

## SYDNEY CENTRAL PLANNING PANEL

SPP No	<b>2016SYE067</b>
DA Number	<b>2016/087</b>
Local Government Area	<b>Strathfield</b>
Proposed Development	The amended application seeks approval for the demolition of existing structures and construction of an eleven storey retail/commercial development over three levels of basement, comprised of 8 retail suites totaling 995m <sup>2</sup> , 3,700m <sup>2</sup> of commercial space over 7 levels and parking for 54 cars
Street Address	<b>1, 3-9 The Boulevard and 2-10 Churchill Avenue Strathfield</b>
Applicant/Owner	Esperia Court Pty Ltd
Number of Submissions	Initial notification - Three (3) submissions  Notification of amended plans – Two (2) submissions
Regional Development Criteria (Schedule 4A of the Act)	<b>Cost of works &gt; 20,000,000.00</b>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• <b>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</b></li> <li>• SEPP 55 – Remediation of Land;</li> <li>• SEPP (Infrastructure) 2007;</li> <li>• Strathfield Local Environmental Plan 2012; and</li> <li>• <b>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</b> N/A</li> <li>• <b>List any relevant development control plan: s79C(1)(a)(iii)</b></li> <li>• Strathfield Development Control Plan No. 13 –Strathfield Town Centre; and</li> <li>• Strathfield Consolidated Development Control Plan 2005:</li> </ul>

	<ul style="list-style-type: none"> <li>○ Part H – Waste Minimisation and Management;</li> <li>○ Part I – Provision of Off-Street Parking Facilities;</li> <li>○ Part L – Notification, and</li> <li>○ Part N – Water Sensitive Urban Design (WSUD).</li> </ul> <ul style="list-style-type: none"> <li>• <b>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</b> N/A</li> <li>• <b>List any coastal zone management plan: s79C(1)(a)(v)</b> N/A</li> <li>• <b>List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288</b></li> <li>• N/A</li> </ul>
List all documents submitted with this report for the panel's consideration	<b>Report, Site Plans and Elevations attached.</b>
Recommendation	<b>Refusal</b>
Report by	<b>Kerry Gordon – Consultant Town Planner</b>

## Assessment Report and Recommendation Cover Sheet

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## **SUMMARY**

<b>PROPERTY:</b>	1, 3-9 The Boulevard and 2-10 Churchill Avenue, Strathfield Lot 1 in DP 173685, Lot 1 in DP 173763 and Lot 1 in DP 172769
<b>DA NO.:</b>	2016/087
<b>APPLICATION TYPE:</b>	Demolition and construction of an eleven storey retail/commercial development over three levels of basement.
<b>REPORT BY:</b>	Kerry Gordon – Consultant Town Planner
<b>RECOMMENDATION:</b>	REFUSAL
<b>SUBMISSIONS:</b>	Three submissions objecting to the proposal were received to the initial notification. Two submissions objecting to the proposal were submitted in response to the notification of the amended plans.
<b>ZONING:</b>	B3 Commercial Core
<b>DATE APPLICATION LODGED:</b>	30 May 2016
<b>APPLICANT:</b>	Esperia Court P/L
<b>OWNER:</b>	Esperia Court P/L

## **INTRODUCTION**

An application was lodged seeking approval for the demolition of the existing buildings and construction of a fifteen storey mixed use development containing

- 1,853m<sup>2</sup> of retail floor space at the ground, 1<sup>st</sup> and 2<sup>nd</sup> floors, connected with internal escalators;
- 4,951m<sup>2</sup> of commercial floor space over seven (7) levels (Levels 3-9);
- One level that has no usable floor space, containing plant at Level 10;
- (24) residential units comprising eight (8) x 1 bedroom, (12) x 2 bedroom and four (4) x 3 bedroom units over 4 levels (Levels 11-14)

A briefing report was prepared for the JRPP on 3 August 2016 identifying significant issues with the application as follows:

1. Overdevelopment of the site
2. Excessive height
3. Excessive FSR
4. Solar access
5. Accessibility
6. Urban design
7. Location of car park entry
8. Lack of clarity of proposed use

9. Inadequate parking
10. Inappropriate roof top use
11. Side setback
12. Adaptable apartments inappropriate for serviced apartment use

A meeting was held with the applicant to outline the concerns with the application and the concerns were detailed in Council's letter of 8 August 2016.

