

**Report to the Secretary's delegate on application SCC No.
SCC_2019_IWEST_001_00 for a site compatibility certificate under State
Environmental Planning Policy (Affordable Rental Housing) 2009**

SITE

The site is 1-3 White Street, Lilyfield and is known legally as Lot 1, Section 5, DP 3001 (**Figure 1**). The site has an approximate area of 1328sqm and is broadly rectangular in shape. The site is located at the corner of White Street and Moore Street and contains a two-storey warehouse containing a fish wholesale business (**Figure 2 & 3**).

The rear of the site backs onto a culvert-capped creek known as Whites Creek Lane (**Figure 4**). The land has a cross-fall from south down to north, and also slopes approximately 2.7m from the White Street frontage down to the rear boundary. A 3m wide sewer easement crosses the site from west to east broadly along the northern boundary.



Figure 1: Site map



Figure 2: Subject site frontage to the White Street and Moore Street intersection (approved affordable housing development located behind)



Figure 3: Site frontage to White Street



Figure 4: Rear of the site (left) to the Whites Creek culvert

An affordable rental housing development has recently been completed at the adjoining site to the north, 5-7 White Street (**Figure 2 & 3**). That development was subject to a SCC (SCC_2016_IWEST_002_00) issued in 2017. A detailed assessment of the site context is located on Page 8.

Under the provisions of Leichhardt Local Environmental Plan 2013, the subject site is in Zone IN2 Light Industrial (**Figure 5**) and a maximum floor space ratio of 1:1 is permitted (**Figure 6**).

