

ATTACHMENT 1 – COUNCIL OFFICER’S DETAILED ASSESSMENT REPORT

1. BACKGROUND

On 18 September 2019, Council received a planning proposal application from P & C Consulting Pty Ltd, for 245 Marion Street, Leichhardt (the ‘site’). The planning proposal (refer to **ATTACHMENT 2**) seeks to amend *Leichhardt Local Environmental Plan 2013* (LLEP 2013) by including a local provision to facilitate a mixed use development including residential accommodation and a minimum of 5,200sqm of non-residential floorspace, while retaining the IN2 Light Industrial zoning. The non-residential GFA is to comprise a minimum of 3,200sqm of light industrial uses with the remaining to include a childcare centre, health service facilities, restaurant, café or shops. The planning proposal also seeks to increase the FSR from 1:1 to 3:1 and introduce a maximum height of building of 30m for a mixed-use development.

No meetings were sought by the proponent to discuss the merits of the proposal prior to lodgement. The submitted planning proposal was not accompanied by site-specific DCP provisions as encouraged by Council’s Planning Proposal guidelines.

A previous planning proposal for the site was submitted to the former Leichhardt Council on 14 August 2014. The proposal sought to rezone the site from IN2 Light Industrial to either R1 General Residential zone or an unspecified business zone, increase the FSR from 1:1 to 3.3:1 and introduce a new building height control of 50m to facilitate a 15 storey residential development. No site specific DCP controls were proposed.

On 25 November 2014, former Leichhardt Council resolved to not support the planning proposal due to the loss of industrial land and lack of strategic and site-specific merit. Council’s resolution is included as **ATTACHMENT 14**.

The proponent subsequently submitted a pre-Gateway review application (now known as a Rezoning Review) to the former Department of Planning and Environment. On 20 November 2015, the Department determined the application did not have sufficient merit to proceed to Gateway. Refer to **ATTACHMENT 15**.

2. THE SITE AND SURROUNDING

The rectangular site is oriented north-south with frontages of 40 metres to Marion Street and 35 metres to Walter Street and an approximate total area of 5,210sqm (refer to **Figures 1 and 2**). Primary access to the site is from Marion Street, with secondary access from Walter Street. The site is occupied by a one storey, brick, post 1940s industrial building with saw tooth roof, currently used by a car repair business. A site survey plan is contained in **ATTACHMENT 5**.

The surrounding locality is predominately characterised by one and two storey residential dwelling houses. Adjoining the eastern boundary is a 2-3 storey seniors housing development. Lambert Park is located to the south of the site and the Inner West light rail line runs adjacent to the western boundary, atop an embankment, with Marion light rail stop adjoining the site. Hawthorne Canal Reserve and the GreenWay are located to the west of the light rail corridor. The site is located approximately 350m from Leichhardt Marketplace.

Following the light rail corridor, 67-73 Lords Road, Leichhardt and the Canal Road Film Centre are located 230m south and 800m north of the site, respectively. 67-73 Lords Road accommodates a range of light industrial and commercial uses including warehousing/storage, small scale manufacturing including furniture and joinery businesses as well as a private art school, ‘Art Est Art School and Gallery’. The Canal Road Film Centre accommodates multiple businesses related to the film production industry.

The site is located in the vicinity of a local heritage item (I655), comprising a ‘former house, including interiors’, located at 20-22 Foster Street, Leichhardt. This heritage item is currently

utilised as a child care centre. Haberfield Heritage Conservation Area (HCA) is located to the west of the Inner West light rail corridor.

The site is identified as a flood affected lot under Leichhardt DCP 2013.



Figure 1 - The site (within red boundary)



Figure 2 – Local context of the site

3. CURRENT PLANNING CONTROLS

Leichhardt Local Environmental Plan 2013

The site is zoned IN2 Light Industrial under LLEP 2013 and a maximum floor space ratio (FSR) of 1:1 applies. There is no maximum height of building control. The site is identified as being affected by Class 5 acid sulfate soils.

Figures 3 and 4 show the zoning and FSR maps as they apply to the site.

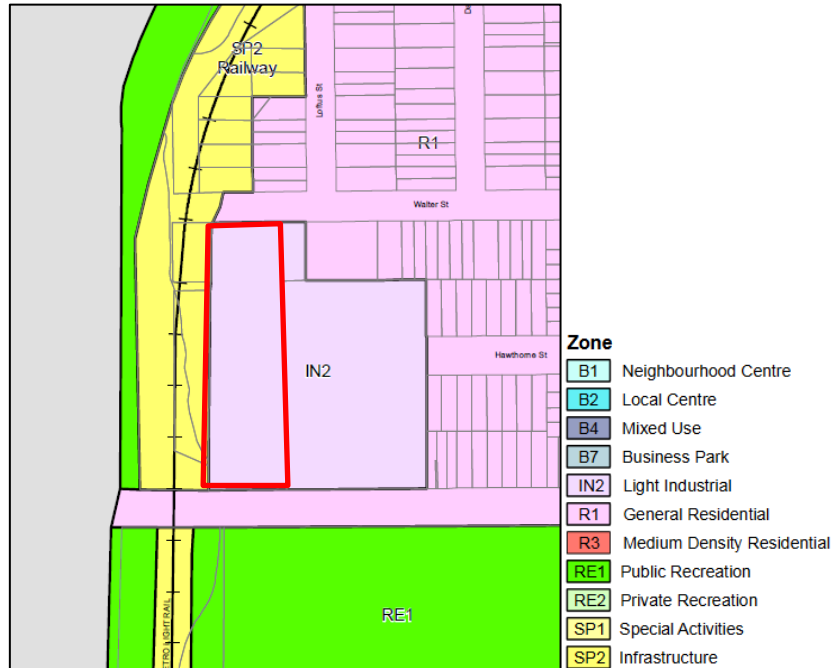


Figure 3 – Existing LEP Zoning Map

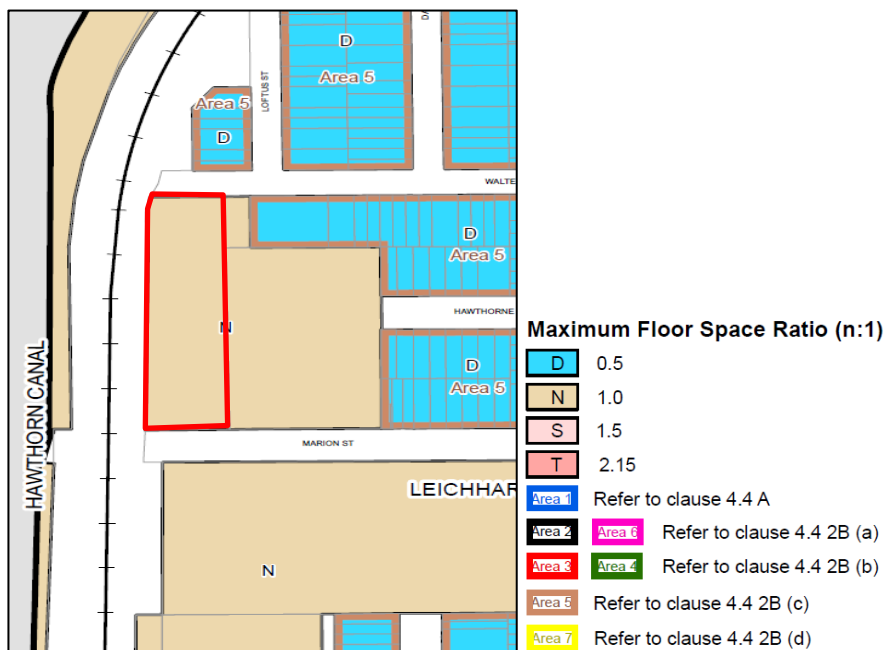


Figure 2 - Existing LEP FSR Map

4. KEY FEATURES OF PLANNING PROPOSAL

The Planning Proposal seeks to amend LLEP 2013 by introducing a site-specific additional local provision to Part 6 to:

- allow residential accommodation as part of a mixed-use development that includes a minimum GFA of 5,200m² of non-residential uses, including:
 - a minimum of 3,200m² of uses permissible in the IN2 Light Industrial zone
 - a maximum of 2,000m² of childcare centre and health service facilities
 - a maximum of 250m² of restaurant, café or shops
- increase the maximum FSR from 1:1 to 3:1 for mixed-use development;
- introduce a maximum height of building of 30 metres (approx. 8 storeys) for mixed-use development;
- remove application of Clause 6.9 to the site (under Clause 6.9, consent can be granted to office and business premises if Council is satisfied that the development will be used for creative purposes);
- amend the Key Sites Map (Sheet 2) to identify the site (to be referenced in the additional local provision).

