street was issued a site compatibility certificate on 23 May 2017. That land is also zoned IN2 Light Industrial, and the SCC determined that “the site described in Schedule 1 is located in the Sydney Region within 800 metres of a light rail station”.</p> <p>Therefore, Division 5 of the ARH SEPP applies to the subject site.</p>



<p>Queanbeyan, Raymond Terrace, Shellharbour, Tamworth, Taree, Tuggerah–Wyong, Tweed Heads, Wagga Wagga, Warrawong, Wollongong.</p>	
<p><u>35 Development to which Division applies</u></p> <p>(1) This Division applies to development, on land to which this Division applies, for the purposes of a residential flat building:</p> <ul style="list-style-type: none"> <li>(a) by or on behalf of a public authority or social housing provider, or</li> <li>(b) by a person who is undertaking the development with the Land and Housing Corporation.</li> </ul> <p>(2) Despite subclause (1), this Division does not apply to development to which Division 1 applies.</p>	<p>Future development will be on behalf of Amélie Housing who will manage the affordable housing component of the future development for a period of 10 years. See Appendix E for communication from the social housing provider.</p>
<p><u>36 Development may be carried out with consent</u></p> <p>(1) Development to which this Division applies may be carried out with consent.</p> <p>(2) A consent authority must not consent to development to which this Division applies unless it is satisfied that:</p> <ul style="list-style-type: none"> <li>(a) the Director-General has certified in a site compatibility certificate that, in the Director-General’s opinion, the development is compatible with the surrounding land uses, and</li> <li>(b) if the development is in respect of a building on land zoned primarily for commercial purposes, no part of the ground floor of the building that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.</li> </ul> <p>(3) Nothing in this clause prevents a consent authority from:</p> <ul style="list-style-type: none"> <li>(a) consenting to development on a site by reference to site and design features that are more stringent than those identified in a site compatibility certificate for the same site, or</li> <li>(b) refusing consent to development by reference to the consent authority’s own assessment of the compatibility of the development with the surrounding land uses, or</li> </ul>	<p>This application seeks a SCC for land at 1-3 White Street for the purpose of a residential flat building and affordable housing in accordance with the ARH SEPP. The land use is currently prohibited in the zone.</p> <p>The proposed development outcome and design principles are similar to the development approved via the ARH SEPP at the adjoining land at 5-7 White Street. The Deputy Secretary of the Department of Planning and Environment certified in that case in the site compatibility certificate of 23 May 2017 that <i>“the development described in Schedule 1 is compatible with the surrounding land uses, having regard to the matters set out in Clause 37(6)(b)”</i>.</p> <p>The consent authority is the Sydney Eastern City Planning Panel. In October 2017 the Panel approved a similar development at 5-7 White Street in accordance with the SCC following negotiation and collaboration between the proponent and Council. Following the issuing of a SCC for 1-3 White Street, a detailed DA will be prepared for assessment and negotiation with Council and determination by the Panel.</p>

<p>(c) having regard to any other matter in determining a development application.</p> <p>(3A) (Repealed)</p> <p>(4) Car parking is not required to be provided in relation to development to which this Division applies.</p>	
<p><u>37 Site compatibility certificates</u></p> <p>(1) An application for a site compatibility certificate under this Division may be made to the Director-General:</p> <p>(a) by the owner of the land on which the development is proposed to be carried out, or</p> <p>(b) by any other person with the consent of the owner of that land.</p> <p>(2) An application under this clause:</p> <p>(a) must be in writing in a form approved by the Director-General, and</p> <p>(b) must be accompanied by such documents and information as the Director-General may require, and</p> <p>(c) must be accompanied by such fee, if any, as is prescribed by the regulations.</p> <p>(3) The Director-General may request further documents and information to be furnished in connection with an application under this clause.</p> <p>(4) Within 7 days after the application is made, the Director-General must provide a copy of the application to the council for the area in which the development concerned is proposed to be carried out, unless the Director-General refuses, before those 7 days have elapsed, to issue a certificate.</p> <p>(5) The Director-General may determine the application by issuing a certificate or refusing to do so.</p> <p>(6) The Director-General must not issue a certificate unless the Director-General:</p> <p>(a) has taken into account any comments received from the council within 14 days after the application for the certificate was made, and</p>	<p>This report supports the application for a SCC to facilitate the development of affordable housing, in an area in urgent need, on an isolated site adjoining a residential development approved through the provisions of the ARH SEPP and considered compatible with its surroundings.</p> <p>The assessment and determination of the application will be undertaken in accordance with the provisions of Clause 37 of the ARH SEPP.</p>