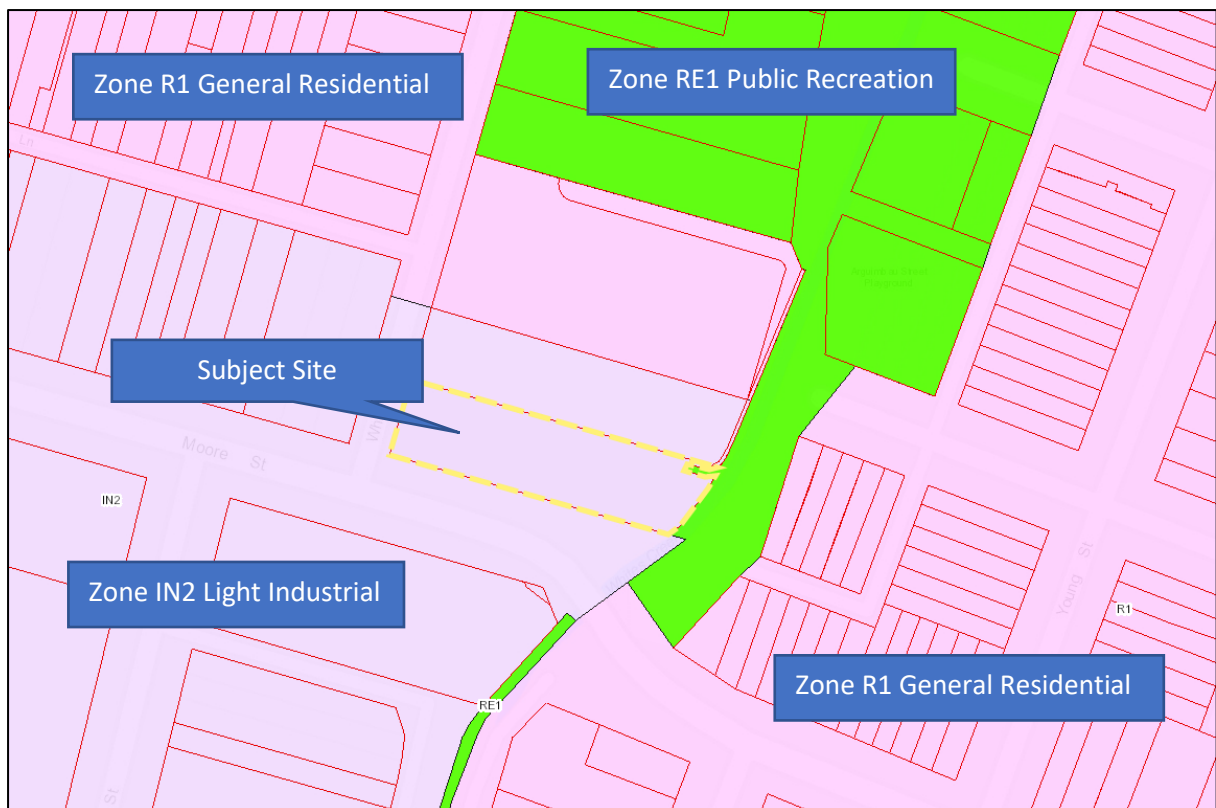


Figure 5: Land Zoning Map



Figure 6: Floor Space Ratio Map

The land is not shown on the height of buildings map, nor the minimum lot size map. The site is not a heritage item, nor is it located within a heritage conservation area.

APPLICANT

Pacific Planning Pty Ltd on behalf of Prestige Fisheries Pty Ltd

PROPOSAL

The proposal involves a new three storey residential flat building resulting in 16 dwellings, of which eight are proposed to be managed by a social housing provider as affordable housing for a minimum of 10 years.

The proposal includes a partly enclosed basement accessed by a ramp to White Street and providing parking for 13 vehicles, five motorbikes and eight bicycles.

Due to the slope of the land, access to the dwellings is proposed by three lifts from the basement and two new pedestrian bridges from the southern boundary across Council land to the footpath at the Moore Street embankment (**Figure 7**).

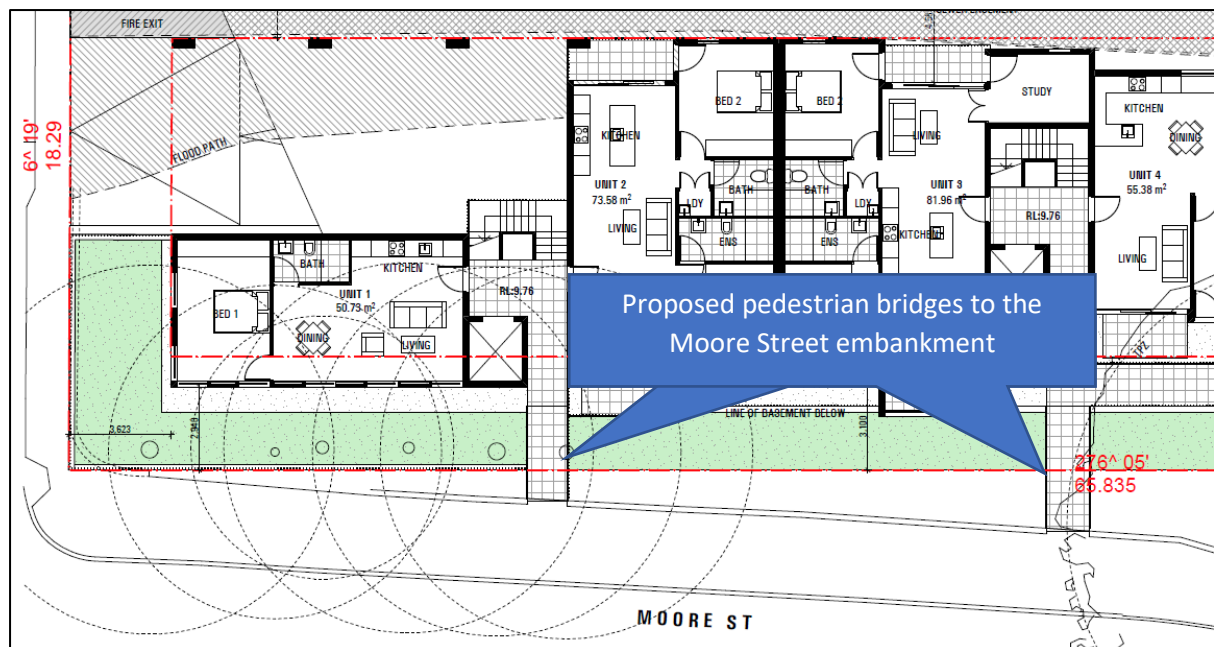


Figure 7: Proposed bridges to Moore Street

A letter is included with the application from Amelie Housing, a registered community housing provider, stating that it is willing to enter into an agreement to manage the eight affordable rental housing dwellings for 10 years.

