



**PLANNING PROPOSAL REPORT  
From Strategic Planning team**

<b>Planning Proposal No.</b>	PPAP/2020/0010
<b>Address</b>	3 Myrtle Street and 3-5 Carrington Road, Marrickville
<b>Proposal</b>	Proposal to amend Marrickville Local Environmental Plan 2011 (MLEP 2011) by allowing an additional permitted use of either 'residential accommodation' or 'creative build to rent' on the site as part of a mixed-use development. The planning proposal also seeks to increase the FSR from 0.95:1 to 4.65:1 and introduce a maximum height of building of 42 metres.
<b>Main issues</b>	<ul style="list-style-type: none"> <li>• Loss of land for urban services, warehouses and other industrial uses</li> <li>• Introduction of sensitive residential uses into an industrial precinct</li> <li>• Inappropriate built form – height, bulk and scale and associated amenity impacts</li> <li>• Insufficient information provided to demonstrate that the site is suitable for the proposed design</li> </ul>

**RECOMMENDATION:**

That the Inner West Local Planning Panel advise Council to:

**1. Not support the planning proposal for the following reasons:**

- a) It fails the strategic and site-specific merit test of the *Guidelines for Preparing Planning Proposals* pursuant to Section 3.33 of the Environmental Planning and Assessment Act 1979;
- b) It is inconsistent with the *Greater Sydney Region Plan 2018* and the *Eastern City District Plan 2018* in relation to retention of industrial lands;
- c) It is inconsistent with Council's *Local Strategic Planning Statement, Local Housing Strategy, Employment and Retail Lands Strategy and Study, Affordable Housing Policy and Community Strategic Plan*;
- d) It is inconsistent with the following Section 9.1 Local Planning Directions:
  - i. 1.1 - Business and Industrial Zones;
  - ii. 3.1 – Residential Zones;
  - iii. 3.4 – Integrating Land Use and Transport;
  - iv. 4.3 – Flood Prone Land;
  - v. 6.3 – Site Specific Provisions; and
  - vi. 7.1 - Implementation of A Plan for Growing Sydney

- e) The proposal would dilute Council's ability to provide enough industrial land to accommodate future needs and emerging employment uses and urban services through the removal of functional industrial land and its replacement with a development incompatible with the needs of cultural production, tailored to uses that are capable of being located outside of industrial zones.
  - f) The proposed design is unsatisfactory with respect to:
    - i. flooding;
    - ii. site servicing including loading/unloading and waste collection; and
    - iii. built form controls and building typologies.
  - g) Support of this Planning Proposal would establish an adverse precedent for including residential accommodation within industrial precincts across the Inner West LGA; and
2. Should the proponent request a Rezoning Review by the NSW Department of Planning, Industry and Environment, that delegation is given to the Chief Executive Officer to respond to the review process in accordance with this report and Council's resolution.

## 1. THE SITES AND CONTEXT

The site that is the subject of this planning proposal consists of two properties: 3 Myrtle Street, Marrickville (Lot 3 DP 774207) and 3-5 Carrington Road, Marrickville (Lot 4 DP 774207). A site survey plan for both properties is contained in **ATTACHMENT 1**.



Figure 1 - The sites (in blue) (Source: Nearmaps Aerial Imagery (2020))

3 Myrtle Street, Marrickville (labelled 'A' in Figure 1 above), is a trapezium shaped block with an approximate total area of 2,070sqm with a frontage of 59 metres to the northern side of Myrtle Street. The site is occupied by a large single level warehouse building which covers most of the lot, currently accommodating a yoghurt manufacturer and distributor.

3-5 Carrington Road (labelled 'B' in Figure 1 above), is oriented east west with a frontage of 55 metres along the northern side of Myrtle Street and 31 metres to the western side of Carrington Road.

The site has an approximate total area of 1,810sqm (refer to Figures 1 and 2). Current vehicular and pedestrian access is from Carrington Road. The site is occupied by a warehouse building of approximately 750sqm in size, currently used as a smash repair business.

The subject sites are separated by 5 Myrtle Street (labelled 'C' in Figure 1 above), which is a lot owned by Sydney Water that has an approximate width of 20 metres. This land contains a centrally located stormwater canal, with a driveway on either side providing access to the land owned by Sydney Trains to the rear of the subject sites.

The northern boundary of the subject site is located next to land owned by Sydney Trains. The Sydney Trains land comprises freight and passenger train lines, powerlines and vehicular access and storage. The current user of 3 Myrtle Street leases part of this adjacent land for vehicular access, car parking, loading and manoeuvring. The planning proposal relates to the subject sites only.

The surrounding locality to the south of 3 Myrtle Street, Marrickville is predominately characterised by one and two storey residential dwelling houses while industrial warehouse buildings are located to the south of 3-5 Carrington Road, Marrickville.

The adjoining property to the west is a heritage listed dwelling owned by Sydney Water, located at 1 Myrtle Street, Marrickville (labelled 'D' in Figure 1 above).

## 2. CURRENT PLANNING CONTROLS

### Marrickville Local Environmental Plan 2011

The site is zoned IN2 Light Industrial under MLEP 2011 and a maximum floor space ratio (FSR) of 0.95:1 applies. There is no maximum height of building control that applies to the site. The site is identified as being flood affected and contains Class 2 acid sulfate soils. The site is located in the vicinity of a number of heritage items.

Figures 2 and 3 show the zoning and FSR maps as they apply to the site.

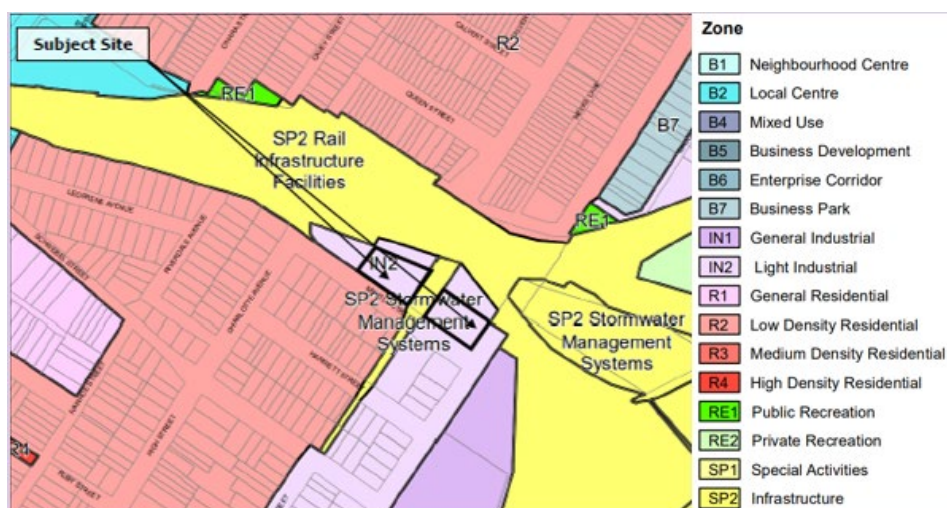


Figure 2 – Existing LEP Zoning Map



Figure 3 - Existing LEP FSR Map

Figures 4, 5 and 6 show the heritage, flooding and acid sulfate soils maps as they apply to the site.