<p>(b) is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:</p> <ul style="list-style-type: none"> <li>(i) the existing uses and approved uses of land in the vicinity of the development,</li> <li>(ii) the impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Director-General, are likely to be the preferred future uses of that land,</li> <li>(iii) the services and infrastructure that are or will be available to meet the demands arising from the development, and</li> </ul> <p>(c) is of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable environmental risks to the land.</p> <p>(7) A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate.</p> <p>(8) A certificate continues to apply to the land in respect of which it was issued despite any change in the ownership of that land.</p> <p>(9) A certificate is valid for 5 years or such other period specified in the certificate.</p>	
<p><u>38 Must be used for affordable housing for 10 years</u></p> <p>(1) A consent authority must not consent to development to which this Division applies unless conditions are imposed by the consent authority to the effect that:</p> <ul style="list-style-type: none"> <li>(a) for 10 years from the date of the issue of the occupation certificate: <ul style="list-style-type: none"> <li>(i) at least 50 per cent of the accommodation to which the development application relates will be used for the purposes of affordable housing, and</li> <li>(ii) all the accommodation that is used for affordable housing will be managed by</li> </ul> </li> </ul>	<p>It is proposed that 50% of the accommodation of the future development will be used for the purpose of affordable housing.</p> <p>The community housing provider that will manage the affordable housing is Amélie Housing. See Appendix E for confirmation.</p>

<p>a registered community housing provider, and</p> <p>(b) a restriction will be registered, before the date of the issue of the occupation certificate, against the title of the property on which development is to be carried out, in accordance with section 88E of the Conveyancing Act 1919, that will ensure that for 10 years from the date of the issue of the occupation certificate:</p> <p>(i) at least 50 per cent of the accommodation to which the development application relates will be used for the purposes of affordable housing, and</p> <p>(ii) all the accommodation that is used for affordable housing will be managed by a registered community housing provider.</p> <p>(2) Subclause (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.</p>	
<p><b>39 Continued application of SEPP 65</b></p> <p>Nothing in this Policy affects the application of State Environmental Planning Policy No 65—Design Quality of Residential Flat Development to any development to which this Division applies.</p>	<p>It is noted that SEPP 65 applies to any DA lodged against the site compatibility certificate as it relates to the land.</p> <p>While this application is for a new SCC and is not for development, the development of the site has been refined to a level where compliance with SEPP 65 will be achieved.</p>

**Table 3:** Assessment of Affordable Housing SEPP

#### 4.2.2 Relationship with other environmental planning instruments

The purpose of the Affordable Rental Housing SEPP is to expand zoning and permissibility. The maximum floor space ratio of 1:1 and no building height have been prepared to apply to those uses permitted in the IN2 Light Industrial zone, which does not reflect or contemplate a “residential flat building” or the urban form of the development proposal proposed and outcome approved on the adjoining land. .

The Leichhardt LEP 2013 contemplates provisions of a SEPP that may prevail over the LEP under Section 3.38 of the EP&A Act 1979. In this context, the SEPP has provided for a development that is not permitted by the subject zone (IN2). While the proposed development does not breach the applicable development controls,

the development is consistent with the objectives of the EP&A Act, the SEPP, the Leichhardt LEP and the objectives for height of buildings (Clause 4.3) and floor space ratio (Clause 4.4) of the LEP.

#### 4.2.3 SEPP 55 Remediation of Land

As previously discussed, a preliminary soil contamination investigation was carried out for the neighbouring SCC application at 5-7 White Street. The soil samples showed slightly elevated levels of specific contaminants in some samples, probably due to uncontrolled fill. The fill was classified as General Solid Waste, suitable for disposal to a licensed landfill site. The report recommended a Stage 2 investigation and Remedial Action Plan.

A Stage 2 Environmental Site Assessment (ESA) and Remediation Action Plan (RAP) were prepared by Environmental Investigation Services (EIS) in support of the DA for 5-7 White Street. The Stage 2 ESA including soil sampling from three boreholes/groundwater sampling from three monitoring wells.

The key findings and conclusions of this report stated:

*“Location BH2 in the PES encountered a minor elevation of TRH C10-C16. Based on the available data from both investigations this appears to be an isolated occurrence and is not considered to pose an unacceptable risk if excavated for the proposed basement. A zinc result was identified in groundwater and an elevated copper result in the soil above the Site Assessment Criteria (SAC). The elevated zinc result was attributed to regional factors and the elevated copper results was encountered at a depth (greater than 2m) that was not considered to pose a risk to ecological receptors.*

*Overall, the investigation objectives are considered to have been addressed. Remediation is required and EIS are of the opinion that the site can be made suitable for the proposed development subject to the implementation of the RAP outlined from Section 18 onwards in this report.*

*The overall strategy for the remediation includes the excavation and off-site disposal of the fill surrounding the UST and BH2 from the site. This approach aligns closely with the proposed development/construction requirements. Site validation will be required on completion of remediation.”*

It is expected that similar findings would be found if an investigation was carried out for the subject site given the historical use of the land. While the existing land use and zoning are not necessarily intrusive, it is important to undertake further sampling and manage any required remediation in accordance with the SEPP. It is proposed that this will be undertaken at future DA stage for the site and will be studied further following approval of the SCC application.

Having regard to the above, the SCC application does not seek consent for development or demolition. Notwithstanding, the site can be made suitable for actual development as demonstrated on the adjoining land.

#### 4.2.4 SEPP 65 Design Quality of Residential Apartment Development

Compliance with SEPP 65 and the Apartment Design Guidelines informed the building footprint and envelope approved for the adjoining development at 5-7 White Street. The development outcome facilitated by a SCC at 1-3 White Street has been prepared having regard to the design principles and philosophy of the adjoining development and ultimately the requirements of SEPP 65.