Proponent's proposed concept design report and plans are contained in **ATTACHMENT 3 & 4**.

5. ASSESSMENT

Part 3 of the Department of Planning, Industry and Environment's 'A Guide to Preparing Planning Proposals' outlines questions to be addressed when justifying a planning proposal. The questions consider consistency with state and local government plans including the Region Plan, the District Plan, State Environmental Planning Policies, local strategic and community plans, applicable Ministerial Directions and other planning considerations. Council officers have assessed the subject planning proposal and supporting documentation against the questions contained in Part 3 of the Guide.

5.1. Section A – Need for the planning proposal

- *Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?*

The planning proposal is not the result of an endorsed Local Strategic Planning Statement (LSPS), strategic study or report. The Inner West LSPS is currently a draft, having been exhibited from 23 September to 27 October 2019.

The Planning Proposal acknowledges the above and cites consistency with the "recent rezoning of 469-483 Balmain Road, Lilyfield" and achievement of the intent of Council's local planning strategies, including the Industrial Lands Study (2014) and Leichhardt Industrial Precinct Planning Report (2016) as reasoning.

This justification is flawed for the following reasons:

- The proposed amendment for 469-483 Balmain Road, Lilyfield has not been approved for gazettal. It is under consideration by the Sydney Eastern City Planning Panel, having recently been exhibited. The Greater Sydney Commission's Information Note (SP2018-1) permits this planning proposal to proceed to Gateway as it was submitted prior to the adoption of the District Plans and was referred to and supported by the relevant Sydney

District Planning Panel. The Information Note directs that any planning proposals regarding the change of use of industrial and urban services land submitted after the adoption of the District Plans are to consider the 'retain and manage' approach set out in the relevant District Plan.

- The planning proposal is inconsistent with the Leichhardt Industrial Lands Study (2014) and Leichhardt Industrial Precinct Planning Report (2016). The planning proposal is contrary to the Study's recommendation to protect industrial lands in the former Leichhardt LGA. This is discussed in detail below.

The planning proposal is not a result of a Council endorsed LSPS, strategic study or report and as such fails this criterion.

- *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

The objective of the Planning Proposal is to facilitate the redevelopment of 245 Marion Street, Leichhardt in a manner that will increase employment and housing opportunities. The Planning Proposal outlines three options that were considered to facilitate the objectives and intended outcomes:

Option 1 – Do nothing;

Option 2 – Re-develop the site with an industrial development; or

Option 3 – Seek to amend Part 6 – Additional Local Provisions of the LEP to facilitate the development of a mixed-use development (preferred option).

The proponent notes that Option 3 was deemed the most appropriate means of achieving the desired future redevelopment.

The Planning Proposal does not demonstrate sufficient merit to justify the objectives and intended outcome. The existing zoning and controls should be retained to help maintain the supply of industrial lands in the LGA, the Eastern City District and the broader Sydney.

5.2. Section B – Relationship to strategic planning framework

- *Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?*

The planning proposal has been considered in relation to the Greater Sydney Region Plan – A Metropolis of Three Cities (Region Plan) and Eastern City District Plan (District Plan), which were adopted in March 2018. The planning proposal's inconsistency with the Region Plan and District Plan is discussed below.

Direction: A city for people

Objective 6 – Services and infrastructure meet communities' changing needs

Planning Priority E3 – Providing services and social infrastructure to meet people's changing needs

The planning proposal is supported by a Voluntary Planning Agreement (VPA) offer that includes affordable housing, monetary contribution to Lambert Park and a new pedestrian through-site link between Marion Street and Walter Street. However, the proposed public benefit is considered insignificant and inconsistent with Council's Affordable Housing Policy. This is discussed in detail later in the report.

Given the above, the planning proposal is inconsistent with this priority as it provides inadequate public benefit and affordable housing.

Objective 9 – Greater Sydney celebrates the arts and supports creative industries and innovation

The proposed industrial floor space is physically constrained – located within a basement, without natural light and ventilation and with restrictive vehicular access, floor to ceiling heights and floor plates. This, together with the proposed introduction of non-industrial uses to the site, will restrict the uses that can locate on the site, including creative industries. The site is in a contiguous line with the Art Est art school to the south and the Canal Road film studios and other creative uses to the north. Further affordable spaces for relatively dirty making and fabrication are required in the area including sculpture, prop making and other industrial scale creative uses. In contrast, the tailored nature of the proposed floor space and introducing additional uses will remove opportunities for creative industries.

Direction: Housing the City

Objective 10 – Greater housing supply

Objective 11 – Housing is more diverse and affordable

Planning Priority E5 – Providing housing supply, choice and affordability, with access to jobs, services and public transport

The planning proposal claims that it is consistent with this priority as it introduces additional housing, comprising a mix of apartment types, and contributes to the housing target for the Inner West. However, the gap analysis in Our Inner West Draft Housing Strategy indicates Council is currently on track to meet and exceed the District Plan housing target of 5,900 dwellings by 2021 and is well positioned to accommodate future dwelling targets to 2036.

The proposal seeks to provide housing in a location identified as unsuitable under Council's draft Local Housing Strategy and provides insufficient affordable housing. Accordingly, the planning proposal is inconsistent with the relevant objectives and priorities.

Direction: A city of great places

Objective 12 – Great places that bring people together

Planning Priority E6 – Creating and renewing great places and local centres and respecting the District's heritage

This priority outlines the principles for local centres which includes the need to protect or expand employment opportunities. It also highlights that although locating housing close to public transport creates walkable centres, housing should not compromise a centre's primary role to provide goods and services, and the opportunity for the centre's employment function to grow and change over time.

The planning proposal is inconsistent with this priority as it proposes sensitive uses that may compromise the viability and future function of the Marion Street Industrial Precinct, and encourages out-of-centre retail and commercial spaces. In addition, the planning proposal is inconsistent with Council's draft Local Housing Strategy and draft Employment and Retail Land Strategy and Study.

The proposed built form would substantially detract from the prevailing local character due to its excessive bulk and scale, visual impact, overshadowing and overlooking. This is at odds with the principle of delivering great places that are walkable and of high amenity with a fine-grain urban form.

Direction: A well-connected city

Objective 14 – A Metropolis of Three Cities – integrated land use and transport creates walkable and 30-minute cities

Planning Priority E10 – Delivering integrated land use and transport planning and a 30-minute city

The proposal will remove capacity to increase the provision of industrial and urban services floor space on the site as well as the potential to adapt as demands for this floor space change and new uses emerge. As population increases in line with the identified targets, restricting the ability of the site to address changing and growing needs will potentially compromise delivery of the 30-minute city.