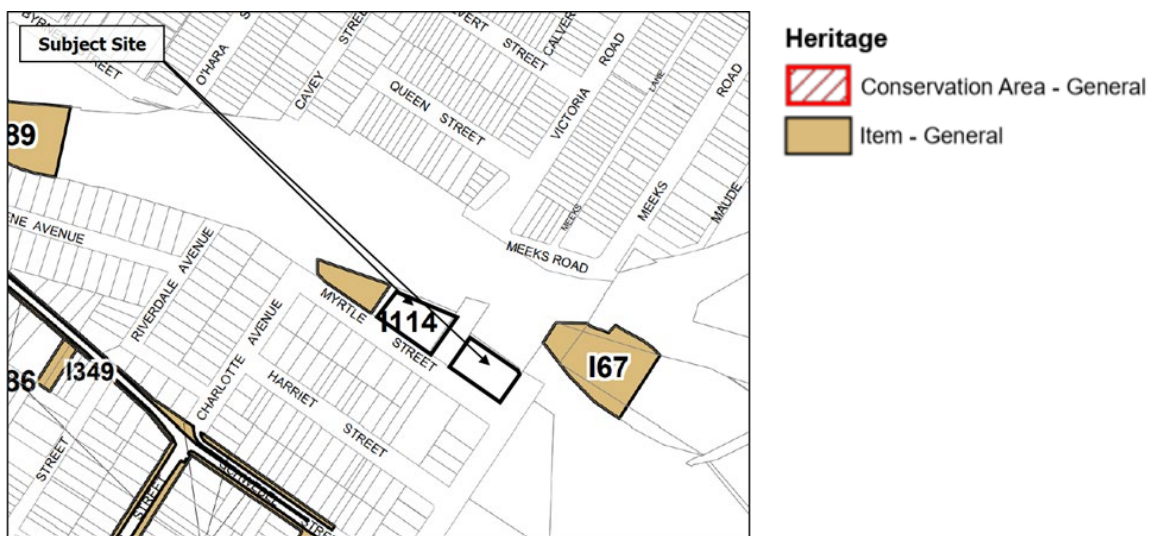


Figure 4 - Existing Heritage Map



Figure 5 - Existing Flood Map



The LHS, EaRLS and LSPS documents were adopted in 2020 and form Council's most recent evidence base that the forthcoming Inner West LEP amendments will be based on. The planning proposal report submitted by the proponent has not referred to the draft Inner West LEP in addressing this criterion and is not consistent with Council's strategic direction.

Council is currently progressing strategic studies to inform amendments to the Inner West Local Environmental Plan, including revising controls to accommodate new housing supply. A draft Local Character Statement for Marrickville will inform the LEP amendment for the southern part of the LGA. Urban design studies for Marrickville and Dulwich Hill are already underway and will inform future housing delivery. They directly respond to the actions of the LSPS, EaRLS and LHS.

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

An assessment on whether this proposal is the best means of achieving its objectives and intended outcomes is provided below:

- **Enable an appropriate density of development on the site and a compatible range of uses**

Comment: The appropriate density of development on the site is one that is compatible in scale with the low-density residential neighbourhood to the south of Myrtle Street. This proposed density is out of scale. A building height of 42 m would tower over the residential dwellings to the south, resulting in significant overshadowing and other amenity impacts. The Inner West Architectural Excellence Panel provided comments on the lack of appropriateness of the development typology and the scale of the development, which is detailed in Section 5 of this report.

The proposed inclusion of residential uses in the development is incompatible with its location, given the considerable noise affectations associated with aircraft and freight/rail, flooding issues and its location within one of the Inner West's largest industrial precincts.

As proposed, the mix of uses proposed on the site will constrain the types of industrial and urban services activities that can occur on the site. This concern is discussed in detail elsewhere in this report.

- **Provide high density development on the site incorporating flexible industrial and warehouse space and a range of BTR 'live-work' dwellings, particularly tailored to the unique interface of creative industries, manufacturing and housing in the immediate area.**

Comment: The site is not suitable for high density development due to the numerous restrictions on the site such as flooding and its location adjacent to a low-density residential area. The unsuitability of the site for residential development is further discussed elsewhere in this report.

The proposal would not deliver this intended outcome as on-site un/loading facilities are essential to warehousing however none are proposed on site. The proponents report recommends *that on-street loading and short-term parking zones replace unrestricted parking provided along the Myrtle Street and Carrington Road site frontages as part of any future development application to facilitate any loading/ unloading activities generated by the proposal. This could equate to 30 metres and 15 metres of on-street loading and short-term parking zones on Myrtle Street and Carrington Road respectively.* The recommended changes to Council's roadway would conflict with a separated cycleway which extends along the entire Myrtle Street frontage of the site and would result in significant adverse amenity impacts for the dwellings located on the opposite side of the street zoned R2 – Low Density Residential.

It is also contrary to the expectations for development under Marrickville DCP 2011 that any new large-scale development provides all facilities required for that new development wholly on the subject site. The current users lease land from adjoining property owners to facilitate loading/unloading and onsite parking. The ongoing use of that land needs to be negotiated or a smaller/ modified development proposed so that the subject site can provide the necessary facilities in situ. Given the scale of the proposed development, any future amended proposal needs to demonstrate how all facilities are able to be accommodated onsite.

The proposal's suitability for flexible industrial space is also called into question as no on site waste collection facilities are proposed. This will require all waste collection to occur via Council's roadway once again posing significant adverse amenity impacts for surrounding residents and other occupants of the proposed development. Additionally, any floor space above the ground floor is considerably constrained in terms of warehousing or light industrial activity as it has not been demonstrated how they can be accessed by a forklift or other industrial machinery.

The mix of residential and industrial floor space proposed within the same development greatly restricts the nature of uses that can operate in the employment space and their hours of operation due to the need to minimise land use conflict. The need to ensure that the industrial uses comply with the *Protection of the Environment Operations Act 1997* in relation to other 'live-work' and purely residential occupancies in the development would unduly burden the industrial uses with additional noise attenuation costs compared to a purely industrial development.

Construction of the development would further erode the 'food manufacturing' and 'urban services' clustering currently located in this area by pushing out the existing tenants and replacing two sites well suited to these activities with a built form not suitable for those uses or other forms of industrial and urban services uses.

- **Introduce a development that complements the range of surrounding land uses, integrates with the variety of built form densities in the general area, responds to the strategic location of the site and leverages new infrastructure investment (namely the Sydney Metro station at Marrickville).**

Comment: While there is the possibility that the employment uses occupying the lower level of the development could complement surrounding land uses, the proposed bulk and scale of the proposed development is inconsistent with the surrounding low-scale industrial development and low-density residential neighbourhood. In addition, it is more likely that the lower levels will be used for creative offices or similar uses that could be located in business zones, as discussed elsewhere in this report.

The development does not respond to the strategic location of the site, being within a strategically important industrial precinct. The forthcoming Sydney Metro station at Marrickville is of more relevance to mixed use development within Marrickville Town Centre than land within an industrial precinct.

Council is currently undertaking an urban design study to identify where the housing intensification will occur within the Marrickville town centre. It has been a consistent position of Council through its endorsed LHS, EaRLS and LSPS that industrial precincts are not to be considered for residential uses.

- **Pioneer an industrial-led creative cooperative in Australia, responding to international precedence in hybrid live-work concepts for creative sectors.**

Comment: The industrial-led cooperative flagged by the proponent is noted. It is also noted that a demonstrated, successful concept is yet to emerge in Australia, or NSW. The percentage of floor space devoted to residential use when compared with to industrial uses demonstrates that this proposal is not "industrial-led" but is focused on providing additional dwellings within close proximity of a future metro station at the expense of existing urban services / manufacturing uses.

As proposed, this development is unlikely to have a strong industrial emphasis or be able to capture creative sector uses that are in most need for industrial floor space due to the design limitations (e.g. lack of access/loading, land use conflict) explained elsewhere in this report.

- **Promote the sustainable use of land through appropriate development typologies and scales.**

Comment: As discussed elsewhere in this report, the site is highly constrained with flooding, contamination, noise and other affectations, making high density residential use an inappropriate typology for this location.

The sustainability measures included in the design of the proposed development are inconsistent with Council's Climate and Renewable Strategy and Community Strategic Plan which has a clear goal of Council becoming carbon neutral by 2025. The sustainability framework within the Urban Design report submitted with the application mentions rainwater harvesting, natural ventilation, communal beehives,

green roofs and roof gardens, however only green roofs and walls are included in the site specific DCP.

Council's sustainability team have advised a number of inclusions for any site specific DCP for the site given the large scale of the proposed development. This is detailed in Section 4.3 of this report.

The sites location adjacent to a stormwater canal presents an opportunity for re-use of this resource to be included on the site. In addition, there is an opportunity to combine green roofs with solar panels to increase the efficiency of the panels which has not been taken up.

- **Maintain light industrial and warehouse uses on the site whilst enabling higher employment densities and greater flexibility in response to the changing nature of industry and growing demand from creative sectors.**

Comment: The sites are currently used for light industrial uses as a vehicle smash repair business and a yoghurt manufacturer with a long history in Marrickville. These and other core light industrial, urban services and warehouse uses would be unable to remain on the site after the proposed development as there would be insufficient space and inadequate un/loading facilities for the use. In addition, their noise production would conflict with the proposed live-work units, partly because the proposal does not incorporate the adjacent Sydney Water and Sydney Trains land which currently facilitates loading and distribution on the site.