Amended plans were submitted to Council on 31 January 2017, which were re-notified. Whilst the plans address some of the concerns previously raised by Council, a number of significant concerns have not been addressed and remain. Accordingly, the application is recommended for refusal.

#### **DESCRIPTION OF THE SITE AND LOCALITY**

The site is comprised of three allotments of land, being Lot 1 in DP 173685, Lot 1 in DP 173763 and Lot 1 in DP 172769 and is known as Nos. 1, 3-9 The Boulevarde and Nos. 2-10 Churchill Avenue Strathfield. The site has the shape of a parallelogram, with a frontage of 30.48m to The Boulevarde and 39.62m to Churchill Avenue, and a site area of 1,207.62m<sup>2</sup>.

The site is currently developed with three buildings. On the corner of The Boulevarde and Churchill Avenue is a two storey mixed use building with shops at ground level. Fronting the remainder of The Boulevarde is a three storey mixed use building with shops at ground level and offices above. Fronting the remainder of Churchill Avenue is a two storey mixed use building with shops at ground level and Strathfield Private Hotel above.

The site is located opposite Strathfield Square, to the north, thence Strathfield Station and is adjoined to the west by a two storey mixed use building at No. 12 Churchill Avenue. Wrapping around the southern side boundary of the site and to the west of No. 12 Churchill Avenue is the Strathfield Plaza site. Further to the west are modern high rise apartment buildings. To the south of the Strathfield Plaza site, fronting The Boulevarde, are a series of traditional, narrow, one and two storey retail and commercial buildings which are located within a conservation area and some of which are identified as items of heritage. Diagonally opposite the site on the corner of Churchill Avenue and Strathfield square are one and two storey retail and commercial buildings.

Opposite the site in The Boulevarde are traditional one and two storey retail and mixed use buildings which are located in Burwood Municipality. These properties are zoned B4 Mixed Use, have a height limit of 30m and a FSR of 3:1.

An aerial photograph of the subject site and surrounding properties is provided on the following page.



**Figure 1:** Aerial photograph of the subject site and surrounding developments.

## PROPOSAL

, as detailed following:

Basement Level 3	Parking for 27 cars (including 2 accessible spaces and 2 small car spaces) and storage.
Basement Level 2	Parking for 27 cars (including 2 accessible spaces and 2 small car spaces) and bicycle parking for 44 bicycles.
Basement Level 1	Service vehicle parking and plant only.
Ground Level	Vehicular access to the basement is provided from Churchill Avenue, adjoining the western boundary, also providing access to a garbage truck bay with turntable and garbage room. Three retail tenancies are provided, having areas of 30.6m <sup>2</sup> , 52.6m <sup>2</sup> and 145.9m <sup>2</sup> , around a “food court” (approximately 185m <sup>2</sup> ), which is open to Churchill Avenue and partially open to The Boulevard. This level also contains a building management office and WCs and a substation to The Boulevard frontage. The food court is elevated above the footpath level of the adjoining streets due to flooding issues, with

stairs provided to both streets and two accessible ramps provided fronting The Boulevarde. Escalators provide access to the first floor.

- |             |   |
|-------------|---|
| Level 1     | This level contains three retail spaces of 223.5m <sup>2</sup> , 223.9m <sup>2</sup> and 151.8m <sup>2</sup> , WCs and a large void (approximately 89m <sup>2</sup> ) over part of the food court below. Escalators provide access to the second floor.   |
| Level 2     | This level contains two retail spaces of 99.4m <sup>2</sup> and 67m <sup>2</sup> with two very large outdoor sitting areas of 116.2m <sup>2</sup> and 143.3m <sup>2</sup> , respectively, related to the tenancies, WCs and a void (approximately 49m <sup>2</sup> ) over part of the food court below. |
| Level 3     | This floor is not occupied by any floor space, being identified as a void.  |
| Levels 4-10 | Each floor is occupied by a single, irregular shaped, commercial suite of 528.5m <sup>2</sup> , along with WCs, a waste room, cleaner's store and kitchenette. Each level contains two large balconies facing north and east of 81.7m <sup>2</sup> and 55.2m <sup>2</sup> respectively.                 |
| Roof        | The roof is occupied by the fire hydrant water storage tanks, fire sprinkler storage tanks, OSD tanks and other plant and storage.  |

The building has a height of up to RL 54.2 to the lift overrun, equating to approximately 42.56m.