Additional detailed assessment against SEPP 65 and the Apartment Design Guidelines will support future applications for development. A SEPP 65 statement by Prescott Architects, confirming a reliance on the principles of SEPP 65 and the ADG in the preparation of the development concept is included at Appendix C.

### 4.3 Leichhardt LEP 2013

Leichhardt Local Environmental Plan (LEP) 2013 commenced on the 23 December 2013 when it was published on the NSW Government Legislation website. Table 4 below summarises the Leichhardt LEP 2013 principle development standards that currently apply to the subject site:

Land Zoning	Maximum Building Height	Maximum Floor Space Ratio (FSR)	Minimum Lot Size
IN2 Light Industrial	N/A	1:1	N/A

**Table 4:** Site Development Standards

#### 4.3.1 Zoning

The site is zoned IN2 Light Industrial under the Leichhardt LEP 2013. 'Residential accommodation' and thus 'Residential flat buildings' are prohibited in the In2 Light Industrial zone. Therefore, Division 5 of the Affordable Rental Housing SEPP applies.

#### IN2 Light Industrial

##### 1 Objectives of zone

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.
- To retain existing employment uses and foster a range of new industrial uses to meet the needs of the community.
- To ensure the provision of appropriate infrastructure that supports Leichhardt's employment opportunities.
- To retain and encourage waterfront industrial and maritime activities.
- To provide for certain business and office premises and light industries in the arts, technology, production and design sectors.

## 2 Permitted without consent

Nil

## 3 Permitted with consent

Agricultural produce industries; Depots; Educational establishments; Garden centres; General industries; Hardware and building supplies; Industrial training facilities; Light industries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Roads; Storage premises; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 4

## 4 Prohibited

Air transport facilities; Airstrips; Biosolids treatment facilities; Boat sheds; Camping grounds; Caravan parks; Cellar door premises; Cemeteries; Centre-based child care facilities; Correctional centres; Crematoria; Eco-tourist facilities; Entertainment facilities; Environmental facilities; Exhibition homes; Exhibition villages; Extensive agriculture; Farm buildings; Forestry; Heavy industries; Home businesses; Intensive livestock agriculture; Hazardous storage establishments; Health services facilities; Helipads; Highway service centres; Home occupations (sex services); Information and education facilities; Livestock processing industries; Marinas; Markets; Mooring pens; Moorings; Offensive storage establishments; Open cut mining; Pond-based aquaculture Public administration buildings; Pubs; Registered clubs; Residential accommodation; Respite day care centres; Restaurants or cafes; Roadside stalls; Rural supplies; Shops; Stock and sale yards; Tourist and visitor accommodation; Waste disposal facilities



Figure 21: Leichhardt LEP 2013 Land Zoning Map (Source: NSW Planning Portal)

Clause 35 Division 5 of the Affordable Housing SEPP states:

*This Division applies to the following land, but not if development for the purposes of a residential flat building is permissible on the land under another environmental planning instrument:*

- (a) land in the Sydney region that is within 800 metres of:*
  - (i) a public entrance to a railway station or light rail station, or*
  - (ii) in the case of a light rail station with no entrance—a platform of the light rail station,*

As discussed, residential flat buildings are not permitted in the IN2 Light Industrial zone. The site is also within 800 metres of the entrance to the Lilyfield light rail station.

A site compatibility certificate was subsequently issued by the Department of Planning and Environment for adjoining land at 5-7 White Street on 23 May 2017. The certificate determined that the development “is compatible with the surrounding land uses” and “is not likely to have an adverse effect on the environment and will not cause any unacceptable environmental risks to the land uses”. Construction of the three-storey development is now well advanced.

In this regard, the site is now adjoined by a residential flat development to the north. It is separated from the broader IN2 industrial area by White Street and to the west and Moore Street to the south. The extension of permissibility of residential to this site would form a completeness of urban land uses, would improve and land use conflict situation and would be compatible within its context.

Further, the development is also consistent with the objectives of the Leichhardt LEP 2013. The following in particular are of relevance:

- (a) to minimise land use conflict and the negative impact of urban development on the natural, social, economic, physical and historical environment,*
- (b) to promote a high standard of urban design in the public and private domains,*
- (c) to protect and enhance the amenity, vitality and viability of Leichhardt for existing and future residents, and people who work in and visit Leichhardt,*
- (d) to ensure that land use zones are appropriately located to maximise access to sustainable transport, community services, employment and economic opportunities, public open space, recreation facilities and the waterfront,*
- (e) to promote accessible and diverse housing types, including the provision and retention of:*
  - (i) housing for seniors or people with a disability, and*
  - (ii) affordable housing,*
- (f) to provide for development that promotes road safety for all users, walkable neighbourhoods and accessibility, reduces car dependency and increases the use of active transport through walking, cycling and the use of public transport,*
- (g) to ensure that development is compatible with the character, style, orientation and pattern of surrounding buildings, streetscape, works and landscaping and the desired future character of the area,*
- (h) to promote opportunities for equitable and inclusive social, cultural and community activities,*



The existing zone does not contemplate development for the purposes of ‘residential flat buildings’ (hence the purpose of the SEPP), however, as previously discussed the proposed development is however still consistent with the objectives of the EP&A Act, the SEPP and the Leichhardt LEP.