Any higher employment densities created on the site would replace the existing urban services and manufacturing uses that the site is currently capable of supporting with small scale "creative sector uses". The proposal does not provide loading/waste collection and vehicle circulation space, constraining the range of warehousing and light industrial activity that could occur.

Detailed discussion of Council's approach to increasing supply of suitable employment floor space outside of industrial precincts is discussed in Section 5.2 of this report.

- **Provide diverse new Build to Rent housing in a highly accessible, established urban area to improve housing choice and affordability in the area and ultimately meet the housing needs of the growing community of creatives in the area**

Comment:

The documentation submitted with the application uses a range of terms for the proposed residential uses on the site including dwellings, 'Build to Rent' (BTR), 'hybrid live-work dwellings', and 'co-located live-work spaces' and suggests that the term "creative build-to-rent" be added as a defined land use in MLEP 2011 and permitted as an additional permitted use on the site. This term does not exist in the SI and has not been defined in the submitted documentation.

The recently exhibited SEPP Housing Diversity proposed that 'Build-to-rent housing' be defined as a building or place that:

- contains at least 50 self-contained dwellings that are offered for long term private rent;
- is held within a single ownership;
- is operated by a single management entity; and
- includes on-site management.

There appears to be no impediment to the proposal complying with that definition.

The SEPP Housing Diversity proposed to make BTR housing a compulsory permitted use in the R4 - High Density Residential, B3 – Commercial Core, B4 - Mixed Use and B8 – Metropolitan Centre zones, and in R3 – Medium Density Residential zones where residential flat buildings are permitted. It is not proposed to permit BTR housing in industrial zones.

The build-to-rent mechanism itself does not guarantee affordability as the rent is subject to market forces. While it is proposed to provide 10 per cent of residential floor space as affordable housing, this does not meet the minimum level of 15% of total floor area required by Council's Affordable Housing Policy. This is discussed in detail in Section 6 of this report.

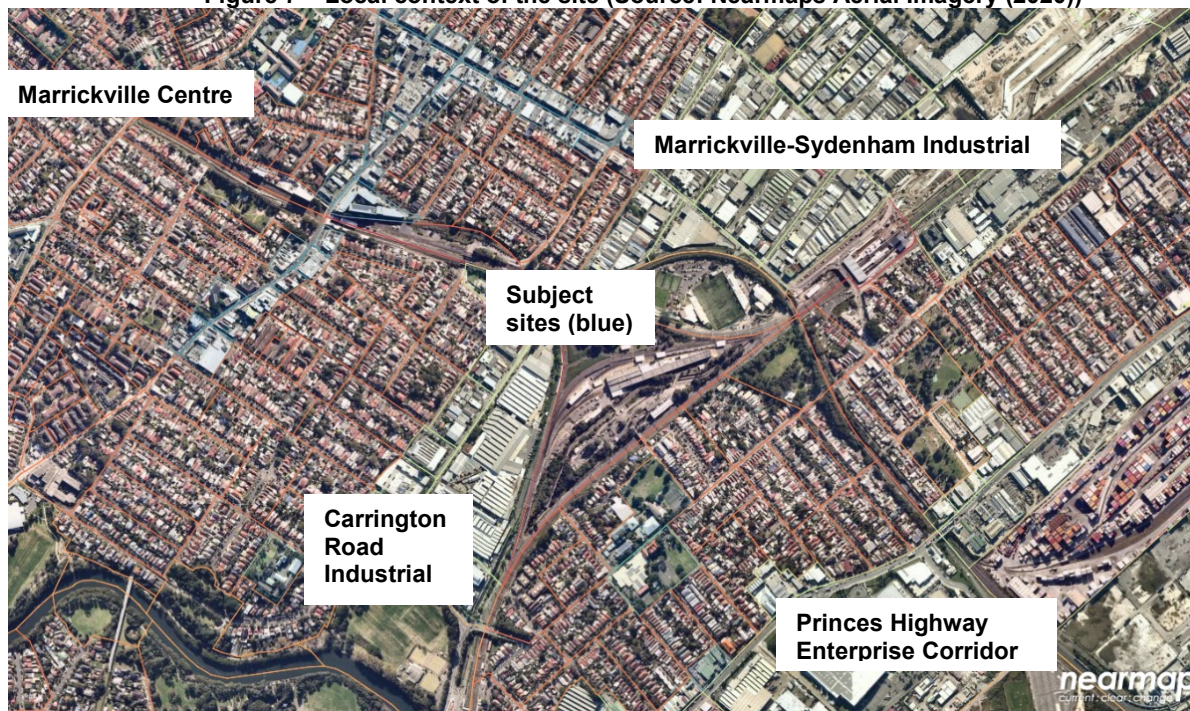


EaRLS identifies an opportunity to encourage this type of development within and adjacent to centres. This is backed up by the SGS report Council commissioned to review this planning proposal (discussed in detail in Section 4.3 of this report). The site is not adjacent to Marrickville Town Centre and instead within the Carrington Road Industrial Precinct (refer to Figure 7 below). The specific site location means that future residents would live adjacent to a freight rail corridor, subject to aircraft noise, within an industrial precinct and in a flood prone location. Cumulatively, this results in a poor amenity environment for new housing. This proposed development is more appropriately located within or on the edge of an existing centre within the Inner West, rather than within an industrial precinct.

Council's Economic Development team have raised a concern about the lack of evidence to support the applicant's suggestion that BTR enjoys a 20% construction cost advantage compared with typical residential flat buildings. It is questionable where this cost savings comes from and if it will impact upon the finished product through smaller apartment sizes and/or lower design standards for BTR as compared to standard market dwellings. It is also worth stating that cheaper construction does not necessarily result in lower than average rents and that new buildings generally attract higher rents than older buildings.

Additionally, the employment floor space proposed is also unlikely to meet the housing needs of creatives that are most in need of both employment space and accommodation within the LGA. These issues are discussed further in Section 5.2 of this report.

Figure 7 – Local context of the site (Source: Nearmaps Aerial Imagery (2020))



- **Activate the site and public domain at street level through new publicly accessible open space, active ground floor uses, and high quality architectural design.**

Comment: The proposal is likely to achieve activation of the ground floor however; this is at the expense of the current ground floor interface which can support a wider range of industrial activities compared to the proposed development. Industrial areas are not designed to be publicly accessible for safety reasons and to ensure noise is internalised. This objective would not facilitate use of the site for warehousing or other urban services and is contrary to the objectives of the IN2 Light Industrial zone.

- **Augment the amenity of the subject site whilst preserving the amenity of adjoining sites, including with respect to solar access, natural ventilation and privacy.**

Comment: The proposal is likely to result in a negative outcome for nearby existing residents regarding privacy and solar access. The amenity of future occupants is also not ideal, considering the substantial attenuation required to reduce the noise impacts of the surrounding freight and rail connections and location within an industrial precinct.

There are unacceptable impacts upon the residential amenity of the adjacent low-density dwelling houses to the south of Myrtle Street, particularly considering the extent of overshadowing at mid-winter and the proposed scale transition and amenity impacts from the proposed on-street un/loading and waste collection.

The scale, bulk and height of the proposal is out-of-character with its context. The urban design rationale and justification for the proposed primary development controls, including building height, floor space ratio, building depth, site setbacks and open space, is not clear or compelling. The urban design strategy appears to rely on Obstacle Limitation Surface constraints of the airport as the determinate for building scale, rather than a contextual analysis of the site and its context, an assessment of reasonable impacts, or any other considerations to determine ultimate development capacity.

- **Secure additional public benefit through a Voluntary Planning Agreement (VPA) addressing the securement of BTR live-work dwellings and allocation of affordable industrial/warehouse space.**

Comment: The planning proposal is supported by a Voluntary Planning Agreement (VPA) offer to dedicate 10% of the residential floor area to Council for affordable housing and provide 10% of the total gross floor area of the ground floor as affordable industrial/warehouse.

If only 10 per cent of employment floor space is allocated to affordable space, then the quantity available for those that require larger spaces will be diminished. The inclusion of the above ground floor space in this calculation would further dilute availability of the more flexible space on the ground floor. There is no guarantee that any ground floor space will be committed as affordable. Many small enterprises in the creative sphere, especially those in the 'cultural production' category (refer to discussion in section 4.2) cannot afford to pay as much rent per sqm as more profitable 'creative services' when left to market forces. The rent per sqm becomes more of an issue when space can be subdivided for different tenancies.