Direction: Jobs and skills for the city

Objective 22 – Investment and business activity in centres

Planning Priority E11 – Growing investment, business opportunities and jobs in strategic centres

The Region Plan establishes a three-level hierarchy of centres – metropolitan, strategic and local – to manage investment and business activity in Greater Sydney. The subject site is located approximately 350m from Leichhardt Market Place shopping centre, which is identified as a ‘Local Centre’ important for access to day-to-day goods and services.

Planning Priority 11 includes principles for managing local centres. It states that the management of these centres is best considered at the local level and should be informed by a place-based strategic planning process. The planning proposal is inconsistent with Council’s draft ERLS, in particular the centre hierarchy, as well as Council’s draft Local Strategic Planning Statement. This is discussed in detail below.

The proposed development encourages out-of-centre retail and commercial growth on existing industrial and urban services land. This will not only negatively impact the viability and future function of an industrial zoned site to provide day-to-day urban services, but also locate retail and commercial activity away from an existing local centre.

Objective 23 – Industrial and urban services land is planned, retained and managed

Planning Priority E12: Protecting industrial and urban services land

The Region Plan and District Plan include the following principle to manage industrial and urban services land for the Eastern City District:

“Retain and manage: All existing industrial and urban services land should be safeguarded from competing pressures, especially residential and mixed-use zones. This approach retains this land for economic activities required for Greater Sydney’s operation, such as urban services. Specifically, these industrial lands are required for economic and employment purposes. Therefore the number of jobs that support the city and population should not be the primary objective rather a mix of economic outcomes.”

Both the Region Plan and ECDP outline the importance of retaining a sufficient supply of industrial and urban services land. This is needed to provide local support services for the community and accommodate evolving population-serving employment uses as well as maintaining downward pressure on land values. To relinquish industrial sites is costly in the long term as it cannot be converted back. This warning is reinforced in the Greater Sydney Commission’s thought leadership paper, ‘A Metropolis that works’.

The Plans also acknowledge the value of smaller industrial precincts in the Eastern City District. While these precincts may appear to be only a small part of the industrial land supply, they are important for accommodating urban services and creative industries.

The planning proposal is inconsistent with the ‘retain and manage’ approach as it introduces competing land uses on an existing industrial site. Although it seeks to retain the industrial zoning and provide a minimum GFA for IN2 uses, the proposed residential accommodation, commercial and retail spaces would undermine the long term function and viability of the existing industrial site and preclude the future expansion of industrial uses.

On 5 October 2018, the Greater Sydney Commission (GSC) released an Information Note (SP2018-1). The Information Note is prepared to assist planning authorities with their assessment of planning proposals that relate to areas covered by the 'retain and manage' approach. It states that the **'retain and manage' approach prevails over other District Plan objectives relating to delivery of housing or retail floor area.**

'A Metropolis that works' cautions that allowing additional permitted uses would impact on the long term productivity of industrial and urban services land. It advises that a "no regrets' approach is required in any decisions affecting industrial and urban services land, with the ramifications of any displacement of activity fully understood and strategically managed".

In consideration of the site in a broader context, the proposal to facilitate a mixed use development on the site could potentially undermine the long term industrial function of the site. Therefore, the planning proposal is considered inconsistent with the relevant Region Plan and District Plan objectives.

Direction: A city in its landscape

Objective 27 – Biodiversity is protected, urban bushland and remnant vegetation is enhanced
Planning Priority E15 – Protecting and enhancing bushland and biodiversity

The site is located in a 'biodiversity corridor', identified as 'supporting habitat' and 'supporting area'. This is a reflection of its location adjacent to the GreenWay corridor. The proposal shows a nil setback to the western boundary which would adversely impact delivery of the ecological objectives for the corridor as identified in the GreenWay Masterplan, including enhancing biodiversity, protection of remnant vegetation and creating habitat.

- *Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?*

Our Place Inner West Draft Local Strategic Planning Statement

Council's draft Local Strategic Planning Statement (LSPS) guides land use planning and development in the area to 2036 and provides the link between the Eastern City District Plan and priorities of Council's Community Strategic Plan. Council's LSPS was exhibited on 23 September 2019 to 27 October 2019.

The draft LSPS identifies that new out of centre mixed use areas in business and industrial zones have the potential to threaten the viability of existing centres, employment, urban services and productive uses.

As per the strategy, projections, based on recent trends, indicate that by 2036 an additional 316,000sqm of gross floor area will be needed to accommodate industries and businesses in the employment lands. One of the key uses of the employment lands in the Inner West is the provision of essential urban services for local residents. It is important to protect these areas from competing land uses in order for the local population's needs to continue to be met.

The planning proposal is considered inconsistent with the following priorities and actions of the draft LSPS:

- **Planning Priority 6:** Plan for high quality, accessible and sustainable housing growth in appropriate locations integrated with infrastructure provision and with respect for place, local character and heritage significance.
 - **Action 6.1** - Implement the Local Housing Strategy including protecting the heritage and character values of the Inner West.
- **Planning Priority 9:** A thriving local economy
 - **Action 9.1:** Implement the Employment and Retail Lands Strategy

The planning proposal is inconsistent with Council's draft Local Housing Strategy and draft Employment and Retail Land Strategy and therefore does not align with the draft LSPS.

Our Inner West Draft Local Housing Strategy

Council's draft Local Housing Strategy is an evidence-based study that identifies suitability for housing development across the LGA, and what types of housing might be delivered. This draft Strategy was publicly exhibited on 23 September 2019 to 27 October 2019.

The Eastern City District Plan specifies a 5-year housing target of 5,900 dwellings for the Inner West LGA between 2016 and 2021. The subject planning proposal states that "Council is just falling short of their current five year target" (p.29), comparing recent building approvals in Inner West with the housing supply targets. However, the following deficiencies have been identified in the presented argument:

- the source of the data has not been provided, therefore it's veracity cannot be confirmed;
- the data only focuses on building approvals and does not consider new dwellings expected to be delivered through planning proposals or through current planning controls;
- The average housing target rate in the data sets an unrealistic expectation that new housing should be delivered at a flat rate and fails to consider housing market fluctuations.

In contrast to the Proponent's findings, Council's draft Housing Strategy (p.53) indicates that expected new dwellings in the Inner West LGA can sufficiently meet the 5-year housing target of the District Plan. Based on Council's data from a two-year period between July 2016 and June 2018, Inner West approved 3,620 dwellings. By considering projected growth for the next two years in the form of dwellings expected to be approved between 2019 and 2021 under current planning controls, Inner West has the capacity to accommodate another 2,047 new dwellings. Additionally, 1883 dwellings are expected to be delivered via private planning proposals that have been recently gazetted or are progressing (subject to merit testing under the planning proposal process). Therefore, the likely number of dwellings to be delivered in the Inner West is 7,550 between 2016 and 2021 which exceeds the 5-year housing target.

Council has also received a letter from the Greater Sydney Commission which confirms that Council is on track in meeting the minimum 5 year target:

"The DPE's housing supply forecast confirms that Inner West Council's housing supply is on track to deliver 5,790 new dwellings between 2016/17 to 2020/21 which is close to the minimum 0-5 year target of 5,900. This has been established by adding completions from July 2016 - September 2018 and a pro-rata of DPE's housing supply forecast from 2017/18 - 2021/22 (5,400 dwellings)."

The draft Housing Strategy has carried out longer term investigation into areas identified suitable to accommodate new housing from 2026. The Leichhardt Marketplace/Marion Street Precinct (which does not include the subject site) can potentially deliver 300-700 dwellings once further investigation is completed. The draft Housing Strategy also identifies the industrial land at Lords Road and Marion Street (the subject site) as imperative for the provision of urban services.

The planning proposal is inconsistent with Council's draft Housing Strategy.