LGA

Inner West (former Leichhardt LGA)

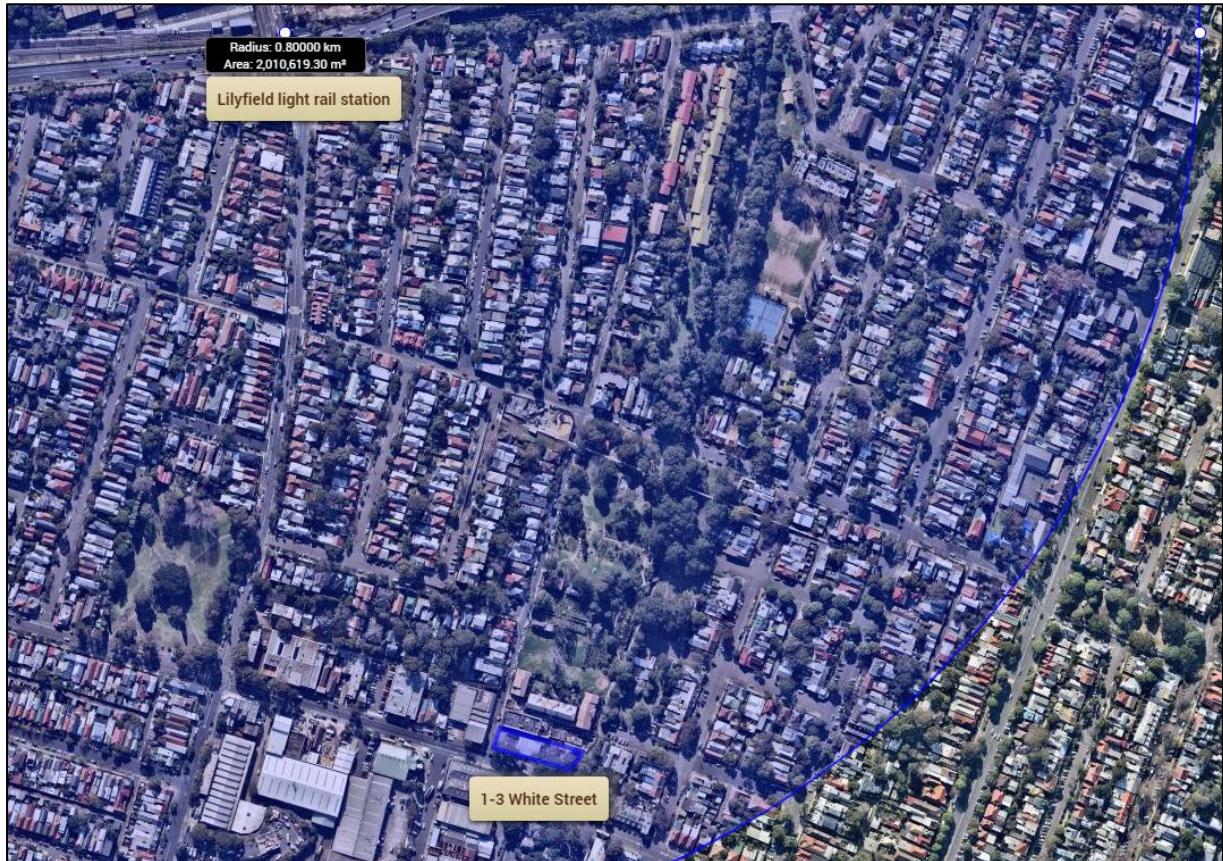
PERMISSIBILITY STATEMENT

Residential accommodation is prohibited at the subject site since the land is within Zone IN2 Light Industrial. However, Division 5 of the ARH SEPP 2009 applies to the land because it is in the Sydney region and within 800m of the public entrance to Lilyfield light rail station (**Figure 8 over page**). The site is within 800m of the entrance both in direct radius and in walking distance.