The proposed public benefit is considered insignificant and lower than the minimum level required by Council's Affordable Housing Policy which requires 15% of the floor area to be affordable housing. This is discussed in detail in Section 6 of this report.

In conclusion, it is considered that the Planning Proposal does not demonstrate sufficient merit to justify its objectives and intended outcome. It is proposed to retain the IN2 Light Industrial zoning of the site and the proposed use and controls are contrary to the objectives of this zoning. It is recommended that the existing controls be retained to help maintain the supply of industrial lands in the LGA, the Eastern City District and the broader Sydney and ensure acceptability amenity for surrounding properties.

#### **4.2. 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 inconsistent with this priority as it provides inadequate public benefit. It is noted that the information submitted with the application shows that some affordable housing could be provided via a Voluntary Planning Agreement (VPA). This is contrary to Council's Affordable Housing Policy which 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.

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

The planning proposal claims that by providing employment floor space and live-work dwellings as part of a mixed-use development it is supporting creative industries and innovation. It argues that it will deliver ‘a variety of flexible spaces’ for these industries. When the limitations of these spaces and the loss of these two large landholdings for flexible employment use are balanced against these benefits, it fails to meet the above objective.

Objective 9 was taken into consideration as part of development of the Employment and Retail Lands Strategy (EaRLS). EaRLS Strategy 3.4 explains the distinction between cultural production and creative services, their vulnerabilities and the types of spaces they require:

*Creative and cultural industries are a key component of the Inner West’s identity and economy. By their very nature they are hard to define, however two main components of the sector are cultural production (e.g. noisy, messy activity) and creative services (e.g. office desk-based activity). Cultural production in the Inner West LGA is of regional importance. It often needs affordable, flexible spaces, with loading zones and higher ceiling clearances that can be used for lengthy operational hours.*

The design of proposed development is largely incompatible with the needs of cultural production. The proposal would have loading zones on Council’s road, immediately opposite a low-density residential zone. Use of these loading zones are therefore likely to create conflict with the surrounding residential properties and their use are likely to be time limited, rendering them incompatible with culture production.

The street activation proposed at ground floor level would support its use for artisan food and drink premises, a use that is likely to outcompete cultural production in paying higher rents due to its restaurant/café component.

While higher ceiling clearances may be provided on the ground floor, this would not be the case above ground floor level. At higher levels, the spaces would be most suitable for creative services – a use that can occur in business zones. These uses have been flagged by EaRLS as being competitive in terms of being able to afford spaces in industrial zones and can be relatively easily accommodated outside of industrial zones. *‘Unlike cultural production, creative services are largely technology and desk based and can easily be accommodated outside industrial zones. These activities should be encouraged within the centres and peripheries of centres as much as possible to relieve pressure on industrial zones.’*

In contrast, cultural production (e.g. noisy, messy activity) are experiencing the greatest difficulty finding suitable sites and are more likely to need to locate within an industrial zone. The proposed industrial floor space, particularly above ground is physically constrained, due to its fixed format and residential uses above, and omission of on site un/loading facilities for larger vehicles. The existing arrangements for use of adjacent lands with Sydney Water and Sydney Trains, which facilitates substantial hardstand vehicular access, enabling access and loading to the current uses on the sites will not be carried through to the current proposal. There is also limited evidence of how the floor space above ground will be accessed for light industrial activity, given it is expected that stairs or a lift will be the only means of access.

The form of the proposed development will remove the current light industrial uses from the site and limit the range of employment uses that can occur on the site, primarily to non-industrial uses. The redevelopment will not provide affordable creative spaces for relatively dirty making and fabrication that are required in the area including sculpture, prop making and other industrial scale creative uses. Instead, the fixed nature of the proposed floor space and introduction of residential uses will limit the site to creative services that are more viable and better able to locate outside of industrial zones.

On balance, the proposal does not support creative industry and innovation as it uses the premise of mixed-use development in an industrial zone as a vehicle to develop permit residential use in an industrial zone and only creates employment floor space that will not be support the creative uses in greatest need.

### **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 proposal seeks to provide housing in a location identified as unsuitable under Council's LHS and LSPS and is therefore inconsistent with Objective 10 of the GSC's *A Metropolis of Three Cities*. The LHS responds to the above objectives and priorities of the GSC and identifies areas of investigation for urban renewal. This does not include industrial zoned land or land that is flood affected.

Both the LHS and LSPS sets out Council's vision for housing delivery and is based on an extensive evidence base and community engagement.

**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*

Providing a dense mixed-use development within an industrial zone has negative impacts on both the industrial zone and surrounding centres. The EaRLS seeks to boost the range of employment uses located within and along key corridors adjacent to centres to help support their daytime and night-time economies.

The Eastern City District Plan specifically identifies the opportunity for under-utilised mixed-use areas, ground level commercial or declining high streets to become locations for creative industries and cultural enterprise (Planning Priority E4, pg. 33). Designing these spaces appropriately will enable creative industries to tenant these spaces in the future.

In contrast this proposal is providing housing growth and office/business premises type uses in an industrial zone, thereby creating a large catchment of customers in the wrong location, away from centres, placing increased pressure for retail growth within the industrial zone and further catalysing the erosion of industrial lands.

This development would be best placed within or adjacent to the town centre, as it would support existing businesses within the centre.

**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 in the future 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, the site will be locked in terms of what employment uses it can accommodate, capping its ability to address changing and growing needs, working against the delivery of the 30-minute city.

**Direction: A city in its landscape**

Planning Priority E17 - Increasing urban tree canopy cover and delivering Green Grid connections

Objective 30 - Urban tree canopy cover is increased.

The proposal is inconsistent with Council's adopted tree canopy cover target of 25 per cent. It is also inconsistent with the Apartment Design Guide Objective 3E-1, in relation to provision of deep soil zones which require between 7-15% of sites greater than 1500 m<sup>2</sup> to provide deep soil capable of sustaining substantial tree canopy Council's urban forest and ecology team have indicated that:

- The public domain design must be pre-empted by liaison with Council in relation to which street trees are suitable for retention and which trees should be removed and replaced.
- All overhead power lines adjacent the sites must be relocated underground.
- an Arboricultural Impact Assessment and Landscape Intent Report and or Landscape Master Plan should be undertaken

## **Direction: Jobs and skills for the city**

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

*Planning Priority E12: Protecting industrial and urban services land*

The proposal is inconsistent with retaining and managing employment lands as outlined in Objective 23 and Planning Priority E12.

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 – Light Industrial uses, the proposed residential accommodation 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.**

‘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”.

The supply of urban services and employment lands will be compromised as a result of the proposal. The maintenance of the IN2 Light Industrial zoning over the site would retain the numeric area of employment land in Marrickville but as evidenced in the EaRLS, this only results in an overstated supply of industrial land in the Inner West LGA. Any increase in employment density that may occur through the planning proposal would be negated by the strategic implications of further constraining the supply of employment lands for industries that may be currently suited to the site or suitable for the site in the future.

Based on the quantity and format of the employment floor space proposed, the envisioned industrial-led creative cooperative, would be limited to a specific range of businesses that can operate within the constraints of the space proposed.

The applicant argues that the proposal will provide employment floor space of nearly FSR 1.5:1 and thus exceeds the existing provision of employment floor space of 0.95:1. However, not all that the area designated as employment floor space will be useable as outlined below. In addition, 68% of the floor space will be for residential accommodation; a clear indication of the sites primary use.

While a suitable location for industrial activity and urban services, there are issues in terms of the suitability of the site for housing, given the low amenity environment resulting from being located within an industrial precinct, adjacent to a freight rail corridor and being flood affected. The attenuation required for the apartments to overcome amenity issues and conflict with different land uses creates an undesirable amenity outcome for its occupants.

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.

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

#### Inner West Local Strategic Planning Statement

Council's 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 adopted on 20 March 2020.

The 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.

The planning proposal is considered inconsistent with **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 and actions involving implementing the LHS and EaRLS

#### Local Housing Strategy

Council's 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. The Strategy was adopted by Council on 3 March 2020.