Draft Inner West Employment and Retail Lands Strategy and Study

The draft Inner West Employment and Retail Lands Strategy (ERLS) and supporting Study provide an evidence based approach to managing employment lands and commercial centres in the LGA. The planning proposal was lodged before the draft ERLS and supporting Study were placed on exhibition on 23 September 2019 to 27 October 2019.

The planning proposal is inconsistent framework for the IN2 zone recommended in the draft Study:

- Protect remaining industrial zones;
- Prohibit all forms residential accommodation;
- Remove the additional local provision that permits office and business premises for creative uses in industrial zones;
- Incorporate an additional local provision that specifies the extent of space that can be used for restaurants and cafes in artisan food and drink premises; and
- Prohibit specialised retail premises.

The capacity analysis in the draft Study found that most industrial precincts in the Inner West are unable to accommodate future demand. Marion Street industrial precinct is identified to have a shortfall of industrial and urban services floor space of between 25,095sqm and 36,612sqm (p.202).

The draft Study (pp.200-203) recommends the IN2 zoning of the subject site be retained and a position established of no additional permitted residential uses. It identifies that future increases in commercial and residential floor space on the Leichhardt Marketplace site reinforces the need for urban services in the locality.

The planning proposal is inconsistent with relevant strategies and actions in the draft ERLS as outlined below:

Table 1: Assessment of proposal against Council's draft ERLS	
Strategy and Actions	Council Officer Comments
<p>Strategy 1.1: <i>Establish a clear retail centre hierarchy across the LGA</i></p> <p>Action 1.1.1: <i>Adopt the recommended retail centre hierarchy as defined in Table 3</i></p> <p>Action 1.1.3: <i>Enhance the vibrancy of town and local centres by:</i></p> <ul style="list-style-type: none"> • <i>Discouraging growth of out-of-centre retail and stand-alone shopping centres</i> 	<p>Inconsistent</p> <p>The proposal includes a maximum of 2,000sqm of commercial space (business and office premises, child care or health care services) and a maximum of 250sqm of retail, restaurants or cafes. The introduction of new commercial and retail floor space on the site encourages out-of-centre retail growth and does not support the existing stand-alone shopping centre, Leichhardt Marketplace, which is approximately 350m from the site.</p> <p>The Proponent's supporting Economic Impact Assessment (refer to ATTACHMENT 6) fails to consider or address the impacts associated with locating commercial and retail space away from established centres.</p> <p>The proposed retail and commercial growth as sought by the proposal is contrary to the desired future role and function of centres in the Inner West as indicated in the draft ERLS Strategy.</p>
<p>Strategy 1.2: <i>Build on the existing and evolving roles and functions of employment precincts to strengthen the local economy</i></p>	<p>Inconsistent</p> <p>The planning proposal limits the flexibility of the site to respond to future changes in industrial uses and, by allowing residential above, it effectively 'caps' the industrial site, precluding future adaptability and intensification.</p>

	The draft ERLS identifies that future space must be flexible to anticipate unknown new sectors and 'disruptors'.
<p>Strategy 1.5: Support and encourage the establishment of new enterprises in the Inner West:</p> <p>Action 1.5.4: Support the growth of targeted industry sectors as outlined in the Eastern City District Plan, including: urban services, specialised food manufacturing ,logistics and other uses associated with the airport and Port Botany, the cultural and arts sector, night-time economies in appropriate centres, council depot/s and the establishment of an organic recycling centre, biotechnology and innovation industries in Camperdown.</p>	<p>Inconsistent</p> <p>As discussed previously, the District Plan states that all existing industrial and urban services land should be safeguard from pressures, especially residential and mixed use. The retention of this land supports economic activities required for Greater Sydney and enables accommodation of evolving employment uses and urban services that benefit the local community.</p> <p>The planning proposal limits the provision of industrial and urban services on an IN2 zoned site by introducing additional uses, including residential accommodation, that would essentially push up land value, create reverse amenity impacts and displace industrial activity.</p>
<p>Strategy 3.1: Retain a diversity of industrial land, urban services land and employment generating uses</p> <p>Action 3.1.1: Adopt a clear position statement that there is to be no rezoning of industrial land.</p>	<p>Inconsistent</p> <p>The proposal does not rezone IN2 land and retains a minimum GFA (which corresponds with the existing floor space currently used by the vehicle repair and service centre) for uses permissible in the IN2 zone, however the proposed additional uses will introduce competing pressures and limit the flexibility of the site to intensify and expand its industrial function in the future.</p>
<p>Strategy 5.1: Provide certainty and clarity to businesses</p> <p>Action 5.1.1: Consolidate the provisions associated with employment lands into one Local Environmental Plan including amending the zoning and permissibility framework for consistency and to preserve industrial land. Priority recommendations include:</p> <ul style="list-style-type: none"> prohibit residential accommodation in IN1 General Industrial, IN2 Light Industrial, B5 Business Development, and B6 Enterprise Corridor zones 	<p>The planning proposal seeks to introduce residential accommodation to an existing IN2 zoned site which has the potential to create future reverse amenity effects and displace industrial activities. The planning proposal does not adequately preserve and protect industrial land in the Inner West LGA.</p>
<p>Strategy 5.2: Manage land use conflicts between employment land and residential uses</p> <p>Action 5.2.1: Uses that are sensitive to impacts generated from noise, odour, dust, vibration, heavy vehicle traffic and/or 24 hours operation should not be permissible in industrial zones.</p>	<p>The planning proposal introduces a number of sensitive uses (health services, child care and residential accommodation) on land zoned industrial. SGS's strategic advice (discussed in detail in Section 5.3) concluded that the building typology proposed is more appropriate in a B4 or residential zone where urban services with low impact qualities could be considered as</p>

<p>Action 5.2.3: <i>Investigate incorporating an additional local provision that would require new development to demonstrate compatibility with nearby industrial uses (see agent of change principle - Action 1.4.6).</i></p>	<p>alternative ground floor (and basement) uses in mixed-use precincts.</p> <p>The proposed residential accommodation may create reverse amenity impacts, leading to conflict with and displacement of industrial activities.</p>
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Under Clause 6.9 of LLEP 2013, consent can be granted to office and business premises if Council is satisfied that development will be used for creative purposes. The Planning Proposal seeks to switch off Clause 6.9 for the site, so as to allow all types of office and business premises. Conversely, the draft Study highlights that the existing clause has the potential to undermine the intent of the industrial zone and reduce the supply of land for traditional industrial uses. The draft Study recommends that Council investigate how the clause might be amended to address this issue and consider incentives for creative office and business premises to locate in business zoned areas. Amending LLEP 2013 to exclude 245 Marion Street from Clause 6.9 and expand the range of office and business premises that can locate on the IN2 zoned site would be inconsistent with the direction recommended by the draft Study.

Leichhardt Industrial Lands Study (2014)

The *Leichhardt Industrial Lands Study (2014)*, undertaken for the former Leichhardt Council by SGS Economics and Planning (SGS), recommended protection and intensification of industrial sites in the local area due to a shortage of industrial land at the sub-regional level. The Study was endorsed by the former Leichhardt Council on 10 February 2015.

The Study forecast that there would be a shortfall of between 7,570m² and 54,965m² of floor space in the existing industrial areas by 2036. It identified the following activities as having persistent or growing demand for Leichhardt's industrial land:

- Population serving industry
- Urban manufacturers
- CBD 'backroom' operations
- Creative industries

The Study recommended that:

- all of Leichhardt's industrial lands being retained and protected from rezoning;
- additional industrial floor space be provided through intensification of existing precincts; and
- Council's planning controls be revised to facilitate the protection and growth of industrial precincts.