A photomontage of the proposal is provided following:





**Figure 2:** Photomontage extracted from the architectural plans of the proposal as viewed from Strathfield Square.

**ASSESSMENT - Pursuant to Section 79C of the Environmental Planning and Assessment Act, 1979**

The application has been assessed pursuant to the heads of consideration of Section 79C of the Environmental Planning and Assessment Act and the relevant matters described in Sub-section (1)(a), (b), (c), (d) and (e) of Section 79C have been considered within this report.

The following statutory controls are relevant to the proposal:

- SEPP 55 – Remediation of Land;
- SEPP (Infrastructure) 2007
- Strathfield Local Environmental Plan 2012;
- Strathfield Development Control Plan No. 13 –Strathfield Town Centre
- Strathfield Consolidated Development Control Plan 2005:
  - Part H – Waste Minimisation and Management Plan
  - Part L – Notification; and
  - Part N – ‘Water Sensitive Urban Design’ (WSUD) Strathfield Consolidated Development Control Plan 2005

(a) (i) **Environmental Planning Instruments:**

**State Environmental Planning Policy No. 55 – Remediation of Land**

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires Council to consider whether the site is suitable in its current state, contaminated state or following the completion of remediation works for the purpose for which development consent is being sought. The site is not located in an area of investigation under Part K of the Strathfield Consolidated DCP 2005 (SCDCP 2005) which identifies past known landfill and potentially contaminated sites in the Strathfield local government area.

The application provided no information to allow an assessment under SEPP 55.

**State Environmental Planning Policy (Infrastructure) 2007**

The subject application is identified as integrated development under Clause 86(1) of State Environmental Planning Policy (Infrastructure) 2007 due to the proximity of the site to Strathfield Station and the rail line. Concurrence was received from Sydney Trains on 26 July 2016, subject to a condition of consent in relation to noise and vibration. The amended proposal was not referred again.

**Strathfield Local Environmental Plan 2012**

The site is zoned B3 Commercial Core under the Strathfield Local Environmental Plan (SLEP), 2012 wherein development for the purposes of a commercial premises, which is defined as follows, is permissible with Council consent.

***commercial premises*** means any of the following:

- (a) *business premises,*
- (b) *office premises,*
- (c) *retail premises.*

The objectives of the B3 Commercial Core Zone are as follows:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

The proposal is generally consistent with the object objectives.

The following table provides an assessment of the proposal against the relevant numeric controls of the SLEP 2012:

Clause	Required	Proposed	Compliance
4.3 - Building Heights	Maximum 42m	Approximately 42.6m to lift overrun	No
4.4A - Floor Space Area	Maximum 5:1 (6,038.1m <sup>2</sup> )	5,981.9m <sup>2</sup>	Yes*

\* See discussion later in report



### Height

The assessment of height is based on an assumed ground level. The ground level is assumed from the survey provided which is considered to be inadequate to allow an accurate assessment of the existing ground levels. Notwithstanding the applicant was advised of the inadequacy of the first survey plan provided, the second survey plan provided is still considered to be inadequate. The survey plan shows the site to be totally covered by building (and does not provide a ground floor level for that building). However, a Google Earth view of the property shows the site is not fully covered by buildings, with the rear and south-eastern part of 2-10 Churchill Avenue not appearing to be covered by buildings. The assessment was undertaken based on an existing ground level of RL 11.64 (found at the south-western corner of the site) as the levels though the remainder of the site are unknown.

No clause 4.6 variation request was provided for consideration with the application and as such the Panel has no power to approve the development.