#### 4.3.2 Height of Buildings

The maximum building height control does not apply to the subject site, as illustrated below.

The development approved by the SCC and subsequently Sydney Eastern City Planning Panel for adjoining land at 5-7 White Street included heights of two to three storeys.

As such, the proposed height for future development at 1-3 White Street has been prepared to reflect that approved at 5-7 White Street, ensure a suitable transition and consistency in urban form along the street.



**Figure 22:** Maximum Height of Buildings Map

Further, the development has been assessed against the objectives of Clause 4.3 Height of Buildings under the Leichhardt LEP 2013 as follows:

(a) to establish the maximum height of buildings,	The maximum height of building controls does not apply to the site. However, adjoining land at 5-7 White Street contains an approved and partly constructed two to three storey development.
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	The proposed future development of 1-3 White Street seeks to reflect these heights.
(b) to ensure that buildings and public areas continue to receive satisfactory exposure to the sky and sunlight,	The block runs east to west and future development will be orientated in this manner. The height is proposed to be the same as the adjoining approval. The design facilitates excellent northern exposure to the sky and sunlight. Further detail will be included in a future DA including a detailed shadow analysis and compliance with SEPP 65.
(c) to nominate heights that will provide an appropriate transition in built form and land use intensity,	As discussed, the LEP does not nominate heights for the subject site. However, the proposed design does facilitate an appropriate transition in built form and land use intensity, with two storey development to the front and rear of the site, and three storeys and the most intense development towards the centre. Therefore, while no prescriptive control applies, the application is consistent with the objectives.

**Table 5:** Consideration of Clause 4.3 Height of Buildings objectives

#### 4.3.3 Floor Space Ratio

Under the Leichhardt LEP 2013, the maximum floor space ratio (FSR) control that applies to the subject site is 1:1, as illustrated in Figure 22. The development concept that supports this SCC application provides for 16 units at a density of 0.89:1.



**Figure 23:** Leichhardt LEP 2013 Maximum Floor Space Ratio Map



The aims of the Affordable Rental Housing SEPP seek to “*facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards*”. While the expanded permissibility extends to the land use zone, the proposal is consistent with the current FSR control.

#### 4.3.4 Heritage

The subject sites are not located within a heritage conservation area, is not identified as a heritage item, and is not affected by any nearby heritage. The nearest item is at 216 Annandale Street being a former shop and residence listed as I3 under Schedule 5 Environmental Heritage of the Leichhardt LEP 2013. The item is over 200 metres away and not visible from the site. The site is near the Annandale Heritage Conservation Area, which is located to the east. The proposed development is compatible in height and design with its context and will not impact the conservation area. Any further heritage assessment can be undertaken at Development Application stage, but will not impact the permissibility of the proposed future use under the ARH SEPP.



Figure 24: Leichhardt LEP 2013 Heritage Map

#### 4.3.5 Additional LEP Provisions

Assessment Criteria	Comment	Compliance
Clause 2.3 Zone Objectives and Land Use Table	<p>The site is zoned IN2 Light Industrial which does not permit residential flat buildings. The zone therefore does not contemplate residential development in its objectives or land use permissibility.</p> <p>This application seeks a Site Compatibility Certificate under the ARH SEPP which provides for and contemplates expanded zoning and permissibility, provided an application can demonstrate compatibility with the surrounding area. The site has one boundary to developed land, which, while zoned IN2 Light Industrial, is currently being developed for affordable housing in accordance with a SCC issued in May 2017. The site is therefore a logical extension for residential development in accordance with the ARH SEPP.</p>	N/A
Clause 2.7 Demolition Requires Consent	<p>Consent is not sought for demolition as part of this application. This application only seeks to facilitate residential flat development in the form of affordable housing as permissible with consent.</p> <p>Consent for demolition will be subject to future development applications from the consent authority.</p>	N/A
Clause 5.10 Heritage Conservation	<p>The subject site is not located within a heritage conservation area, is not identified as a heritage item, and is not affected by any nearby heritage. The Annandale heritage conservation is to the east of the site, and any perceived heritage impacts of development will be addressed further at the development application stage.</p>	Yes
Clause 6.1 Acid Sulfate Soils	<p>The proposal does not seek consent for development. Notwithstanding, the subject site and adjoining land is classified as Class 5 acid sulfate soils, which is the lowest classification. The site is elevated and uphill from the nearest water body. While future works are unlikely to impact the water table, this can be considered in detail at a future development application stage.</p>	Yes
Clause 6.2 Earthworks	<p>The proposal does not seek consent for earthworks. Any earthworks required to facilitate future built form and development of the site will be addressed at a later stage.</p>	N/A