CLAUSE 35 DEVELOPMENT TO WHICH DIVISION APPLIES

Division 5 applies to the development because:

- The development is located on land within 800m of Lilyfield light rail station entrance; and
- The development is for the purpose of a residential flat building on behalf of a social housing provider.



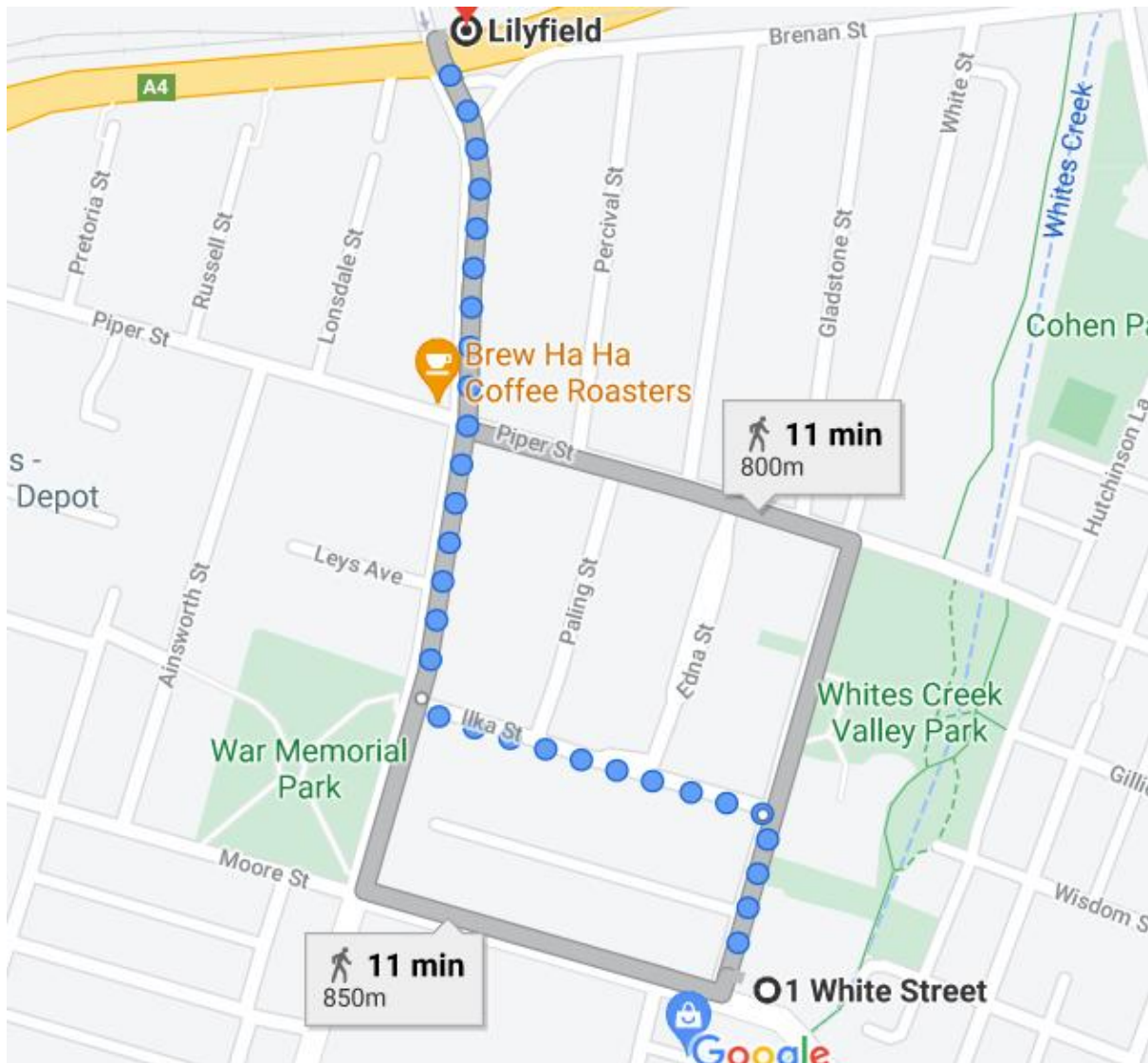


Figure 8 & 9 Radius of 800m (blue shaded circle) from the entrance to Lilyfield light rail station and map showing walking route