### FSR

The FSR calculation is based on the gross floor area identified on the applicant's plans. FSR is a control which seeks to limit the bulk of a development, along with its scale. In this instance, there are an excessive number of voids and large balconies which lead to the bulk and scale of the building (and its height) being significantly increased. If the voids and balconies are added to the large ground level food court (which is partially open and therefore not technically gross floor space), approximately an additional 2,350m<sup>2</sup> of area that is not technically included as gross floor area is proposed. This space is equivalent to an additional 39% being added to the bulk of the building.

These spaces include balconies of 81.7m<sup>2</sup> and 55.2m<sup>2</sup> on each level of the commercial floors, which provide no benefit to the commercial users but add significantly to the bulk of the building. It is noted that in the previous version of the plans these balconies were floor space and the amended plans have disingenuously reduced floor space by relocating the walls to create useless balconies.

This is continued on the retail levels where the balconies, voids and "open" food court total approximately 612m<sup>2</sup> of space, which is equivalent to 62% of the total retail space. Again, this appears to be a disingenuously attempt by the applicant to reduced floor space by relocating the walls to create excessively large balconies and voids where previously there was floor space (it being noted the previous GFA of the retail space on these three levels was 1,852.8m<sup>2</sup> compared to the currently proposed 995m<sup>2</sup> of GFA and 612m<sup>2</sup> of voids/balconies/food court.

Finally, the proposal includes an entire floor of void at level 3, which if included as floor space would be in the order of 628m<sup>2</sup> (based on the GFA of Levels 4-10. This void serves no purpose other than to increase the height of the development such that it breaches the height control and to increase the bulk and scale of the development well beyond that intended by the controls.

Given the proposed voids, balconies and food court increase the bulk and scale of the development by approximately 39% it is considered that their provision is excessive and as the majority of these areas provide little amenity for the retail and commercial tenancies, they are not supported.

It is noted that the exceptions to floor space ratio provisions of Clause 4.4B do not apply to the subject site and as such no bonus for consolidation of the site to a minimum area of 1,500m<sup>2</sup> applies. It is noted that the site is under this size in any case. The height and FSR controls were determined in the up-zoning in relation to the relative site capacity and the locational hierarchy, with height stepping down away from the central area, and in relation to nearby heritage and residential areas. Given the size of the subject site, it was identified with a lower height and FSR than surrounding properties.

#### Acid Sulfate Soils

The subject site is identified as having Class 5 soils. The clause is not addressed by the application and as such it cannot be determined whether the proposal satisfies this control.

#### Design Excellence for Strathfield Town Centre

Clause 6.7 addresses design excellence in Strathfield Town Centre, however the subject site is not located in Area 2 on the Floor Space Ratio Map and as such this provision is not applicable to the subject site.

#### Additional Provisions for Development in Strathfield Town Centre

Clause 6.8 applies to areas identified as being within Area 1 or 2 on the Floor Space Ratio Map, however the subject site is not located in either, and as such this provision is not applicable to the subject site.

#### **(ii) Draft Environmental Planning Instruments:**

There are no Draft Environmental Planning Instruments applicable to the subject site.

**(iii) Development Control Plans:**

**Strathfield Development Control Plan 13 – Strathfield Town Centre**

Strathfield Development Control Plan 13 – Strathfield Town Centre (DCP 13) came into force in May 2006 and was prepared to support planning instruments which have been superseded by LEP 2012. DCP 13 does not appear to have been updated to address the changes to the Strathfield Town Centre envisaged by the up-zoning of the centre in terms of FSR and height controls. As such, many of the provisions within DCP 13 are inconsistent with LEP 2012 and as such are not applicable to the assessment of this application, with LEP 2012 provisions being relevantly applied.

The remaining provisions which are not inconsistent with the provisions of LEP 2012 are addressed following:

**Building Siting and Design**

Part 3.13 requires development fronting and adjoining The Boulevarde to respect the prevailing 2 storey height whilst allowing slightly taller structures on selected corner sites, with higher building elements setback to protect the streetscape. A zero building setback at ground level is required, with retail shopfronts configured to all street frontages to maximise commercial opportunities, diversity and activity. These principles are also said to apply to development bounded by Churchill Avenue.