The LHS clearly establishes where housing is to be provided. The methodology specifically excludes the industrial zone from areas to be considered for future housing. It also identifies land with flooding risk as a constraint and excludes this land as being considered for future housing.

Council is currently progressing actions from the LHS to provide revised planning controls to deliver additional new housing as part of a future LEP amendment. The planning proposal is inconsistent with both the overall vision and key actions articulated through the LHS.

#### Inner West Employment and Retail Lands Strategy and Study

The Inner West Employment and Retail Lands Strategy (EaRLS) and supporting Study provides an evidence-based approach to managing employment lands and commercial centres in the LGA. The EaRLS was adopted by Council on 8 September 2020.

The EaRLS found that there will be a shortfall in capacity in the Inner West LGA of around 432,540sqm by 2036. It states that, *'a significant extent of industrial and urban service lands has been lost to residential uses in Inner West in recent years. Inner West needs to not only protect the remaining employment lands, but to seek additional opportunities to provide for light industrial and urban services uses, that are compatible with more vulnerable land uses, in other zones.'*

The planning proposal is inconsistent with the overall vision of the EaRLS, particularly Strategy 3.1, 3.2, 2.2, 2.3 and the vision under principle 1 for our centres. Delivery of light industrial floor space on lower floors of mixed-use development is envisioned under the EaRLS to occur within and adjacent to centres along key corridors in the Inner West LGA as a means of growing employment floor space outside of industrial zones to relieve competition for space within industrial zones. If supply of employment floor space can be increased outside of industrial zones for uses that can be supported outside of industrial zones, this will reduce

competitive pressure within the industrial zones for uses that require flexible or customised design requirements, or create more noise/dust and/or require heavy vehicle access.

The planning proposal is inconsistent with Action 2.2.1 as it does not involve the retention of industrial land for industrial purposes. The layout and servicing of the proposed employment floor space and introduction of residential uses above is effectively locked in for the long term once built. The proposed design of the employment floor space can only accommodate a limited range of employment uses. This is due to the constrained layout/servicing (particularly when compared to the flexibility of the existing sites) as well as the amenity impact considerations for the above residential uses. A range of urban services, food manufacturing, industrial and creative industries will effectively be locked out from this land permanently as a result of this redevelopment, due to the fixed nature of the employment space.

The 3,400sqm of ground floor space proposed will only be able to support a limited range of light industrial uses. This quantum of floor space could ultimately be lower, once further design work is undertaken on the proposal. Currently, it is proposed to be highly fragmented due to the need for basement parking access, lobbies, entrances and servicing for the residential above. The proposed ground floor does not compare in scale and flexibility of use to the single 1,335sqm warehouse building at 3 Myrtle Street or the 750sqm footprint at 3-5 Carrington Road. The existing sites also benefit from substantive hardstand space, enabling easy vehicular access and circulation. In the case of 3 Myrtle Street, the use of Sydney Water and Sydney Trains land under a lease arrangement provides the benefit of a second vehicular crossing and full at-grade access to the warehouse building. The proposal will not maintain these existing arrangements in its current form.

It is also inconsistent with Action 2.2.1 as it results in the loss of industrial uses, and the prevention of new industrial start-ups. This space will likely appeal to artisan food and drink premises or office floor space. While it is acknowledged that the proposed employment floor space could be used to support new start-ups, this will be limited to uses that have minimal amenity impact on residential properties and less complex space requirements; that is, uses encouraged outside of the industrial zones through delivery of EaRLS. The proposal will also result in the loss of industrial uses, particularly a food manufacturer and smash repairer; with the redeveloped building unlikely to accommodate a smash repairer or a large-scale food manufacture/warehousing and distributor in the future.

This proposal is reliant on uses that are mostly accommodated under Clause 6.12 of Marrickville LEP 2011 "Business and office premises in certain zones". The EaRLS has reviewed this clause considering the challenges facing the 'cultural production' component of the creative sector in finding suitable space and overall pressures on industrial zones. It made the following recommendations through strategies/actions:

- Strategy 2.6: Manage the growth of artisan food and drink industries, "Permitting cafes and restaurants, such as those permitted by the land use term Artisan food and drink industry, may recast expectations for industrial and urban services areas. In the longer term this could result in these areas becoming unviable for traditional urban services.'
- Action 3.4.1: Amend clauses in LEP to limit creative industries in IN1 - General Industrial and IN2 - Light Industrial zones to industries that 'produce' an item
- Action 3.4.2: Introduce DCP provisions to provide a clear definition and policy position on what is considered a creative industry.

There is a delicate balance between accommodating uses that may not sit on the industrial activity end of the spectrum, supporting the creative sector and allowing for spaces that may not be suitable for industrial uses to accommodate other uses (for example a former cottage in an industrial zone). The site specific DCP encourages uses such as audio-visual, media, digital media, advertising, craft, arts, film, television, music, publishing, heritage, photography, gallery space, theatre props, food and beverage production. It refers to these as 'creative industry uses.'

The proposal is making use of two large landholdings. It is not an amalgamation of smaller sites. It also proposes substantial quantities of residential development above. The design of the employment floor space appears to be more catered to these uses and is not designed to adequately cater for industrial use. The spaces and the uses that are proposed to be facilitated in these spaces are ancillary to the primary purpose of the zone and could easily be accommodated in mixed use zones outside of industrial zones with minimal amenity impacts. This negates the rationale behind why this proposal needs to occur on an industrial site, when it is largely permissible in a mixed-use business zone.

To relieve pressure on industrial zones, EaRLS strategies and actions seek to increase the opportunities for mixed-use development to include suitable spaces for 'creative services' within centres and along key corridors, and this is being enabled through future place-based studies and review of land use terms, including making 'light industry' permissible in business zones. With the changing retail environment, the role of these businesses in our centres and corridors is likely to increase.

Given the proposal is seeking consideration of the proposal based on its compatibility with the industrial zone and genuine retention and increase in industrial floor space, the intended uses as outlined in the proposal documentation seem to be those that are least reliant on industrial zoning and most likely to afford a higher rent per sqm compared with 'cultural production'

These concerns are amplified by the commitment of only 10 per cent of employment floor space for affordable rent.

The proposal is also inconsistent with Action 4.2.1 and 4.2.2 as it proposes residential uses that are sensitive to the impacts generated by noise, odour, dust, vibration, heavy vehicle traffic and 24 hour operation which will also compromise a buffer between residential uses and the IN1 – General Industrial zone located to the east of Carrington Road.

The planning proposal is inconsistent with both the overall vision and key actions articulated through the EaRLS.

### Integrated Transport Strategy (ITS)

The ITS 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 ITS was formally adopted by Council in March 2020.

The Planning Proposal is inconsistent with principle 3, 'Prioritise people in centres and main streets and revitalise key roads.' The proposal is encouraging a mixed-use typology and a form of street activation which is not appropriate in an industrial zone, given the type of vehicular activity that occurs in such a precinct. As discussed elsewhere, mixed use development is appropriate in and near centres but in an industrial context, the land use conflict extends to the increased numbers of residents accessing the site and navigating the surrounding industrial area. The lack of dedicated on-site loading facilities and vehicular access to the industrial floor space only exacerbates these risks.

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 ITS.

### 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 information submitted with the planning proposal is inconsistent thus it is not possible to clearly identify what is proposed regarding affordable housing. The Draft VPA indicates that 10% of the residential floor area of the proposal would be dedicated to Council for affordable housing with the units to be dedicated being chosen by the developer. This proposal is inconsistent with Council's Affordable Housing Policy.

It is noted that other documentation submitted with the planning proposal refers to the opportunity for 15% of the BTR units to be 'affordable'. This is the minimum amount of affordable housing that should be provided prior to consideration of additional public benefits provided as part of the VPA.



## 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. An assessment of the planning proposal against the relevant strategic directions outlined in the CSP is given below:

### **2.4 Everyone has a roof over their head and a suitable place to call home**

- *Ensure the expansion of social, community and affordable housing, distributed across Inner West, facilitated through proactive policies.*
- *Encourage diversity of housing type, tenure and price in new developments.*

Comment: The proposal is inconsistent with Council's Affordable Housing Policy, proposing a rate that is below the minimum contribution of 15% of GFA.