The planning proposal claims that it is consistent with the study because it is:

- *Retaining the IN2 zone;*
- *Increasing the employment floor space achievable within the IN2 zoned land by facilitating a multi-storey commercial development which utilises basement area for traditional light industrial uses and complements this with other compatible employment uses within the podium; and*
- *Protect and enhance existing urban services (i.e. auto repair services) by imposing minimum light industrial floor space requirements on any mixed-use redevelopment of the site.*

However, the planning proposal fails to address inconsistency with the following relevant recommendations and actions of the study:

Recommendation 1: Acknowledge the role and function of key industrial precincts

Action 1.1 Refuse any proposal to rezone land from Council's small pool of industrial land within any of the industrial precincts

Recommendation 2: Develop a profile and plan for each industrial precinct

Action 2.3 Facilitate intensification of existing precincts, where possible, to make better use of the LGA's existing industrial land supply

Recommendation 4: Ensure adequate provision of industrial land for population-serving industries

Action 4.1 Maintain current provision of IN2-zoned land

Action 4.2 Provide an additional 33,909 sqm of IN2 floor space by 2036

Although the proposal retains the IN2 zoning and makes provision for the existing industrial use, the introduction of residential, retail and commercial uses above would constrain the site's ability to intensify its industrial function in the future.

Despite the broader trend of industrial land uses moving to the city's western edge, the Study highlights that certain industrial and employment uses need to be located throughout urban areas due their local population-serving function. Taking into account future population growth, there will be further demand for population-serving industries which makes it vital for the protection of the site as industrial and urban services land.

The planning proposal is inconsistent with this Study as it does not facilitate intensification of an existing industrial precinct and protect population-serving industrial land.

Leichhardt Industrial Precinct Planning (2016)

SGS Economics and Planning (SGS) was commissioned by the former Leichhardt Council in 2015 to undertake a second phase of investigation into Leichhardt's industrial precincts. This report provides guidance for Council to make informed decisions in the future planning and management of employment and industrial lands, and was prepared in an attempt to inform the Parramatta Road Corridor Urban Transformation Strategy which was being prepared by UrbanGrowth NSW.

The Report identified four key issues impacting on the former Leichhardt's industrial precincts:

1. There is a shortage of industrial land at a subregional level.
2. There is a shortage of local services within Leichhardt.
3. There is a need to provide sufficient floor space and appropriate built form configurations to support emerging uses.
4. Industrial precincts are under threat from other uses.

Using select precincts, feasibility testing was undertaken for three development scenarios: industrial only, industrial + commercial, and industrial + commercial + residential. To arrive at recommendations for the future planning of Leichhardt's industrial precincts, the development options were assessed through a Multi-Criteria Analysis (MCA) framework. This framework brought together the findings of feasibility modelling, urban design assessment and policy/strategy assessment. The purpose of the MCA was to determine which option is most suitable to address the problem of Leichhardt LGA's forecast industrial floor space supply deficit. The risks that each development scenario presented to a precinct or the overall supply of industrial floor space were then considered.

The consequences of allowing residential development on industrial land were surmised by the Report as follows:

“The introduction of residential development brings with it extremely high risks of precinct fragmentation and land use conflicts that will significantly limit the ongoing function of the precinct. The extreme end of this scenario is that within a relatively short period of time, the pressure of residential will lead to the complete loss of precincts.”

The recommendation of the Report for Marion Street precinct was to retain the IN2 zoning and actively protect against future development or adjacent development that may lead to land-use conflicts. Conversely, the planning proposal seeks to introduce additional land uses which have the potential to conflict with the industrial and urban service role of the site and adversely impact its functionality and adaptability.

Inner West Draft Economic Development Strategic Plan

The Draft Economic Development Strategic Plan (EDSP) guides the growth of the Inner West’s economy for the next three years. EDSP was publicly exhibited on 23 September 2019 to 27 October 2019.

Priority 1 – Making the Inner West a hub for economic and employment growth. In relation to this priority, the EDSP outlines the following direction:

“Protecting and enhancing the economic base provided by our industrial and employment lands is fundamentally important to supporting our local economy...”

“Continuing pressure to convert employment lands to residential uses threatens the viability of local industrial and urban services and creates a vacuum of commercial activity that will impact on economic growth and the diversity of employment in the area that helps define our local character. Current issues include fragmented commercial space and a lack of retail anchors due to the small retail floor space that many developers favour. To address this Council will continue to retain and manage industrial and urban services through supporting provisions in its new Inner West Local Environmental Plan and undertaking a strategic review of industrial lands.

The new Local Environmental Plan will seek to deliver a framework that will safeguard the area’s employment and industrial lands from competing pressures and support local employment and diversity of economic development.”

The planning proposal is considered inconsistent with the draft EDSP as it introduces competing pressure to an existing industrial site and encourages out-of-centre retail and commercial growth.

Draft Integrated Transport Strategy – ‘Going Places’

The Inner West Draft Integrated Transport Strategy provides a high level framework to evaluate detailed transport initiatives and land use planning to guide Council in building an active and sustainable transport network. The Draft Integrated Transport Strategy was publicly exhibited on 24 June to 28 July 2019.

Principle 1 of the draft Strategy states to ‘*plan land use to support active and sustainable transport for reduced travel times and distance*’ and is supported by the following statement:

*“Many trips have more than one purpose; leaving work could be combined with a trip to the gym or hair dresser, and then dropping off a package at the post office. Reducing distances travelled between these trip purposes, **by providing retail and services close to home and work locations, will lead to more convenient, and shorter trips.** Reducing the need to travel can also be addressed through efficient delivery of goods and services and working from home or the local neighbourhood.*

The draft Strategy recommends protection of employment lands so those who work in or require industrial and urban services and products do not have to travel far to access these services.

The proposed design limits the number of potential uses that could occur on the existing industrial site. As population grows, it will drive demand for industrial and urban services land, and for emerging employment uses. Potential displacement of such businesses may lead to increases in commuting time to access services and the price of maintenance.

The planning proposal is therefore considered inconsistent with the draft Integrated Transport Strategy.

Inner West Affordable Housing Policy

The Inner West Affordable Housing Policy was adopted in March 2017. The policy requires 15% of all GFA (not specifically residential GFA) to be dedicated to affordable housing when a proposed development exceeds the threshold of 20 or more dwellings or a Gross Floor Area of 1,700sqm. This contribution applies to land that is subject to rezoning or amended planning controls that provide for increased density. The Policy also requires the title to be transferred to Council in perpetuity.

The planning proposal proposes to dedicate 5% of the GFA of the residential component to an affordable housing provider for a period of 10 years. This proposed offer is inconsistent with Council's Affordable Housing Policy.

Our Inner West 2036 – Community Strategic Plan

The Inner West Community Strategic Plan (CSP) – Our Inner West 2036 provides the high level vision and future goals for the Inner West. The table below provides an assessment of the planning proposal against the relevant strategic directions outlined in the CSP.