Specific controls are applied in Part 3.3 requiring a 2 storey construction to the street frontage of The Boulevarde, with three storeys permitted to the Churchill Avenue frontage. Clearly this is inconsistent with a 42m height control to the site and as such should not be given any weight in the assessment of the application. However the requirement for development to be built on a zero building setback at ground level is still a relevant provision and is an appropriate design feature for the site. The design proposes setbacks to all retail suites at ground level, providing a poor level of street activation.

The building envelope controls at Part 4.0 for development bounded by Churchill Avenue are similarly inconsistent with a 42m height control and should not be given any weight in the assessment of the application.

**Access**

Part 3.6 addresses pedestrian and vehicular access as well as parking.

*Pedestrian access* is to maximise shopper amenity, convenience and safety, with disabled persons enjoying priority treatment. The proposal provides accessible paths of travel to the building by two ramps from the corner of The Boulevarde and Churchill Avenue and from the southern corner of the site, adjoining the Strathfield Plaza entry. Whilst these ramps provide a good level of accessibility, they prevent the activation of The Boulevarde frontage of the site. It is noted that activation of the frontages of the site is difficult given the flooding requirement to raise the ground level, but the design provides for only 11.5m of retail frontage (if the “food court” is excluded – it being noted that with stairs to the entirety of both frontages of the food court its use is compromised) on a site with frontage to two streets of 30.48m to The Boulevarde and 39.62m to Churchill Avenue. It is considered that the proposal internalises the retail spaces and provides for a poor level of activation to the street, reducing the pedestrian amenity within the centre.

It is also noted that the accessible ramps are also provided in front of the substation and fire egress and concern is raised that this will result in an unacceptable fire egress solution and it being unlikely that the substation location will be accepted by the energy provider.

*Vehicular access* is not permitted from The Boulevard and the application is consistent with this requirement.

Parking is required to be provided at a rate of 6.2 spaces per 100m<sup>2</sup> of gross leasable area for retail floor space and 1 space per 30m<sup>2</sup> for gross floor area of office space.

A total of 995m<sup>2</sup> of retail gross floor space is proposed, however this would increase to 1,254m<sup>2</sup> if the large balconies identified as outdoor sitting area off the Level 2 retail spaces is included (as it would likely be as it would be gross leasable area associated with the retail suites). This would result in a demand for 62 parking spaces for the retail component (increasing to 78 if the outdoor sitting areas are included).

A total of 3,700m<sup>2</sup> of commercial space is proposed, resulting in a demand for 123 commercial parking spaces.

As such under DCP 13 a total of 185 parking spaces would be required, increasing to 201 if the outdoor sitting area was considered. The proposal provides 54 parking spaces, a shortfall of 131 or 147 parking spaces, respectively. Notwithstanding the substantial parking shortfall, the design curiously provides an entire basement level with no parking, which is said to be occupied by plant.

Whilst it cannot be considered as part of this assessment, it apparent that the design of the proposal, which has changed little from the original proposal other than in relation to the location of walls, caters for a future application to provide a significant amount of additional floor space in the balcony and void areas and will provide additional parking for this floor space in the additional basement level.

#### **Part H – ‘Waste Management’ of the Strathfield Consolidated Development Control Plan (DCP) 2005**

The application does not include a waste management plan and as such there is inadequate information to allow assessment against the provisions of Part H of DCP 2005.

#### **(iiia) Planning Agreements (or draft agreements):**

The proposed development is not subject to a planning agreement pursuant to Section 93F of the Environmental Planning and Assessment Act 1979.

#### **(iv) Matters Prescribed by the Regulations**

Clause 92 of the Environmental Planning and Assessment Regulation requires Council to take into consideration the provisions of the Government Coastal Policy and the relevant Australian Standard for the demolition of buildings in the determination of a development application.

Having regard to these prescribed matters, the proposed development is not located on land subject to the Government Coastal Policy as determined by Clause 92 (1) (a) (i) however does involve the demolition of a building for the purposes of Australian Standard (AS) 2601 – 1991: The Demolition of Structures.