### **3.2 Inner West is the home of creative industries and services**

- *Position Inner West as a place of excellence for creative industries and services and support them to thrive*
- *Facilitate the availability of affordable spaces for creative industries and services*
- *Encourage the establishment of new enterprises in Inner West*

Comment: As identified by SGS's strategic advice (discussed in detail in Section 5.3), the proposal is inconsistent with this goal.

Furthermore, the introduction of residential to the site will prevent future intensification of industrial uses and adaption to accommodate the changing needs of industrial uses and the needs of an increasing population. This will preclude the establishment of new enterprises, creative industries and the provision of affordable spaces.

### **3.4 Employment is diverse and accessible**

- *Support local job creation by protecting industrial and employment lands*

Comment: The planning proposal is inconsistent with this aim, presenting a significant departure from the objectives and recommendations of Council's EaRLS and Study. Although it retains the IN2 zoning, the introduction of residential uses 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.

- *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 and requires a planning authority to consider:

- 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.

before preparing an environmental planning instrument for a change of use of land.

The planning proposal is not supported by any contamination report, with the documentation submitted with the application instead proposing to address land contamination and geotechnical matters during the development application phase.

Given that the site has an industrial zoning, has historically been used for industrial purposes and is located adjacent to a railway line and it is proposed to make a land use change that has the potential to increase the risk of exposure to contamination, at minimum a preliminary investigation of the potential contamination of the site should have been undertaken and submitted with the application for a planning proposal.

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

The proposal is inconsistent with the following design quality principles of SEPP 65 – Design Quality of Residential Apartment Development (SEPP 65):

**Principle 1: Context and neighbourhood character**

**Principle 2: Built form and scale**

**Principle 3: Density**

**Principle 6: Amenity**

**Principle 9: Aesthetics**

As discussed earlier in Section 4.1 of this report, the existing design has low levels of cross ventilation and would need to be redesigned to meet the relevant provision of the Apartment Design Guidelines and consequently SEPP 65.

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

When a planning proposal affects land within an existing or proposed business or industrial zone, the direct requires that it 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 consistency with the direction for the following reasons:

- *retain the current supply of industrial zoned land*
- *support both a higher density and greater diversity of employment opportunities on the site*
- *enable the development of an industrial-led creative cooperative*

These arguments are not supported for to the following reasons:

- Although the proposal retains the existing industrial zoning, this is merely a technicality given the mixed-use development proposed on the site is inconsistent with an industrial zoning.
- The employment space proposed is constrained in terms of the industrial uses that it can support. Once built, this floor space is effectively locked to only activities of a certain scale and intensity.

- Clear details of the industrial-led creative cooperative have not been provided and the design of the industrial space, servicing and access arrangements appear to limit the range of creative uses able to form part of this cooperative.
- The valuable role the land plays providing an urban services for the local community has not been considered. 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.

The type of development proposed would be suitable in the context of a mixed-use zone adjoining or within a centre but not within an industrial zone. The EaRLS discusses how locating developing flexible ground floor employment floor space can attract a wider range of employment uses to the centre beyond retail and commercial. By proposing higher densities further from the town centre, it introduces dense residential population far away from existing businesses. Increased population within an industrial zone only further compromises the viability of overall industrial precinct, by increasing the demand for retail at that specific location.

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 reasonably close to public transport. 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 the public domain and it does not set an appropriate precedent for the integration of built form between light industrial and residential uses.

Therefore, the planning proposal is inconsistent with this direction and no justification of its inconsistency in relation to providing good design for new housing has been provided.

### 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 Integrated Transport Strategy recommends protection of employment land so those who work in or require industrial and urban services and products do 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 uses and to provide for current and future tenants. The proposed building of residential floor space above industrial uses will further 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.

#### 4.1 Acid Sulfate Soils

The site is identified as containing Class 2 acid sulfate soils in the relevant MLEP 2011 map. An acid sulfate soils study was not provided with the application, contrary to the requirements of this ministerial direction. This report is necessary to allow the appropriateness of the proposed change of land use to be assessed given the intensification of land uses proposed.

#### 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 (between 175 and 225 dwellings). The planning proposal's claim that the inconsistency with this Direction is minor is unjustified.

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**.

#### 5.10 Implementation of Regional Plans

As described in Section B of this report, the proposal is inconsistent with the Greater Sydney Region Plan-A Metropolis of Three Cities.

#### 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 as part of a mixed-use development. 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 provide business and office premises for the purposes of certain art, technology, production and design sectors.
- To enable a purpose-built dwelling house to be used in certain circumstances as a dwelling house.

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. 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 (GSRP). As discussed above, the Planning Proposal is inconsistent with the GSRP and therefore with this Direction 7.1.

#### **4.3. 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.

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

#### Creative sector needs

The urban design report outlines spatial requirements of creative industries in Marrickville. The smaller scale formats and typologies outlined can be accommodated outside of an industrial zone, whereas the formats of a larger scale and intensity (those representing 'cultural production') need to be located within industrial zone. The proposal focuses on the provision of space for creative industries with smaller spatial requirements however as outlined below, there is more demand for larger flexible spaces which have not been prioritised as part of this proposal.

Feedback was sought from Council's community services team in relation to the needs of the creative sector. They provided the following comments,

- **What creative sector uses that are in most need of help?** When it comes to access to spaces to do their work it is cultural producers i.e. making local creative products, creative-industrial manufacturing, messy, dirty activities that are most under threat in the Inner West. They are of hybrid disciplines, but often makers and visual artists. This level of threat is not the same for new tech or business to business creatives.

- **What spaces do they require?** Affordability is key. Flexible formats and scale, warehouse style spaces. Loading docks and ability to make noise and mess and operate at all hours. Older style buildings with character preferred.
- **Does this proposal provide the spaces required by those sectors of the creative sector most in need (based on the information available)?** No. There is a lack of evidence that these spaces will be affordable and there is a constrained ability to generate noise, dust etc.

Historically, developer created creative hub live-work proposals often leave designated creative spaces to market forces, so the business-to-business office creative sector, such as architects and new-tech enterprises, often end up occupying these creative spaces, as they are more typically able to pay higher rents. This does not cater to the cultural production sector, which is the heart of the Inner West's creative economy and distinctiveness.

The key concerns with the proposal, and its stated purpose to meet demand for creative live and work space in the Inner West are:

- Threat to the protection of the areas industrial and employment lands, which preserve affordability and supply of suitable creative spaces. The proposal would diminish overall supply of industrial land and present a precedent for overturning the Greater Sydney Commission and Inner West's commitment to the preservation of industrial lands through the EaRLS. It is not clear why this proposal needs to happen in an industrial zone, rather than say, a business zone
- Guarantee of the affordability of the production spaces/ units. It is not clear how affordability of workspaces would be guaranteed. Market rent for new build studios and warehouses are typically higher than the sector is able to pay
- Guarantee of target creative sector artforms/ producers in designated creative workspaces/ units. It is not clear how target sector messy, dirty cultural producers will be guaranteed in the workspaces
- Suitability of work units alongside residential. The plans show workspace being very close to residential. Even with noise attenuation, the harmony of the two uses is unclear.
- Suitability of designed spaces. Research suggests users are best placed to inform the design of working spaces to ensure suitability, e.g. lighting, wet areas, loading docks, layout.
- Scale. The height of the proposed site would present an anomaly in the surrounding area and may set a precedent for other redevelopments and rezonings.
- Affordability of live/work spaces. The premise that living and working in the same location presents a saving significant enough to enable affordability is dubious. Many artists are barely able to pay low to average local rents or struggle to get entry into the housing market, let alone a new build. COVID further demonstrates the vulnerability of creative incomes.
- Affordable housing. Cultural Planning would suggest more significant affordability measures need to be factored into a higher number of designated affordable housing units in order to meet the needs of the target sector. Cultural Planning would also suggest that an initiative that specifically supported affordable housing for artists (as per Toronto Artscape developments) would be suitable for this site. Council would need to resolve this idea with existing Council Affordable Housing policies
- Rent to buy. The idea of access into the housing market through rental is an appealing one, however, documented pitfalls include a lack of security for those renting to buy who may no longer be able to fulfil their rental obligations and may lose their existing contributions/ collateral in the property. COVID has presented significant challenges for the cashflow of creatives. There are government incentives to bolster banks and landlords to guard against evictions – not sure how rent to buy would respond in a similar crisis

Council's Economic Development team also considered the proposal in the context of the needs of the creative sector and had the following commentary:

- The Site Specific DCP states that loading and unloading would be undertaken within the warehouse spaces. This appears to differ from the usual approach of multi-tenant facilities (such as Edinburgh Road which is referred to in the document) where loading/unloading takes place external to the occupied units. It might be inferred therefore that tenants are perhaps being encouraged to take a larger space than they otherwise intended in order to undertake their activity and accommodate their loading/unloading requirements - this again favours enterprises with the ability to pay market rates for larger spaces. The proponent may see this as part of the flexibility provision.
- The proponent is correct in stating that the demand for IN2 – Light Industrial space seeks smaller floorplates and flexibility in configuration. The proposal is unclear however about the mechanism for achieving such flexibility in the total commercial space which may advantage larger enterprises with the

capacity to take larger floor space and pay for fit out. Small creative enterprises are generally capital constrained and thus may be disadvantaged.