CLAUSE 37 SITE COMPATIBILITY CERTIFICATES

(1) An application for a site compatibility certificate under this Division may be made to the Director-General:

- a) by the owner of the land on which the development is proposed to be carried out, or*
- b) by any other person with the consent of the owner of that land.*

(6) The Director-General must not issue a certificate unless the Director-General:

- c) has taken into account any comments received from the council within 14 days after the application for the certificate was made, and*
- d) is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:*

- i. the existing uses and approved uses of land in the vicinity of the development,*
- 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,*
- iii. the services and infrastructure that are or will be available to meet the demands arising from the development, and*
- e) 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.*

OWNERS CONSENT

The application was made by Pacific Planning Pty Ltd, on behalf of the owner of 1-3 White Street, Prestige Fisheries Pty Ltd.

As part of the land subject to the proposed development is burdened by an easement benefiting Sydney Water, the Applicant must engage with Sydney Water to obtain owners consent from Sydney Water to lodge a development application. This requirement forms a condition of the SCC.

In addition, as pedestrian access is proposed across Council land to the footpath upon the Moore Street embankment, the Applicant must obtain owners consent from Council should the bridges depicted in the concept form part of the future development application. This requirement forms a condition of the SCC.

COUNCIL COMMENTS

A copy of the SCC application was provided to Inner West Council for its consideration, consistent with Clause (4). Council raised the following issues in its submission to the Department:

- Council's draft Employment and Retail Lands Strategy and draft Employment and Retail Lands Study (the draft study) recommends that all remaining employment lands in the Inner West LGA be protected.
- The draft study identifies the Moore Street Industrial Precinct as a key location to accommodate a diverse range of industrial and urban services uses. The draft study projects a shortfall of industrial and urban services floorspace in the precinct and recommends that no additional residential uses should be permitted.
- The proposed residential use would be incompatible with the surrounding industrial land uses on land to the west and south.
- The 2014 Leichhardt Industrial Lands Study recommends rezoning the Moore Street Precinct to Zone IN1 General Industrial, while the draft study recommends rezoning the 'core' of the precinct Zone IN1 and the periphery (including the subject site) Zone IN2. As such, the preferred future use of the surrounding land is industrial rather than residential, which generates greater amenity impacts that are incompatible with residential uses.
- Residential development at the site would restrict the intensification in development standards across the industrial precinct recommended by the 2014 study.

- Issuing a SCC would be contrary to the Eastern City District Plan direction to retain industrial land.
- Issuing a SCC, following the issue of a SCC at 5-7 White Street, would further encroach residential development into the industrial precinct and deteriorate its industrial function. This is of concern since most of the precinct is within 800m of Lilyfield light rail station entrance, and thus susceptible to residential development under Division 5 of the ARH SEPP 2009.
- Residential development, including affordable rental housing, is flexible in location, while the Moore Street Precinct is strategically located to facilitate forecast growth in industrial uses.
- The application proposes only to satisfy the minimum requirements of Division 5 of the ARH SEPP 2009 by providing eight dwellings as affordable rental housing for 10 years, however the SCC issued for the adjoining site at 5-7 White Street required all dwellings to be affordable rental housing for at least 30 years. Not addressing the LGA's affordable housing supply gap in the medium or long terms is unacceptable because the trade-off is the permanent loss of valuable industrial land.

Council's comments have been considered in the assessment of the application in the section below, as per Clause (6)(a).

COMPATIBILITY WITH THE SURROUNDING LAND USES

The Secretary must not issue a certificate unless the Secretary is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:

1. The existing uses and approved uses of land in the vicinity of the development (clause 37(6)(b)(i))

The site is located in the north-east part of the Moore Street Industrial Precinct. A three storey residential flat building has recently been completed to the north at 5-7 White Street, which was issued a SCC under Division 5 in 2017. The Whites Creek culvert adjoins the site to the east, and beyond are dwelling houses along Arguimbau Street and Moore Street.

An existing truck parts and repairs business is located across White Street to the west and an existing auction business warehouse is located across Moore Street to the south.