<p>Clause 6.3 Flood Planning</p> <p>Clause 6.4 Stormwater Management</p>	<p>The site is not identified on the flood planning map as being as flood affected. However, as previously discussed, Council issued a flood advice for No. 5 White Street indicating a peak discharge value of 7.25 m<sup>3</sup>/s for the 100 year ARI flood and the 100 year and the Probable Maximum Flood (PMF) levels. Therefore, a Flood Risk Management Report has been prepared by Kozarovski and Partners in support of the SCC application.</p> <p>The Report identifies the floor levels required to achieve the required standard of the 100 year flood level plus 500mm freeboard. Further, a drainage easement is running between No. 5 and No. 3 White Street. The consent for 5-7 White Street required a new 1500 mm diameter pipe be constructed to carry the 1 in 20 year flood flow. The new pipe would be fully contained within the property of No. 5 White Street. The proposed future drainage system will reduce the flood levels in White Street by more than 200 mm, reduce the flood levels between White Street and Whites Creek Lane and reduce the velocity and the flood hazard along the overland flow path.</p> <p>Further assessment will be undertaken during the development assessment process and will be referred to Council's Development Engineer. However, the development concept has provided for a 3 metre setback to the northern boundary and cantilevering the building above the basement floor as a response to stormwater management.</p>	<p>Yes</p>
<p>Clause 6.8 Development in areas subject to aircraft noise</p>	<p>The subject site is located within the 20-25 Australian Forecast (2033) Contour. Similarly, to the development at 5-7 White Street, an Acoustic Report is suggested in support of a future application for development that addresses noise attenuation in accordance with Australian Standard 2021:2015.</p>	<p>Yes</p>
<p>Clause 6.13 Diverse Housing</p>	<p>The objective of Clause 6.13 is to 'ensure the provision of a mix of dwelling types in residential flat buildings and mixed use development'.</p>	<p>Yes</p>

	<p>While the final apartment mix will be subject to a future development application to the satisfaction of the consent authority, this application seeks to facilitate a minimum of 50% of apartments as affordable housing under the ARH SEPP.</p> <p>The indicative architectural drawing set at Appendix B provides for at least 25% one bedroom dwellings in a future development achieving the objectives and requirements of the clause.</p>	
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**Table 6:** Additional LEP Provisions

## 5 Strategic Context

This section considers the strategic planning framework relevant to the subject site. The strategic context is considered having regard to the existing zone, the site compatibility certificate and approved development at 5-7 White Street, the surrounding zones and development patterns and the proposal for the site that seeks to facilitate future development of the site for a three storey residential flat building supporting a considerable affordable housing contribution to the Lilyfield and Inner West community.

### 5.1 A Metropolis of Three Cities – The Greater Sydney Region Plan

In March 2018, the NSW Government published A Metropolis of Three Cities – The Greater Sydney Region Plan (The Plan). The Plan is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places. This is consistent with the 10 Directions in Directions for a Greater Sydney which establish the aspirations for the region over the next 40 years and are a core component of the vision and a measure of the Plan's performance.

To meet the needs of a growing and changing population the vision seeks to transform Greater Sydney into a metropolis of three cities:

- the Western Parkland City
- the Central River City
- the Eastern Harbour City.

The site is located in the Eastern Harbour City. The population of the Eastern Harbour City is projected to increase from 2.4 million people to 3.3 million people over the next 20 years.

The subject site is within 800 metres of the entrance to Lilyfield light rail station. The site is a 10-minute walk to the light rail station and a 6-minute walk (450 metres) to the local centre strip at Johnston and Booth Streets, and therefore achieves many of the locational attributes identified in the Plan having excellent proximity to public transport, jobs and employment opportunities within a walkable catchment area.

The Plan projects the population of Greater Sydney to grow to 8 million over the next 40 years. The Plan seeks to rebalance the economic and social opportunities and leverage that growth and deliver the benefits more equally across Greater Sydney. The goals are for:

- residents to have quick and easy access to jobs and essential services;
- housing supply and choice to increase and meet the growing and changing needs of the community;
- the environment and precious resources to be protected; and
- Infrastructure to be sequenced to support growth and to be delivered concurrently with new homes and jobs.