**(v) Any Coastal Zone Management Plan:**

The NSW Government projects sea levels to rise by 40cm in 2050 and by 90cm in 2100 above the relative mean sea level in 1990. These planning benchmarks are to be considered in the assessment of development applications through the applicable coastal zone management plan or alternatively the provisions of the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise*.

Although Council is not subject to a coastal zone management plan, the sea level rise planning benchmarks have also been established in order to assess the likely increase in the frequency, duration and height of flooding and as a consequence likely property and infrastructure damage on affected and potentially affected land. Council is therefore required to consider the impact of sea level rise and resultant flooding from Powell's Creek and Cook's River which are tributaries of Sydney Harbour (Parramatta River) and Botany Bay respectively.

The proposed development is located on a site that is not subject to flooding attributed to either Powell's Creek or Cook's River and is therefore not required to be considered under the provisions of the *NSW Coastal Planning Guideline: Adapting to Sea Level Rise*.

**(b) Likely Impacts:**

The potential impacts of the development have been considered throughout the report and are considered to be unacceptable.

**(c) Suitability of the Site:**

The proposal has not been designed appropriately for the site, having inadequate regard to the impact of the proposed upper level setbacks upon the future development of adjoining sites and providing inadequate activation of The Boulevarde and Churchill Avenue given the significant location of the site on two heavily pedestrian trafficked streets. The design turns the retail areas inward rather than focusing on The Boulevarde and Strathfield Square and the bulk and scale resultant from the excessive use of balconies and voids results in an unacceptable visual bulk for the site. Therefore it is not considered that the design of the proposal is suitable for the site.

**(d) Submissions:**

The original application and plans were notified in accordance with Part L of the Strathfield Consolidated DCP 2005 from 7 June 2016 to 8 July 2016. Three submissions were received in response to the notification. The application and amended plans were notified in accordance with Part L of the Strathfield Consolidated DCP 2005 from 21 February 2017 to 8 March 2017. Two submissions were received. The issues raised in all of the submissions are addressed following:

*Breach of Building Height and clause 4.6 variation request is not well founded*

The original proposal significantly breached the height control and the amended proposal also breaches the height control. No clause 4.6 variation request has been provided for the proposed breach under the amended plans.

*Breach of FSR and clause 4.6 variation request is not well founded*

The original proposal significantly breached the FSR control and the amended proposal technically complies with the control, though the excessive use of voids and balconies which provide little if any amenity to the building, inappropriately add to the bulk and scale of the development and as such the proposal is not supported.

*Conflict of driveway location with pedestrian movements along The Boulevarde and activation of street*

This concern with the original plans has been addressed by the relocation of the driveway to Churchill Avenue in the amended plans.

*Lack of side setbacks and impact upon development potential of adjoining properties, lack of compliance with separation distances of ADG*

The amended proposal does not involve any residential component and as such the separation distances under the ADG are not relevant. Whilst there are no relevant side and rear setback controls, the nil southern boundary setback and 3m western boundary setback will result in impacts on the future development potential of the adjoining sites, particularly for residential purposes at the upper levels. Given the height and FSR controls applying to the site, there is sufficient opportunity to provide larger setbacks to allow for improved future development opportunities on adjoining sites, particularly if the unnecessary and excessive voids and balconies are removed.

*Description inconsistencies with some references to residential dwellings and others to serviced apartments*

This concern is concurred with in relation to the original plans but is no longer relevant to the amended plans.

*The proposed building form is not suitable for the subject site which is intended to have a development of a diminutive height and bulk compared to adjoining land given its smaller site area*

This concern was raised in relation to the original plans, but is still considered to be relevant in relation to the amended plans in relation to bulk, with additional bulk being created by unnecessary and inappropriate voids and balconies.

*The proposal fails to address the 2-4 storey height character sought by the DCP provisions as the tower element is not setback in any meaningful way*

Whilst this comment is concurred with, it is not considered appropriate that the design comply with these provisions of the DCP as the DCP pre-dates the up-zoning of the site in terms of height and FSR and as such has little relevance and is inconsistent with the LEP provisions.