With regard to the wider industrial precinct, the Leichhardt Industrial Lands Study (2014) identified a range of manufacturing, retailing, professional, technical and maintenance services (**Figure 9**). While outdated now, the map provides a useful spatial overview of the uses within the precinct at the time.



Figure 9: Moore Street (south) Precinct industrial land uses (Leichhardt Industrial Lands Study 2014)

Inner West Council recently endorsed the Employment and Retail Lands Study (2020) which identified the following land uses in the Moore Street Industrial Precinct at the time of its audit in 2019:

Employment	GFA	Proportion
Knowledge intensive	17,901	30%
Health and education	2,404	4%
Population serving	11,765	19%
Industrial	26,300	44%
Vacant	1,985	3%
Total	60,355	100%

Table 1: Moore Street Industrial Precinct land use audit (Inner West Employment and Retail Lands Study (2020), HillPDA & Council)

The land surrounding the industrial precinct is largely residential and recreational open space (**Figure 5**). Given the site's location at the north-east periphery of the Moore Street Industrial Precinct, the potential for the proposed residential use to conflict with established industrial uses is limited to the west and south.

Access to the truck parts and repair business to the west is from Moore Street and Moore Lane rather than White Street, immediately in front of the subject site. In addition, the auction business to the south is accessed by John Street and a service road rather than Moore Street directly in front of the subject site.

As such, the subject site is somewhat buffered in White Street and Moore Street from adjacent industrial land uses, and vehicular access to these businesses is distant from the subject site frontages.

Due to the site's location at the north-east periphery of the industrial precinct, a pedestrian from the proposed development could walk directly to Lilyfield light rail station on White Street or Annandale village centre on Moore Street without conflicting with vehicle movements to and from the industrial precinct.

With regards to Council's concern about land use conflict, the existing Moore Street Industrial Precinct adjoins residential land in this location, which indicates that compatibility between the two uses may continue to be adequately managed.

With adequate measures implemented at the development assessment stage to address detailed environmental concerns, it is considered that the proposed residential use could be provided without compromising occupant amenity or the continued operation of surrounding industrial land uses.

The proposed residential use is consistent and thus compatible with the surrounding residential and recreational open space uses to the north and east.

The Department recognises Council's concerns regarding the loss of industrial land and land use conflict between residential and industrial uses. However, given the site's location at the north-east periphery of the Moore Street Industrial Precinct, its proximity to the approved and completed residential flat building at the adjoining site, its distance from vehicular access points to surrounding businesses, and the appropriate buffer provided by Moore Street and White Street to surrounding industrial uses, a residential use is considered compatible.

2. 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 Secretary, are likely to be the preferred uses of that land (clause 37(6)(b)(ii))

Existing and approved uses of the surrounding land



Figure 10: South elevation



Figure 11: East elevation (left) and West elevation (right)

The proposed three storey residential flat building (**Figure 10 and 11**) will have an acceptable impact upon the existing uses of the surrounding land because:

- The site is directly adjoining a residential use and the proposed residential use eliminates the existing potential conflict of amenity from the light industrial use
- The proposed development appears to have a FSR of 0.89:1, which complies with the 1:1 FSR development standard under Leichhardt LEP 2013. Further detailed design assessment will be required as part of any future development application to verify the final FSR.
- The proposed two storey presentation to White Street with a third storey setback from the east and west frontages complements the built form established by the approved development at 5-7 White Street.
- The proposed roof height of approximately RL 19 is consistent with the maximum building height of the approved development at 5-7 White Street of RL 19.1.
- Given that the site is located north of a warehouse at Moore Street and east of a warehouse at White Street, the proposal will not result in significant adverse amenity impacts with regard to visual intrusion or overshadowing to these properties.
- Given the closest residential properties are 16m-17m to the east across the Whites Creek public open space, it is considered that a future development

application will be capable of retaining reasonable solar access to neighbouring residential dwellings.