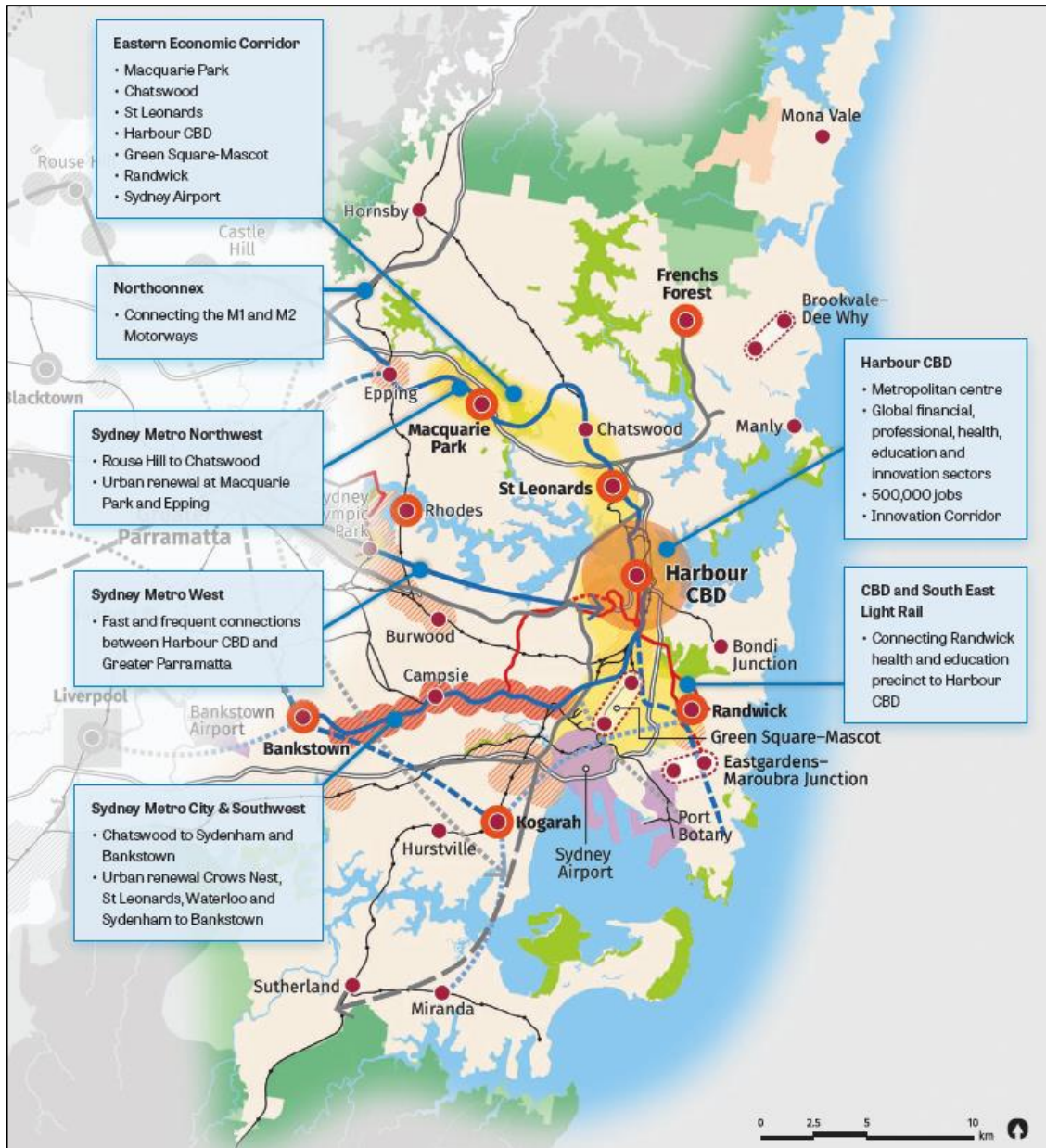


Figure 25: Eastern Harbor City Structure Plan

To achieve the objectives for the Eastern Harbour City, the plan includes 10 directions and 40 objectives, supporting actions and priorities for each “City”.

To improve liveability, The Plan seeks to create new great places, with well-connected communities which have access to a range of jobs and services, starting with public places, open spaces and transit-oriented developments. The proposal seeks to facilitate affordable housing close to public transport connecting residents to a network of jobs and opportunities.



Direction 4 “Housing the City” of the Greater Sydney Plan seeks to provide housing choice for people, which can be achieved through “greater housing supply”, “increased housing completions” and “more diverse and affordable” housing.

The need for more affordable housing in the former Leichhardt LGA is evident from Council’s *Community Strategic Plan* and *Leichhardt Municipal Council Affordable Housing Strategy 2011*.

The Strategy includes an analysis of the local housing market which noted that the local community housing provider (South West Inner Sydney Housing Cooperative Limited – now part of Bridge Housing) had only 27 units of affordable housing in the LGA for which there was a waiting list of 406 applicants and an average of 8-15 new applications each week.

While the proposal is 9 years old, house prices and rents have increased significantly over that period, suggesting that the situation for low income households is likely to have deteriorated. This application for a SCC will facilitate and contribute 16 dwellings increasing housing supply, 50% of which will be affordable homes.

The site benefits from its location within close proximity to Lilyfield light rail station and the Johnston Street local centre. The site is an underutilised with the ability to redevelop in the short term, meeting the desire and strategic planning framework of urban renewal in this location, connecting new residents with the Harbour CBD and nearby residents with new jobs. The site is within the 30-minute city objective. Firstly, the site is a 10-minute walk from the Lilyfield light rail station, which connects Lilyfield to the Harbour CBD and Greater Sydney.

It is noted that Objective 23 of the Greater Sydney Plan states “*industrial and urban services land is planned, retained and managed*”. It is also noted that Objective 11 states “*housing is more diverse and affordable*”. The purpose of the ARH SEPP is to provide for expanded permissibility on sites that are compatible with their surroundings and context. While the Greater Sydney Plan seeks to retain and manage industrial and urban services land, this type of land generally does not permit residential flat buildings and is usually the subject of the ARH SEPP.

In that context, while the subject site does not form part of an important cluster of IN2 Light Industrial zoned land, it is largely separated from this cluster and isolated, adjoining residential development. The adjoining development, including affordable housing, permitted by the SCC was determined because the site is surrounded by uses and controls envisaged by the SCC and proposed development. Therefore, while Objective 23 is important in the context of valuable employment lands, the objective needs to be considered in the context of objective 11; that seeks to provide more affordable housing; the location of the site to transport and services; the existing use on the site, being a small building; and compatibility with surrounding zones and land uses.