- Taken with the points above it is possible to form the impression that the creative references throughout the proposal may be a flag of convenience – similarly with the use of the terms co-operative and live-work.

### Heritage

No suitable built form relationship has been established with the adjacent heritage cottage. The site specific DCP, planning proposal and other documents in the proposal are inconsistent in terms of how the design will address the setback from the heritage item at 1 Myrtle Street.

### Flooding

A flooding impact assessment has been prepared (**ATTACHMENT 5**) 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 occupants and the surrounding precinct. While this issue can be further considered at the detailed design/DA stage under Section 4.15(1) of the EP&A Act, it is clear that the site is significantly flood affected, to an extent which has significant ramifications for the design as currently proposed and the appropriateness for residential uses. Based on flood impacts alone, the proposal should not be supported in its current form.

Other considerations yet to be considered as part of this proposal includes the feasibility of the flood emergency response, reliance on a bridge over the water channel to assist in evacuation (yet to be discussed with Sydney Water) and the need for basement vehicular access and loading to be relocated to solely occur 3 Myrtle Street due to flood depths at Carrington Road, where flood waters will be over 1.2m deep during a 1 in 100 year flood event.

. Redesign implications resulting from flood impacts could significantly alter the delivery of employment floor space in terms of dimensions and access, particularly if access can only be via Myrtle Street. It also creates doubts in terms of whether residential uses can safely be accommodated on part of or all the site given the substantial flood risk posed.

Overall, there is uncertainty on how design amendments to address these matters will affect the layout of proposed employment and floor space, parking and evacuation arrangements.

### Traffic, Transport and Parking

A transport impact assessment has been prepared (**ATTACHMENT 6**) which has considered the existing and future traffic and parking impacts of the proposal. The net additional traffic generated is estimated at between 47 and 62 vehicle trips during weekday peak hours.

The assessment used RMS Sydney Average traffic generation rates for high density residential flat dwellings which are 0.19 vehicle trips/hour per unit in the AM peak and 0.15 vehicle trips/hour per unit in the PM peak. These Traffic Generation Rates are very low and not typical for Inner West Council. The RMS surveys used to derive these rates include surveys from St Leonards and Chatswood that have very different traffic generation rates than the Inner West Council area. The Traffic Impact Assessment should therefore use a traffic generation rate derived from the latest RMS surveys but excluding St Leonards and Chatswood from the data to obtain a more realistic generation rate. Additionally, the Parking Rates used in the GTA report wrongly used Parking Area 2. Both Sites are in Parking Area 3 and so the parking Rates need to be re-assessed. Use of high density residential flat building rates is also considered inappropriate when assessing a proposal comprising live-work industrial uses.

Changes are required to the design with respect to adjacent bicycle route and need for a 3m x3m splay corner on the property at the intersection of Myrtle Street and Carrington Road to allow for future road widening.

The parking rates provided within the site specific DCP are considered inappropriate. The residential rates are too low; no guidance is provided for the industrial / flexible warehouse rates and “retail” parking rates are included when retail is not a permitted use in the zoning.

Overall, a comprehensive traffic study is required to be submitted and shall address the Traffic Impacts on the surrounding road network. The study shall also address the cumulative traffic impacts of the redevelopment of all sites within the Carrington Road/ Myrtle Street precinct as proposed by the Sydenham to Bankstown Transformation Strategy.

### Loading facilities and waste collection

The design of loading facilities as proposed is incompatible with the typical light industrial/warehouse format and will reduce the ability for spaces to be used as industrial floor space. The lack of attention given to the design of these spaces suggests that the end uses will be far from warehousing or industrial in nature, especially above the ground floor.

It has not been demonstrated how servicing areas including loading, unloading and waste collection can be accommodated on the site and the proposal for on-street loading is not supported. The documentation suggests that the amount of on street space that needs to be allocated to the sites equates to 30m frontage on Myrtle Street and 15m frontage on Carrington Road. There is no available space to allocate to loading/unloading adjacent to Myrtle Street due to the separated cycle-way on the northern side of Myrtle Street.

As mentioned previously, it is standard practice that any new build, provide all facilities required for the new development on the subject site. The site currently leases land from adjoining property owners to facilitate loading/unloading and on site parking. The ongoing use of that land needs to be negotiated or a smaller development that can be serviced from the subject site developed.

Due to the lack of coordination with surrounding landowners, the proposed employment floor space is not as flexible and adaptable as what is currently there, largely as a result of the loss of vehicle circulation, over the existing leasehold hardstand spaces. This results in a reduction in usable industrial land. It has been acknowledged in the EaRLS that employment land floor space is not the only important thing –ease of access for vehicle deliveries is also an important factor in creating useable employment lands.

As the site is located in a high flood risk area, vehicular access to basement car parks will be difficult to achieve particularly from Carrington Road where flood waters are be over 1.2m deep during a 1 in 100 year flood. Further information is required to ensure satisfactory vehicular access and loading can be achieved, including for large commercial vehicles, while still providing the required flood protection to basement parking areas. The proposed vehicular access off Carrington Rd will most likely be required to be relocated to Myrtle Street where flood depths are lower.

In addition, the lack of on-site facilities for loading, unloading and waste collection greatly reduces the scope of uses that can be accommodated within the light industrial/warehouse floor space. Specifically, the lack of on-site loading docks mean that a wide range of light industrial and warehousing uses cannot occur on the site as proposed, as storage for commercial bins 660L and 1100L and bulky items such as pallets is required for such uses. To maximise the efficiency of waste collection, deliveries and the overall function of the uses on the ground floor, loading docks are necessary for each building where these large commercial bins and items can be collected.

Council’s resource recovery team have recommended the following:

- Separate commercial and residential bin/waste storage areas
- On-site collection, designed to accommodate Council’s Heavy Rigid collection trucks
- Bulky waste storage areas for both residential and commercial tenants

### Sustainability

The design and future performance the development (as detailed in the site-specific DCP and Urban Design report) require changes to meet Council’s expectation for future development to be low carbon.



There is very little in the site-specific DCP to support a low carbon development (which is a priority for future developments in the Inner West LGA).

The proposal does not address development-related targets or objectives in Council's Climate and Renewable Strategy, namely:

- Community emissions in 2036 are to be 75% less than 2017 levels (the development looks to potentially have quite a high energy demand with light industry, manufacturing, live/work, dwellings with sealed windows, etc yet the applicant does not give any indication of how the energy demand will be met with high emissions)
- The objective to have large solar installations on high impact sites (this site could be a showcase site for combining green roofs with solar panels to increase the efficiency of the panels)
- Sydenham to Bankstown corridor has been identified as a site for low carbon high performance precincts yet the environmental performance of the development does not appear to be a priority of the applicant.

There are concerns relating to the energy efficiency of the proposed development. As mentioned in Section 4.1, there is inadequate cross ventilation and solar access for the proposed dwellings. We would expect these constraints of the design to result in high energy demand for heating/cooling and lighting which contrary to the need for low-carbon development outcomes.