- The proposed basement carpark incorporating columns to support the ground and two floors above is unlikely to cause significant visual intrusion because:
 - the ground floor is approximately aligned with the level of the Moore Street embankment and bridge across Whites Creek, limiting its visibility from the south;
 - a large area of trees and vegetation within the Whites Creek corridor buffers the site from dwellings to the east; and
 - The proposed ground FFL is less than a metre above the ground FFL of the approved residential flat building at 5-7 White Street.
- Given the proposed building appears to involve a compliant FSR, and a similar built form and height presentation to the front and rear frontages as 5-7 White Street, the bulk and scale is considered reasonable.

Clause 39 of the ARH SEPP 2009 confirms that the provisions of *State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development* and the accompanying *Apartment Design Guide* apply to development under Division 5. As such, should a SCC be issued, a future development application for a residential flat building will be required to meet the design principles of SEPP 65 and the design criteria of the *Apartment Design Guide*, such as building setbacks, privacy, noise and landscaping.

Likely preferred future uses of the land

No future rezoning of the land has been foreshadowed by Council.

The land is not identified in any state or regional strategy as land which should be rezoned.

The existing Leichhardt LEP 2013 limits the permitted future uses of the land to those permissible in Zone IN2 Light Industrial, which are largely industrial or commercial in character.

The subject site is located within land subject to the draft Inner West Local Environmental Plan 2020. The draft LEP, presently subject to finalisation by the Department, will continue to show Zone IN2 Light industrial for the land, with the permitted and prohibited land uses remaining similar.

Council notes in its submission that the preferred future use of the surrounding Moore Street Industrial Precinct is for continued industrial development. Council cites the Leichhardt Industrial Lands Study (2014) and the draft (at the time of the submission) Inner West Employment and Retail Lands Study and accompanying Strategy as the evidence base for intensifying the 'core' area of the precinct and retaining the subject site along with the surrounding 'periphery' as a buffer from the adjacent residential uses.

Since the time of Council's submission, the draft Inner West LEP 2020 has been endorsed by Council for finalisation. The draft IWLEP 2020 was modified post-exhibition in response to community concerns to no longer intensify the core of the precinct to Zone IN1 General Industrial. The precinct will remain a light industrial zone.

The Department accepts that retention of industrial land is a priority of the Eastern City District Plan and Council's Inner West Employment and Retail Lands Strategy

and Study. However, the loss of employment land for the provision of new affordable housing is considered reasonable in this instance in light of:

- the object of the EP&A Act to promote the delivery and maintenance of affordable housing (1.3(d));
- the subject site is adequately buffered from surrounding industrial uses to not significantly affect their continued operation, or the occupant amenity of the future residential development on the site.
- This is one of two properties on this side of White Street that is zoned light industrial. The other property at 5-7 White Street has an existing affordable housing development on it that was also the subject of an SCC. In effect this site is an isolated industrial site that would not be able to amalgamate with any other site
- the development of the site for residential purposes will provide a better land use relationship to the recently completed affordable housing development at 5-7 White Street; and
- the aim of the ARH SEPP 2009 to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility (3(b)).

3. The services and infrastructure that are or will be available to meet the demands arising from the development (clause 37(6)(b)(iii))

Retail, commercial and community services

The site is located within 500m of Annandale village centre and 1.3km of Leichhardt centre.

Annandale hosts supermarkets, a post office, ATMs, and a diverse range of retail shops.

Leichhardt hosts supermarkets, retail shops, entertainment uses, banks, medical services, government services, a library and schools.

Transport

The site is within 800m walking distance of Lilyfield light rail station. In addition, bus stops are located within 120m from the site and served by frequent services to Lilyfield light rail station, Sydney CBD, Leichhardt and Coogee on the 470 and 370 routes.

Utility services

The site is in an established urban area and is serviced by all necessary utility services.

EFFECT ON THE ENVIRONMENT

The Secretary must not issue a certificate unless the Secretary 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 risks to the land (clause 37(6)(c)).

Heritage

The site is not a heritage item, nor is it within a heritage conservation area. The Annandale Heritage Conservation area is located to the east of the site but does not

adjoin the site. The proposed development is considered capable of not adversely impacting on the heritage conservation area subject to further detailed design considerations at the development application stage.