The site is adjoined residential development with similar controls and the application contemplates a similar development outcome. Therefore, while objective 23 is not to be undermined, on balance the application for an SCC meets a key objective of the Act, meets the objectives of the SEPP, and is consistent with the provisions of the LEP which contemplates provisions of a SEPP that may prevail over the LEP under Section 3.38 of the EP&A Act 1979.

Further, it is noted that Section 3.8 Implementation of strategic plans of the EP&A Act 1979, requires that in the preparation of a planning proposal the “*planning proposal authority is to give effect to any district strategic plan applying to the local government area to which the planning proposal relates*”. In this case, the application for a SCC is not through the Part 3 plan making process, rather is considered through an effective delivery mechanism for new affordable rental housing, in accordance with a key aim of the Act, by providing incentives by way of expanded permissibility.

Nevertheless, while the subject SCC application does not seek consent for any development, it will facilitate the provision of additional housing while balancing this with high standards of amenity and design. The actions of the Greater Sydney Region Plan will be realised through future applications for development.

## 5.2 Eastern City District Plan

Greater Sydney’s three cities identified in the Greater Sydney Region Plan – A Metropolis of Three Cities reach across five districts. The Eastern District covers the Bayside, Burwood, City of Canada Bay, City of Sydney, Inner West, Randwick, Strathfield, Waverley and Woollahra local government areas. The Eastern City District is vitally important to the success and prosperity of Greater Sydney, and is the engine room of Greater Sydney’s economy.

This Eastern City District Plan is a 20-year plan to manage growth in the context of economic, social and environmental matters to achieve the 40-year vision for Greater Sydney. It contains the planning priorities and actions for implementing the Greater Sydney Region Plan, A Metropolis of Three Cities, at a district level and is a bridge between regional and local planning. This vision seeks to rebalance the economic and social opportunities and deliver a more equal and equitable Greater Sydney.

*“The Eastern City District will continue to grow over the next 20 years with demand for an additional 157,500 dwellings. This will be provided through urban renewal around new and existing infrastructure and infill development. The focus of growth will be on well-connected walkable places that build on local strengths and deliver quality places.”*

In undertaking strategic planning processes, and/or preparing or considering planning proposals, planning authorities must give effect to the District Plan, specifically the Planning Priorities and Actions. While this application is not for development and does not seek to amend the Leichhardt LEP 2013, it does seek to facilitate the significant benefit of affordable rental housing through the provisions of the ARH SEPP, which will be realised through future DAs.



Figure 26: Extract from Eastern City District Structure Plan

In the Eastern City District the greatest increase in population is expected in the City of Sydney Local Government Area, where 32 per cent of the District's total growth (102,600 additional people by 2036) will be accommodated due to anticipated urban renewal.

Further, the Plan sets a 0-5 year housing target for the District of 46,550, with 5,900 of these new dwellings targeted to be built in the Inner West local government area. The SCC application will facilitate a future development application that support an additional 16 dwellings of which importantly 50% will be affordable. A key principle for housing strategies is to accommodate Affordable rental housing: *through housing diversity for those on moderate incomes and affordable rental housing for low and very low income households.*

## 6 Need for Affordable Housing

### 6.1 Social and Economic Impact

The proposed development would be built under the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP). The ARHSEPP requires that 50 per cent of the units in a development are rented out as affordable housing by a community housing provider (CHP) for no less than 10 years. Under the proposed scheme, 8 apartments would be leased and managed by Amélie Housing.

The proposed development is likely to have few negative social impacts. It is likely that the positive impacts will far outweigh the negative impacts, with affordable housing need significantly increased in the Lilyfield area.

#### 6.1.1 Strategic Context

An examination of housing needs reaffirms the critical importance of providing a diversity of housing across the housing continuum in Greater Sydney. The continuum recognises the fundamental importance of household income on the ability to access housing of different types, cost and tenure. Households on moderate, low or very low incomes, who spend more than 30 per cent of their income on housing, are impacted in their ability to pay for essential items like food, clothing, transport and utilities.

Lower income households (earning up to approximately \$67,600 per annum) without other financial support cannot afford the average rental cost for even more moderately priced areas of Greater Sydney, which are generally on the outskirts of Greater Sydney.

Cities require a range of workers to be close to centres and jobs. An absence of affordable housing often results in workers having to commute for long distances.

Many moderate-income households face housing diversity and affordability challenges – typically households with incomes of \$67,400–\$101,400 per annum. Recent research indicates that about half of young Greater Sydney residents are considering leaving Greater Sydney within the next five years, with housing affordability being a key issue. It also highlights that smaller well-located dwellings are considered an acceptable approach to reducing housing cost.

The former Leichhardt Municipal Council's Community Strategic Plan and Affordable Housing Strategy 2011 includes an analysis of the local housing market which noted that the local community housing provider (South West Inner Sydney Housing Cooperative Limited – now part of Bridge Housing) had only 27 units of affordable housing in the LGA for which there was a waiting list of 406 applicants and an average of 8-15 new applications each week. While the Strategy is now 9 years old, house prices and rents have escalated over that period, suggesting that the situation for low income households is likely to have deteriorated.