Table 2: Assessment of proposal against Council's CSP	
Strategic Directions	Council Officer Comments
<p>2.4 Everyone has a roof over their head and a suitable place to call home</p> <ul style="list-style-type: none"> - <i>Ensure the expansion of social, community and affordable housing, distributed across Inner West, facilitated through proactive policies.</i> - <i>Encourage diversity of housing type, tenure and price in new developments.</i> 	<p>Inconsistent</p> <p>The proposal is inconsistent with Council's Affordable Housing Policy, proposing a rate that is below the minimum contribution of 15% of GFA.</p>
<p>3.2 Inner West is the home of creative industries and services</p> <ul style="list-style-type: none"> - <i>Position Inner West as a place of excellence for creative industries and services and support them to thrive</i> - <i>Facilitate the availability of affordable spaces for creative industries and services</i> - <i>Encourage the establishment of new enterprises in Inner West</i> 	<p>Inconsistent</p> <p>As identified by SGS's strategic advice (discussed in detail in Section 5.3), the introduction of sensitive uses to the site and the design of the proposed industrial space, located in the basement, reliant on mechanical ventilation and artificial light and with restricted access, will limit the range of uses that can locate on the site.</p> <p>Furthermore, the introduction of residential to the site will prevent future intensification and adaption to accommodate the changing needs of industrial uses and the needs of an increasing population. This will preclude the</p>

	establishment of new enterprises, creative industries and the provision of affordable spaces.
<p>3.4 Employment is diverse and accessible</p> <ul style="list-style-type: none"> - Support local job creation by protecting industrial and employment lands 	<p>Inconsistent</p> <p>The planning proposal presents a significant departure from the objectives and recommendations of Council's draft ERLS and Study. Although it retains the IN2 zoning, the introduction of additional uses (i.e. business and office premises, residential accommodation, child care facilities and health care services) would undermine the viability and functionality of the industrial site, and potentially displace industrial activity. The proposal fails to facilitate a long term supply of suitable land for industrial activity and businesses in the Inner West.</p>

- *Is the planning proposal consistent with applicable State Environmental Planning Policies?*

State Environmental Planning Policy (SEPP) No 55—Remediation of Land

The objective of SEPP 55 is to provide a state-wide planning approach to the remediation of contaminated land.

Clause 6 of SEPP 55 requires that in preparing an environmental planning instrument, a planning authority is not to permit a change of use of the land unless it has:

- considered whether the land is contaminated, and
- if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and
- if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.

The planning proposal is supported by a Phase 1 Preliminary Contamination report (**ATTACHMENT 8**) which identifies a range of contamination issues throughout the site. Council's Environmental Protection team reviewed the submitted documentation and determined that due to the complexity of site contamination and remediation, contamination investigations must to be adequately completed. This would require submission of a detailed site investigation to determine that the land can, and will be, remediated to make the land suitable for the proposed additional uses.

State Environmental Planning Policy (SEPP) No 65—Design Quality of Residential Apartment Development

The Planning Proposal is inconsistent with SEPP 65 – Design Quality of Residential Apartment Development. Council's Architecture Excellence Panel (AEP) reviewed the Planning Proposal (AEP comments contained in **ATTACHMENT 12**), the Proponent's concept design report and concept design and concluded that the urban design merit of the proposal has not been established.

The proposed FSR of 3:1 and height of 30m are incompatible with the surrounding low density character. The 8-9 storey proposal is without precedent in the immediate context and does not

provide an appropriate relationship with the GreenWay and light rail stop. Accordingly, the proposal is inconsistent with the following design quality principles of SEPP 65:

Principle 1: Context and neighbourhood character

Principle 2: Built form and scale

Principle 3: Density

Principle 9: Aesthetics

The proposal is also contrary to planning circular PS 18-001 'Stepping up planning and designing for better places: respecting and enhancing local character' which advocates the importance of character in local areas and neighbourhoods.

- *Is the planning proposal consistent with applicable Ministerial Directions (s.9.1 directions)?*

The planning proposal is considered inconsistent with the following Ministerial Directions as outlined below.

1.1 Business and Industrial Zones

This direction applies when a planning proposal affects land within an existing or proposed business or industrial zone. A planning proposal must:

- give effect to the objectives of this direction,*
- retain the areas and locations of existing business and industrial zones,*
- not reduce the total potential floor space area for employment uses and related public services in business zones,*
- not reduce the total potential floor space area for industrial uses in industrial zones, and*
- ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.*

The objectives of this direction are to:

- encourage employment growth in suitable locations,*
- protect employment land in business and industrial zones, and*
- support the viability of identified centres.*

The planning proposal claims that inconsistency with the direction is justified because the proposal will:

- *Retain the area and location of the IN2 zoned employment land;*
- *Increases the total potential floorspace for employment uses;*
- *Encourage employment growth through increased employment floorspace, in a suitable location; and*
- *Provide ongoing support for the Leichardt Marketplace local centre.*

This consideration is flawed for to the following reasons:

- Although the proposal retains the existing industrial zoning, the introduction of other uses, such as residential, is inappropriate and fails to protect industrial lands as upheld in Council's draft LSPS, draft ERLS, draft Integrated Transport Strategy and Community Strategic Plan.
- The justification for the increased retail and commercial floor space fails to consider that the inclusion of out-of-centre mixed use on the site has the potential to threaten the viability of existing urban services land and an existing commercial centre;
- The planning proposal claims that it would lead to additional employment generating uses and more jobs on the site. This consideration is simplistic and overlooks the value of urban

services land that it can provide for the local community. This is strongly emphasised in ‘A Metropolis that works’:

“the value of Urban Services is not held in how many jobs they directly provide, but in the operational role and function they play throughout the city”.

The paper also strongly states that the ‘retain and manage’ approach prevails over other District Plan objectives relating to the delivery of housing and retail floor area.

The planning proposal’s claim of providing ongoing support for Leichhardt Marketplace shopping centre is not adequately justified. As previously discussed, the proposal is inconsistent with Council’s draft ERLS and Study as it encourages out of centre retail and commercial growth. The draft Study also outlines that the future expansion of commercial and residential development at Leichhardt Marketplace reinforces the need to retain the site as urban services land.

The planning proposal’s inconsistency with this direction is unacceptable as it is not justified by any strategy or study which gives consideration to the objective of this direction; is not in accordance with the Greater Sydney Region Plan and Eastern City District Plan; and is not of minor significance.

3.1 Residential zones

This ministerial direction applies when a planning proposal affects land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted.

The planning proposal generally aligns with the requirements of this direction as it encourages housing close to an existing light rail corridor and within an established urban area. However, the proposed amendment does not include provisions that will encourage “good design”. Based on comments from Council’s Architectural Excellence Panel, the proposed bulk and scale is excessive, resulting in visual impacts within public domain and it does not set an appropriate precedent for the built form integration of light industrial and residential uses.

Therefore, the planning proposal is inconsistent with this direction and requires justification of its inconsistency in relation to providing good design for new housing.

3.4 Integrating Land Use and Transport

Direction 3.4 applies when a planning proposal affects a zone or a provision relating to urban land that is zoned for residential, business, industrial, village or tourist purposes.

The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:

- a) improving access to housing, jobs and services by walking, cycling and public transport, and*
- b) increasing the choice of available transport and reducing dependence on cars, and*
- c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and*
- d) supporting the efficient and viable operation of public transport services, and*
- e) providing for the efficient movement of freight.*

Council’s draft Integrated Transport Strategy recommends protection of employment land so those who work in or require industrial and urban services and products do should not have to travel far to access these services.

It should be noted that the small, inner-city industrial precincts offer high proportions of urban services jobs and support services for local communities (i.e. vehicle service and repair). This

generally facilitates an increase in locally contained trips by providing a range of services and facilities close to people who need them.

The proposed design is tailored to specific industrial uses, rather than being flexible so as to accommodate a range of uses permitted in the IN2 zone. This limitation will affect the site's ability to adapt to changes in industrial use and to provide for current and future tenants. The proposed underground location of the urban service floor space and the building of residential floor space above will restrict operational functionality and viability of urban services on the site.

Impacting the supply of local population serving industrial and urban service uses, and precluding the ability to *increase* supply on this site, would result in people travelling greater distances to access these services as supply is unable to keep pace with demand. The planning proposal is considered inconsistent with the objectives of this direction.

4.3 Flood Prone Land

This direction applies when a planning proposal that creates, removes or alters a zone or a provision that affects flood prone land. This direction applies as this planning proposal relates to a site identified as flood prone land.