Council's sustainability team have recommended the following:

Inclusion of a provision for Low Carbon High Performance in the DCP with the following objectives and controls be added to the DCP:

- Maximising the environmental performance of the buildings: energy savings, efficiencies and renewables on-site
  - maximise thermal performance of the building envelope
  - maximise passive design (natural ventilation and lighting)
  - maximise efficiency of heating, cooling and hot water services, lighting, fans and pumps
  - maximum solar to be installed on-site, preferably integrated with green roofs
  - application for development must include documentation confirming the buildings will be capable of supporting a NABERS Energy Commitment Agreement of 6 Stars. The agreement must be entered into prior to any construction certificate being issued for the approved development
  - gain certification for Green Building Council 6-star rating for Green Star – Performance
  - reclaimed or harvested water to be used for non-potable purposes
- Enabling the transition away from fossil fuel energy sources
  - inclusion of electric vehicle charging point(s) linked to a smart grid
  - on-site parking to be unbundled/de-coupled from tenancies
  - secure and covered bicycle parking to be provided with facilities for electric bicycle charging
  - end of trip facilities (showers, lockers) to be incorporated
  - design carpark to be easily modified (namely ceiling height) to accommodate changed uses such as controlled environment agriculture (CEA)
- Mitigate the urban heat island effect of the development
  - maximise the area covered by green roofs, walls or facades (using suitable plant species)
  - increase the tree canopy within the site
  - maximise area of deep soil gardens and landscaping
- *Has the planning proposal adequately addressed any social and economic effects?*

### Social Impacts

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 7**). Specifically, they were asked to consider:

- Consistency with both local and metropolitan policy directions regarding industrial land planning (including the precinct's proximity to the airport and size of lots and the proposal's impact on future lot function flexibility)
- whether it can be guaranteed that the 'Hybrid live-work dwellings' floorspace envisioned by this proposal would only accommodate those who work in the creative sector and whether the flexible live-work space will actually be utilised for genuine productive employment use.
- whether the live/work floorspace proposed provides any additional benefit in terms of safeguarding the employment role of the precinct compared to standard residential apartments.
- the potential for land use conflict both within the site and between the proposed development and surrounding residential and the Carrington Road industrial precinct.

Overall, SGS considered the proposal as an excellent model that should be encouraged across Sydney's B2, B3 and B4 zones as it reconceives the concept of mixed use through flexible employment floorspace and housing diversity. However, they did not consider it appropriate to introduce such a model into industrially zoned land due to the precedent set for adding residential uses to industrial land. It also highlights a lack of understanding of the strategic nature of this industrial precinct and future demand for large lot industrial floorspace close to strategic trade gateways and economic and population centres that this precinct is likely to attract into the future.

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

- **alignment with local and state policy direction**– SGS states that while there is limited guidance on what 'manage' means as a formal planning term, in this context it could be considered that the management of industrial land in an area of high demand and strategic location should give effect to the retention of long term flexibility for the site to evolve to meet future industrial need. The introduction of residential both introduces land use conflict risk and the risk of rental price point increase. The proposal also reduces employment floorspace flexibility.
- **recognition of metropolitan and broader industrial trends** – SGS states that while the proposal addresses a segment of growing demand in the creative sector, the more strategic role of these inner city IN2 precincts for future freight & logistics functions has not been sufficiently considered and are also unlikely to fit the proposed built form and land use structure that the proposed development presents.
- **consideration of long-term land use flexibility**– SGS states that the proposal risks reducing the long-term flexibility of the site's operability as an industrial precinct. This risk is reflected in issues such as noise and vehicular movement risk. The proposal reduces the long-term flexibility of the site as it is ultimately then constrained to small-scale operations on what is otherwise a relatively large lot in an inner city industrial precinct. This can be considered a reduction in industrial flexibility. Secondly, the spread of industrial floorspace across multiple floors further constrains the cross-section of industrially focused businesses that can operate on the site, as not all can operate above ground floor, due to low loading, weight bearing and other operational requirements.
- **safeguarding of industrial function**– SGS questions whether the non-residential floor space may not be let out to creative industrial, and instead be let out to creative uses further towards the commercial end of the spectrum (e.g. architecture firms) who do not necessarily need an industrially-zoned premises to operate. It asks the following question, '*does the proposal create a risk that businesses that could locate on the site in its current form (or some other 'standard' industrial typology), could not operate in what is being proposed?*' It states that if the answer is yes, the site is not sufficiently safeguarding industrial land use flexibility and operational integrity.
- **build to rent mechanism** - It is unclear whether the Build to Rent mechanism would remain in perpetuity, or whether it would act as a Trojan Horse – introducing residential and setting the pre-

conditions for a gradual transition to strata development which will have a detrimental and sustain impact on the IN2 zone functionality.

- **setting a precedent for residential** – SGS suggests that the introduction of residential on the subject site would set a precedent which would likely trigger a wave of more visible and permanent residential development, fundamentally altering the character and operability of the IN2 zone both in the Carrington Road Industrial Precinct and across the LGA.
- **lack of market sounding** – SGS identifies that no market sounding and assessment to support both the need and the market access to the proposed product. There is consequently a risk that products may not be priced in line with what businesses that require a traditional industrial space in this area can afford. If such a situation arose, then there is a significant risk that the spaces would not fulfil the industrial function that they need to under the IN2 designation.
- **narrow view of the economy in which the development would operate in** – SGS argues that while the proposal recognises the need for creative spaces and that the BTR model has merit, it lacks a more strategic view of the displacement impact on current or future businesses that would otherwise desire a large lot in a strategic located industrial precinct. The argument is quite a reductive one, implying that as there is demand for what is proposed, there is no demand for what is lost. This should be given much more attention, both for a supply-demand perspective at an LGA level (at least) and also with a view to what industrial/freight & logistics trends are emerging in the inner city's industrial market that are likely to be attracted to a site in a precinct such as this.
- **no attempt to examine the impacts of displacement in the EIA.** The planning proposal is not clear on whether the incumbent use could remain operating in the new development, although it appears unlikely. The use of a narrow input-output model does not capture the supply chain disruption that the displacement of the current business elsewhere will have from an economic perspective.

#### 4.4. Section D – State and Commonwealth interests

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

The site is 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.

## 5. OTHER PLANNING CONSIDERATIONS

### Lack of coordination with surrounding landowners

The proposal also considers covering or bridging over the Sydney Water Channel and includes artists impressions of green space covering lands owned by Sydney Water and Sydney Trains. The proponent should not include these components within the proposal without having consent from Sydney Trains and Sydney Water and the evidence that the proposal on their land is feasible.

### Contradictory information in proposal documentation

Council is unclear on elements of what has been proposed due to inconsistencies in the documentation.

This includes;

- Car parking,
- Waste collection,
- Loading and unloading facilities
- building design, particularly height and setbacks from 1 Myrtle Street

These inconsistencies largely occur in the Site Specific DCP and Urban Design Report and have implications for the final design and overall development potential of the site that is contemplated in the LEP controls.

### Architectural Excellence Panel

The Inner West Architectural Excellence Panel reviewed the proposal and raised the following concerns (**ATTACHMENT 8**) including:

- Lack of demonstrated compatibility between residential uses and light industrial uses.
- Bulk, scale and height of proposal out of character with its context
- The build-to-rent spaces on upper levels lack clear differentiation from standard residential apartments and appear to be configured typical residential apartments, with the conventional residential format reinforced by the proposed 3.1m floor to ceiling heights
- Impact on residential amenity on houses to the south of Myrtle Street, particularly overshadowing
- No suitable built form relationship established with adjacent heritage listed cottage
- Concerns about flood impacts and compatibility of existing design
- Inclusion of adjacent land parcels in the proposal
- The ground floor configuration lacks provision of open space or landscaped areas for amenity.

## **6. 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 density 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. There is also little public benefit that would result from the proposal, which is critical to offset the significant adverse impacts that would result were this proposal to proceed.

Overall, aside from inappropriate bulk, scale and strategic context, there are major challenges associated with the site that have not been satisfactorily addressed including:

- major flood issues
- a lack of on-site loading facilities
- the need to relocate the cycleway behind the site to facilitate its redevelopment
- role of adjoining land owned by Sydney Water and State Rail in facilitating redevelopment the site
- lack of information on contamination, flooding and design elements (e.g. cross-ventilation) to demonstrate the proposal could proceed.

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

## **7. ATTACHMENTS**

- Attachment 1 – Site survey plan
- Attachment 2 – Planning Proposal Report
- Attachment 3 - Urban Design Report
- Attachment 4 – Draft Development Control Plan
- Attachment 5 – Flood Impact Assessment
- Attachment 6 – Transport Impact Assessment
- Attachment 7 – SGS Peer Review
- Attachment 8 – Architectural Excellence Panel Report