*The proposal is designed to extend over public land and no owner's consent has been provided by Council*

The extension of the proposed building over public land is not supported, other than for an awning.

*The proposal is inconsistent with the provisions of SEPP 65*

This concern is no longer relevant to the amend plans which do not include residential use.

*The geotechnical report has not been informed by any borehole investigations*

This is a matter that could be addressed by a condition of consent requiring such investigations after demolition of the building.

*The acoustic report should address proposed plant and mechanical equipment noise*

This is a matter appropriately addressed by a condition of consent prior to release of the Construction Certificate.

*No construction management plan has been provided*

This is a matter appropriately addressed by a condition of consent prior to the release of the Construction Certificate.

*No assessment of shadow and privacy impact upon adjoining future development has been provided*

No assessment of the impact of the development upon the development potential of adjoining sites has been undertaken.

*Impact of undersupply of parking upon Strathfield Plaza site*

The proposal does not provide parking as required by the DCP notwithstanding it provides a basement level with no parking at all.

*The design at ground level does not reinforce enclosure of The Boulevarde or Churchill Avenue and should provide a zero setback. The ramps and steps provide a poor street interface and should be minimised. Creating a mall style inward facing development is inappropriate in a town centre site benefiting from two street frontages, retail should address the streets.*

It is agreed that the design of the ground floor level does little to enhance the streetscape of The Boulevarde or Churchill Avenue and provides poor activation to the streets.

*The design lacks awnings for weather protection*

The development fails to provide awnings, which are considered necessary and appropriate given the significant pedestrian traffic in the area.

*Overdevelopment of the site*

This concern was raised in relation to the original plans.

*The design presents confused massing and articulation*

This concern was raised in relation to the original plans and the presentation has been improved somewhat in the amended plans.

*No assessment has been prepared of the economic impact of the proposed food court upon Strathfield Plaza*

The impact of competition upon Strathfield Plaza is not a matter that is determinative in the assessment of the application.

*The proposed bicycle parking is too far from street level and unlikely to be used*

The location is appropriate for employee parking but not visitor parking.

*No information is provided on how customer parking is to be managed to prevent queuing on street*

No information is provided on the plans of any security to the basement or of how the parking is to be managed.

**(e) Public Interest:**

The proposed development provides for a poor interface with the public domain and a significant undersupply of parking. The design also has the potential to have significant unacceptable impacts upon the development potential of adjoining sites and as such is not in the public interest.

## **INTEGRATED DEVELOPMENT**

### Office of Water

The application is identified as Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979 as the application is deemed an aquifer interference activity requiring authorisation under the Water Management Act 2000.

The General Terms of Approval (GTA) were received from the NSW Office of Water on 7 July 2016 and could be included in the conditions of any consent.

## **INTERNAL REFERRALS**

The application was forwarded to Council's Waste Officer, Drainage Engineer and Health and Building Surveyor for comment. The following comments and recommendations were made:

### Waste Officer

*As there is no waste management plan it is hard to make a full assessment, however from the information I have identified the following issues:*

- *The truck circle is visible from a pedestrian zone and is quite small only 8.6m*
- *For the amount of commercial space available the bin collection room at 31.86m<sup>2</sup> is not large enough,*
- *Access to the bin collection room has not been detailed, and it appears the only access is through the driveway where there is no safe pedestrian zone.*
- *Not all levels have waste storage rooms or access to the garbage chute.*
- *The garbage chute does not end in the bin room but in a parking space on Basement level.*

#### Drainage Engineer

*I have referred to the development application referenced above and with respect to the WSUD Report and stormwater drainage concept plans prepared by Jones Nicholson Consulting Engineers rev 3 reference no. 150192 dated 27<sup>th</sup> January 2017, and the OSD Advice prepared by Bewsher ref no. J2149L\_3 dated 28<sup>th</sup> January 2017, I can advise the following:*