Vegetation

The application is accompanied by an arborist report which details the existing vegetation on and adjacent to the site, and justifies the removal of a number of trees. The report also recommends methods of protecting trees which are proposed for retention throughout the works. It is considered that the retention, protection and replacement of trees can be properly assessed and resolved in the development application process to ensure acceptable impacts on the environment are achieved.

Aircraft noise

The site is located between the ANEF contour of 20 and 25. As a result, detailed consideration of the acoustic impact of aircraft movements must be conducted at the development application phase, in accordance with Clause 6.8 of Leichhardt LEP 2013 and the relevant Australian Standards.

Contaminated land

The SCC Application is accompanied by a Stage 1 Preliminary Site Investigation (May 2020) and a Stage 2 Detailed Site Investigation (November 2020).

The Detailed Site Investigation involved consideration of the site's land use history and analysis of 17 samples taken from seven boreholes across the site. A fill layer was detected to a depth of approximately 0.9m-1.2m below ground level at all boreholes. It found that the site is likely to have been used only for agricultural and light industrial purposes. Analysis of soil and water samples found some elevated levels of contaminants, however all levels were below the adopted site criterion, other than zinc.

Despite the exceedance of the site criterion for zinc, the report recommends that in light of the overall site condition and the proposed development, no further investigative or remedial action is required.

The report makes a number of recommendations for how the proposed development should be carried out, including the management of fill removal and demolition of the existing warehouse.

The Department is satisfied that the supplied investigations have demonstrated that the land can be made suitable for the proposed residential land use. A condition of the SCC requires the DSI to accompany a future development application, noting that this does not restrict Council's ability under SEPP 55 to request further investigations or a remedial plan to be prepared.

Access

The development proposes vehicular access and waste removal by a ramp to White Street. The existing cross-over servicing the warehouse is located at this frontage, which is considered satisfactory.

These access arrangements require works in close proximity to Sydney Water's sewer easement. A condition of the SCC requires the applicant to seek Sydney Water's land owner's consent for the broader development across the easement.

Flooding

The application is accompanied by a flooding report which identifies the land is flood affected. The report makes a number of recommendations to assist in reducing overland flow and protecting the proposed development from flood waters. These recommendations indicate that with regards to flooding, the development is not likely to have an adverse effect on the environment, or cause unacceptable environmental risks to the land.

The applicant provided amended architectural plans which demonstrate that the development can be designed to house essential equipment, such as mechanical plant, above the flood planning level. It is considered that further detailed flooding consideration may be conducted at the development application stage.

RECOMMENDATION

The Department considers that the development is compatible with the surrounding land uses and is not likely to have an adverse effect on the environment and does not cause any unacceptable risks to the land. The SCC should be issued, subject to conditions, because:

- the proposed use will assist in providing additional housing choice and opportunities for affordable housing in the Inner West LGA;
- the proposed residential flat building is compatible with the surrounding land uses, including those likely in the future;
- the proposal will provide affordable housing within walking distance of public transport, helping to provide access to services and jobs;
- the site is suitable for more intensive use for the purposes of affordable housing, having regard to the criteria set out in clause 37(6) of the Affordable Rental Housing SEPP and the detailed design considerations which form part of a future development application; and
- the development will not have an adverse impact on the environment or cause unacceptable risks to the natural environment, subject to conditions.

SCC REQUIREMENTS

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 (clause 37(7) of the Affordable Rental Housing SEPP).

It is recommended that conditional requirements be included in schedule 2 of the SCC, being:

1. As part of the land subject to the proposed development is burdened by an easement benefiting Sydney Water, the Applicant must engage with Sydney Water to obtain owners consent to lodge the development application.
2. As pedestrian access is proposed across Council land to the footpath upon the Moore Street embankment, the Applicant must obtain owners consent from Council should the bridges depicted in the concept form part of the future development application.
3. The Phase 2 Environmental Site Investigation by 4Pillars Environmental Consulting (V1.0, 3 November 2020) is to form part of the documents lodged with Council in the development application relying upon this SCC. This condition does not restrict Council's ability under SEPP 55 to request further investigations or for a remedial plan to be prepared.

4. 50% of the dwellings in the development are to be made available for affordable rental housing for a minimum of 10 years.

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