The Direction states that a planning proposal must not contain provisions that apply to the flood planning areas which:

- a) *permit development in floodway areas,*
- b) *permit development that will result in significant flood impacts to other properties,*
- c) *permit a significant increase in the development of that land,*
- d) *are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services,*

The planning proposal is inconsistent with this Direction as it proposes intensification of a site that is identified as flood prone land and introduces sensitive uses such as residential accommodation, child care centres and health care facilities.

Council's Development Engineer team has provided comments on the concept design and raised a number of issues. This is discussed in **Section 5.3**.

The planning proposal's claim that the inconsistency with this Direction is minor is unjustified.

6.3 Site Specific Provisions

This direction applies when a planning proposal enables a particular development to be carried out. The objective of Ministerial Direction 6.3 *"is to discourage unnecessarily restrictive site specific planning controls"*. A planning proposal must either:

- a) *allow that land use to be carried out in the zone the land is situated on, or*
- b) *rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- c) *allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

The subject planning proposal seeks to retain the IN2 zoning and include site specific clauses under Part 6 Additional Local Provisions which allow residential accommodation on the site only as part of a mixed-use development with a minimum non-residential component of 5,200m². The proposed local provision seeks to permit increased FSR of 3:1 and introduce a maximum height of 30m for mixed-use development on the site. It also proposes that Clause 6.9 (Business and office

premises in Zone IN2) of LLEP 2013 would not apply to the site, thereby making all business and office premises permissible on the site. Clause 6.9 restricts office and business premises in the IN2 to creative uses. Accordingly, the planning proposal contravenes requirements a, b and c above.

The Direction allows a planning proposal to be inconsistent, but only where the provisions of the planning proposal are of minor significance.

The proposed site specific provisions seek to facilitate a mixed use development comprising predominantly residential development. Overwhelmingly, a development of this nature would fail to satisfy the objectives of the IN2 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.*

The focus of the above objectives is the provision, protection and support of existing and future employment uses. A development in accordance with the proposed provisions would contravene the zone objectives, in particular those relating to supporting and protecting industrial land for industrial uses and fostering a range of new industrial uses to meet the needs of the community. The last objective reinforces the intent of Clause 6.9 of LLEP 2013 which the planning proposal seeks to switch off for the subject site. Planning proposal provisions that would facilitate development that is inconsistent with the relevant zone objectives are not considered a matter of minor significance.

7.1 Implementation of A Plan for Growing Sydney

The objective of this direction is to give legal effect to the implementation of the principles within A Plan for Growing Sydney. This Plan is now superseded by the Greater Sydney Region Plan. As discussed above, the Planning Proposal is inconsistent with the GSRP and therefore with this Direction 7.1.

5.3. Section C – Environmental, social and economic impact

- *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The site is located within an urban environment and does not contain known critical habitat or threatened species, populations or ecological communities, or their habitats. Notwithstanding, the site is located adjacent to the GreenWay and within a 'biodiversity corridor', identified as 'supporting habitat' and 'supporting area'. The proposal shows a nil setback to the western boundary which would adversely impact delivery of the ecological objectives for the corridor as identified in the GreenWay Masterplan. As a minimum, development adjacent to the GreenWay should provide a vegetation buffer zone.

- *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

Urban Design

The Planning Proposal and accompanying concept design report and concept design were referred to Council's Architectural Excellence Panel (AEP). The detailed report is included as **ATTACHMENT 12**. Below are the key findings by the Panel:

- The urban design merit of the proposal has not been established. The 8/9 storey built form is out of context with the locality and creates a poor interface along the western boundary, adjacent to the light rail corridor and the GreenWay.
- Given the site's prominence on Marion Street, the proposed 8/9 storey built form will create visual impacts within the public domain.
- An accessible through-site link for pedestrians and cyclists should be located along the light rail corridor to augment the GreenWay.
- The location of urban services in a basement location – with no natural amenity – is not supported.
- The 'urban services' and the associated vehicle circulation driveway and ramp system results in a car-dominated environment, which is in conflict with the residential use and the desired future character of the area.
- There is a lack of meaningful deep soil area for soft landscaping and tree planting.
- The proposal sets an unconvincing precedent for built form integration of light industrial and residential uses, and is likely to compromise the viability of the light industrial use.

Heritage

Council's heritage officers have identified that the existing building at 245 Marion Street is the former State Clothing Factory, designed in 1950 to replace an earlier factory in Gloucester Street, The Rocks which could no longer cope with demand. It is thought that the building is most likely to have been designed by the NSW Government Architect Cobden Parkes (or Harry Rembert) and should be compared with the award winning factory buildings from the early 1950s. Council has yet to undertake a study of its 20th century factory buildings, but the above indicates that the subject building may have heritage significance and this should be further investigated.

The AEP also noted that a given the scale of the proposal, visual impacts on the Haberfield Heritage Conservation Area No. 42 should be tested, including views from Hawthorne Parade, the adjacent open space and Tressider Avenue.

Public Domain

The GreenWay is a 5.8km environmental and active travel corridor linking the Cooks River at Earlwood with the Parramatta River at Iron Cove. It mostly follows the route of the Inner West light rail line and Hawthorne Canal and features bike paths and foreshore walks, cultural and historical sites, cafes, bushcare sites and a range of parks, playgrounds and sporting facilities.

The Greater Sydney Commission identified the GreenWay as the number one priority "green grid" project in the Eastern City District Plan. The GreenWay Master Plan was adopted by Inner West Council on 14 August 2018.

The planning proposal shows a publically accessible walking and cycling through-site link between Marion and Walter Streets on the eastern side of the site. Action 1.39 of the GreenWay Masterplan identifies a link on the western side of the site which would leverage existing green space in the

light rail corridor (which may in future become public open space) and provide a more legible and direct link to the light rail stop.

This through-site link would need to be accessible at least 18 hours per day (6am to midnight) in line with light rail operation) rather than only during daylight as proposed in the letter of public benefit. Relocation and upgrade of the traffic signals on Marion Street as referred to in action 1.41 of the Greenway master plan is also required.

Flooding

The site is flood affected. A flooding report has been prepared (**ATTACHMENT 9**) and provides a preliminary investigation of flood impacts on the site.

The current concept design does not adequately cater for any flooding on-site and will have detrimental impacts to individuals and the surroundings. However, this issue could be further considered at the detailed design/DA stage under Section 4.15(1) of the EP&A Act.

Council's Development Engineer team has provided the following comments on the concept design:

- *The proposed floor level of the Urban Services/Employment Uses at RL4.65m AHD is above the flood planning level (FPL).*
- *The entry to the basement driveway ramp has not been defined on the concept plans. The entry will need to be raised to be at or above the FPL. It appears there is sufficient length within the driveway to achieve this requirement however it may require the communal open space above the entry to be raised such that sufficient vehicular headroom can be provided.*
- *The floor level of the retail space and lift shaft at the Marion Street frontage has not been defined. The floor level will need to be raised to be at or above FPL.*
- *A flood risk management report addressing requirements of the Leichhardt DCP2013 will be required as part of any subsequent Development Application submission addressing the requirements of Leichhardt DCP2013 Part E (Water).*

Traffic and Parking

A traffic and parking impact assessment has been prepared (**ATTACHMENT 11**) which has considered the existing and future traffic and parking impacts. The development would generate additional 37 and 48 car movements per hour during AM and PM peaks respectively, in addition of 10 existing movements.