### 6.1.2 Affordable Housing Taskforce Report

The NSW Affordable Housing Taskforce released their interim report in March 2012. In this report, the Taskforce said that, *“Housing NSW has strategically facilitated the growth of the community housing sector in recent years, providing a range of capacity building opportunities. NSW government now has the opportunity to benefit from this increased capacity.”*

Furthermore, the Taskforce said that inclusionary zoning policies do not work to provide affordable housing in all markets. While these policies provide a level of certainty about the type of contribution required for affordable housing and avoid the need for site based negotiation processes and the mandatory nature of the provisions support the delivery of scale, they have been shown to work most effectively in high value land locations and have limited application in lower cost markets.

Inclusionary zoning provisions may be considered to increase the costs of development which may be passed on to individual home purchasers. However, whether these provisions have an impact is dependent on the timing of introduction (to allow for the contribution to be factored into the purchase price for the land), whether it is associated with increased development potential (allowing for value capture) and market characteristics (elasticity of demand and supply).

Clearly, for an area like Lilyfield, the AHRSEPP, with a SCC, is the preferred method to obtain affordable housing outcomes.

### 6.1.3 Development Under the ARH SEPP

The proposed development would be built under the ARHSEPP. The ARHSEPP requires that 50 per cent of the units in a development are rented out as affordable housing by a community housing provider (CHP) for no less than 10 years (which allows for asset recycling). Under the proposed scheme, 8 apartments would be leased and managed by Amélie Housing.

The ARHSEPP gives the state and council the opportunity to work with a CHP to get an affordable outcome that includes a range of dwelling typologies and provides dwelling choice for the CHP and their clients for housing singles, families and couples. In this case, Amélie Housing will operate affordable housing dwellings on the adjoining property which is under construction. The subject site is underutilised. Its redevelopment will avoid any perceived land use conflict, is a logical residential extension, and supports the provision of affordable housing in an unaffordable area for low income families.

### 6.1.4 Objectives of the EP&A Act

When performing functions under the Act, authorities will be guided by three additional new objects promoting:

- good design and amenity of the built environment
- the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)
- the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.

- to promote the delivery and maintenance of affordable housing

The new objects of the Act commenced from 1 March 2018.

The objects of the Act are guiding principles that need to be considered by planning authorities, such as councils and Local Planning Panels, when making decisions under the Act.

According to the Department's own explanatory notes guiding how the new objects are to be interpreted, *"promoting social equity through the provision of Affordable Housing and directly dealing with the issues of housing stress in Sydney is already a relevant consideration that may be considered by decision-makers."*

The explanation goes on to highlight the increased importance of affordable housing as a consideration: *"Having an affordable housing object elevates the importance of promoting and facilitating the provision of Affordable Housing as part of the planning system as a whole and will ensure that affordable housing provision is considered and balanced with the other objects of the Act."*

The Department also notes that the ARHSEPP: *"Enables a consistent planning regime for the provision of affordable rental housing, to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, to facilitate the retention and mitigate the loss of existing affordable rental housing, to facilitate an expanded role for not-for-profit-providers of affordable rental housing and to support local business centres by providing affordable rental housing for workers close to places of work."*

As noted earlier, the Affordable Housing Taskforce report that was released in 2012, provides further evidence analysis of the need for the planning system to support the delivery of Affordable Housing.

It is clear that, despite the fact that the new Act postdates the ARHSEPP by nearly 10 years, the Department and the Parliament had it in mind that the objectives could be met by the already existing EPI.

Therefore, it can be seen that there is a deliberate planning approach applied about the practical application of the objectives of the Act and the use of an EPI to achieve the objective.

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## 7 Conclusion

This report supports an application to the NSW DPI&E for a SCC under Division 5 of the State Environmental Planning Policy (Affordable Rental Housing) 2009. The subject site, at 1-3 White Street, Lilyfield adjoins land at 5-7 White Street that already has a SCC applying to it. The SCC was issued on 23 May 2017, and a development application approved on 18 October 2017.

The SCC supports the development of the site which will facilitate 16 dwellings, of which 50% (8 dwellings) will be designated affordable housing units, managed by Amélie Housing a registered and accredited housing provider, for a period of 10 years in accordance with the provisions of the ARH SEPP.

The subject site is zoned IN2 Light Industrial within which development for the purpose of a ‘residential flat building’ is prohibited. Further, the site is within 800 metres of the public entrance to Lilyfield light rail station. As per Section 34(a) the provisions of Division 5 of the ARH SEPP therefore apply.

Due to the high unmet demand for affordable housing in the inner west, Amélie Housing are seeking opportunities in suitable/compatible locations for affordable housing. The subject site at 1-3 White Street, being an isolated industrial site and adjoining residential development, while being located within close proximity to public transport is considered a suitable location for such a development that supports the provision of affordable housing in the Inner West

The IN2 Light Industrial zone contains numerous objectives that facilitate development in that zone in accordance with the permitted uses. As “*residential flat buildings*” are not permitted and the development application is for a residential flat building, it is difficult to achieve an objective for an employment use, such as a “*warehouse or distribution centre*” or “*hardware and building supplies*”.

As discussed in this report, the purpose of the Affordable Rental Housing SEPP is to expand zoning and permissibility. This application demonstrates that proposed residential flat development will not have any unacceptable environmental impact and is compatible with the surrounding land uses having regard to existing and approved land uses and the bulk and scale and the preferred future land uses on land surrounding the subject site.