Vehicle queueing on Marion Street during AM Peak, combined with the likely requirement for left turn in left turn out from Marion Street, will encourage vehicles to use Walter Street and as a result Walter Street would potentially experience addition 25-35 car movements during peak hours. The traffic and parking impact assessment has not included reference to existing queueing on Marion Street, particularly during AM peak period, nor considered weekend activity, most particularly for events staged at Lambert Park. Notwithstanding, the findings that Walter Street would potentially experience addition 25-35 car movements during peak hours represents significant increase to the local street's traffic.

As a result, clarification is required as to how much additional traffic has been included in the intersection operational analysis for the intersection of Walter/Foster Street.

Sustainability

The proposal does not adequately detail how the proposed design will facilitate an Ecologically Sustainable Development (ESD). Council's draft Climate and Renewables Strategy is a plan to mitigate and reduce carbon emissions from its own operations and community wide. The draft Strategy identifies 'zero carbon buildings and precincts' as a key area of focus, with the objective to 'increase the environmental performance of buildings in the Inner West'.

Planning Priority 2 ('Inner West is a zero emissions community') of the draft Inner West LSPS includes the objective that new developments achieve net zero carbon emissions.

Should the proposal proceed, ESD standards and requirements must be embedded in any future preparation of a draft Development Control Plan (DCP) for the site.

- *Has the planning proposal adequately addressed any social and economic effects?*

Social Impacts

A Social Impact Assessment (SIA) has not been provided with the planning proposal. Without a SIA, there is insufficient information to demonstrate that relevant social, economic and other site-specific matters have been identified or adequately addressed and that the site is capable of supporting the proposal.

In November 2014, former Leichhardt Council's assessment report found the planning proposal remain premature in light of the former Department of Education and Communities' preparation of a planning strategy to understand and address the cumulative impact as resulted from approved and proposed rezoning requests of employment lands to residential lands in the Inner West. The report concluded that further analysis is required following the completion of this planning strategy to understand if the public school system can accommodate further new children moving to the area.

In addition, the Planning Proposal is inconsistent with Council's Affordable Housing Policy (discussed in **Section 5.2**).

In summary, the planning proposal has not provided adequate information of the social impacts of the proposed development and assessed whether the site is capable of additional housing.

Economic Impacts

Council commissioned SGS Economics and Planning (SGS) to provide strategic advice in relation to planning proposal (**ATTACHMENT 13**). Specifically, they were asked to consider:

- consistency of the proposal with the objective to retain and manage industrial and urban services land;
- the impact of the proposed commercial/office and residential floor space on the industrial/urban service function of the land, in particular constraining the ability to expand, intensify and adapt in the future;
- functionality of the proposed 'urban services' floor space;
- the potential for land use conflict;
- the suitability/relevance of the Economic Impact Assessment's consideration of the proposal with regard to the Industrial Land Strategic Assessment Checklist.

The advice highlights the amount of undeveloped land for urban services has decreased in the Eastern City District, and now represents only 2% of the total quantum of industrial zoned land. It cautions that the value of small, inner-city industrial precincts should not be underestimated as they offer "relatively affordable rents, provide high proportions of urban services jobs and support services for local communities". Displacement of businesses from these precincts will impact

residents as it would increase their commuting time to access the next closest service and overall cost of maintenance.

SGS identified the following key issues in relation to the proposal:

- **Land use conflicts** – Potential conflicts relating to noise, vibrations, truck loading/unloading and operational hours, may arise between the proposed residential accommodation and certain general and light industrial uses that are permitted in the IN2 zone.
- **Floor space suitability and adaptability** – The proposed dedicated urban service floor space design is tailored towards the business currently occupying the site (car repair shop). If the current tenant moves out, the proposed design would inhibit other uses (e.g. the proposed underground location, and multi-level, urban service floor space may not support operational needs of other businesses). This significantly limits the overall adaptability and repurposing of the space into the future.

Additionally, the advice compares the proposed mixed use residential/industrial development with the previous experience of recent mix-used developments in Sydney that has resulted in vacant ground-floor retail floor space. The proposed delivery of new industrial space is likely to incur a premium rate, and would in effect price out the intended industrial user, leading to vacant floor space or the Proponent seeking to convert the urban service floor space to higher value uses with the argument that they cannot find a tenant.

The proposal is found to almost certainly prohibit further intensification of employment uses on the site and put a 'cap' on urban services floor space.

- **Impact of precedent** – SGS outlines the precedent set by approving this planning proposal is significant at an Eastern City level. If large proportion of small IN2 zones in the Eastern City were to follow suit, then it would impact the opportunity for these precincts, and the Eastern City District, to adapt to future growth.

The design has limitations in that it is tailored towards the current industrial use rather than providing flexibility to accommodate a range of uses permitted in the IN2 zone. The proposed design is found to reduce the site's ability to adapt, expand and intensity its industrial and urban services capacity.

- **Alignment with procedural frameworks** – The review states that the 'retain and manage' policy establishes the current, precautionary approach to the conversion of industrial land. The *Industrial Lands Strategic Assessment Checklist*, considered in the Proponent's EIA, has been superseded.

The strategic advice concludes that given the inconsistency with the 'retain and manage' approach, the risks presented, including the lack the flexibility and reduced functionality, and the absence of rationale, the proposal is unsuitable in this location.

5.4. Section D – State and Commonwealth interests

- *Is there adequate public infrastructure for the planning proposal?*

The site is located in an established urban area that is serviced with essential public infrastructure and public transport. However, consultation with relevant public infrastructure providers would be required to determine the adequacy of public infrastructure to accommodate the proposed development.

- *What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?*

The views of relevant State and Commonwealth public authorities will be sought during the exhibition of the planning proposal if it receives Gateway Determination.

6. OTHER PLANNING CONSIDERATIONS

Voluntary Planning Agreement (VPA)

The proponent has submitted a VPA offer which is contained in **ATTACHMENT 7**.

The proposed amendment would generate significant uplift in land value. Relative to this, the proposed public benefit in the VPA offer is considered insufficient for the community for the following reasons:

- Is not consistent with Council's existing Affordable Housing Policy adopted in March 2017;
- Monetary contribution to Lambert Park, which has exclusive lease and is generally not open to the public, will not afford a public benefit. Monetary contribution should be directed to existing and proposed public domain (i.e. Richard Murden Reserve and Hawthorne Reserve); and
- The proposed location and operation of the through-site link is deficient and does not respond to Council's Greenway Masterplan and the existing hours of operation of the light rail station.

In their strategic advice, SGS advise that councils should seek (at least) 50% of the value uplift through a VPA as public benefits. They note that proposed public benefits suggested in the planning proposal would, however, most likely fall well short of this.

1. *s7.11 contributions – represent normal contributions required of any development and so not a public benefit.*
2. *5% affordable housing for 10 years – some public benefit although this is required of developments in residential areas where land acquisition costs are higher.*
3. *Through site pedestrian link – required in configuration of the development therefore not some minor, localised public benefit.*
4. *Football stadium funding – report specifies "contribution value is to be offset against future s7.11 contribution obligations" therefore not considered an additional public benefit.*

Council's Strategic Investments Manager advised that the Proponent will need to consider Inner West Council's draft VPA Policy if the proposal proceeds to Gateway determination.

CONCLUSION

The Planning Proposal fails the Strategic Merit test as indicated in this Planning Report, and is contrary to State, District and Council Plans and Policies that require protection of employment and urban services land. In addition, the subject site is not considered to be an appropriate strategic location for high scale residential development.

There are significant concerns that the proposal would result in adverse impacts on the surrounding built environment in terms of height, bulk and scale issues.

The proposal lacks adequate information in addressing social matters that is relevant to the capacity of the site to support additional housing.

The proposed public benefit offer is minor and some that are not considered of additional public benefit.

It is recommended that Council should not support the Planning Proposal for the site as supported by the reasons as detailed in this report.