- *According to Section 4.2 of Council's stormwater management code 1994, other than for single residential dwelling projects OSD will be required for all developments/building works where the proposed increased paved and/or roofed areas exceed 100m<sup>2</sup> and the location of the OSD storage should be as close as possible to the lowest point of the site, with paved areas, and pipes to drain to it.*

*Based on the issue highlighted above and from an engineering perspective, the concept plan is not feasible and cannot be accepted in its current format, as the location of the OSD storage on level 10 is contrary to the requirement of Council's stormwater management code 1994.*

#### Health and Building Surveyor

##### *Acoustic Report Comments*

- *The report appears to assess the noise intrusion from surrounding premises (e.g. traffic, rail, rooftop car park and mechanical plant) but fails to adequately assess the noise impact of the development on surrounding premises (e.g. from externally located air conditioning equipment).*
- *Furthermore, it is noted that the existing noise environment of the area is approximately equal to the maximum recommended amenity criteria contained within the Industrial Noise Policy (INP) for urban areas.*
- *Therefore, any additional noise sources require assessment to ensure that the amenity criteria will not be exceeded.*
- *As mechanical plant has not yet been selected, this can be carried out prior to CC.*
- *In addition, 4 car movements per minute (as assumed in section 6.4 of the report) appears to be an underestimate of the volume of traffic entering/exiting the Strathfield Plaza rooftop car park at certain times.*

#### **EXTERNAL REFERRALS**

The application was forwarded The NSW Office of Water, Roads and Maritime Service, Police and Sydney Trains. Comments received from these external parties included requested conditions which could be incorporated into the recommended conditions of any consent.

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Roads and Maritime Services

The subject application was referred to RMS as the site fronts The Boulevarde, a classified road. However in its response dated 11 August 2016, RMS indicated the relevant portion of The Boulevarde is not classified and as such concurrence is not required under Section 138 of the Roads Act. RMS also provided the following comments for Council's consideration:

1. *The proposed driveway to the basement carparking is to be located as far north from the signals as possible.*
2. *Consideration should be given restrict the access to left-in and left-out only.*
3. *No work zone shall be provided on The Boulevarde.*

Comment: The amended plans provide access from Churchill Street and as such the above comments are no longer relevant other than the work zone comment and this could be conditioned in any consent.

## **CONCLUSION**

The proposed development is permissible in the B3 Commercial Core zone.

The proposal breaches the height control under the LEP and no clause 4.6 variation has been submitted and as such the Panel has no power to approve the application.

Notwithstanding the proposal complies with the technical definition in relation to maximum FSR, the excessive use of balconies and voids that serve little functional purpose and add significantly to the bulk and height of the building is not supported.

The proposal design provides a poor interface with the public domain, with the retail premises looking inward rather than providing activation of the street and with the series of ramps reducing activation to the retails spaces that do address the street.

The design does not have adequate regard to the impacts of visual bulk and privacy upon future developments upon adjoining sites and these impacts could easily be reduced if the excessive voids and balconies were removed from the design.

The application is therefore recommended for refusal.

## **RECOMMENDATION**

That DA2016/087 for demolition and construction of an eleven storey retail/commercial development over three levels of basement at Nos. 1, 3-9 The Boulevarde and 2-10 Churchill Avenue, Strathfield be REFUSED for the following reasons.

1. The application should be refused as the proposal has a maximum height of approximately 42.6m to the lift overrun, breaching the maximum 42m height control under Clause 4.3 of Strathfield Local Environmental Plan 2012. No clause 4.6 variation request was provided for consideration with the application.

2. The application should be refused as the proposed design includes an excessive number of voids (including an entire floor) and large balconies with an area equivalent to approximately 2,350m<sup>2</sup>, which increases the bulk of the building by 39%. The excessive spaces lead to the bulk and scale of the building being significantly increased beyond that anticipated by its maximum FSR, resulting in an unacceptable design for the site.
3. The application should be refused as the proposed design is inappropriate for a significant corner site within Strathfield Town Centre. The design inappropriately provides for minimal activation of The Boulevarde and Churchill Avenue, with only small areas of retail space fronting the streets and ramps separating the retail frontage from the streets. The design also fails to incorporate awnings for pedestrian weather protection, which is inappropriate in the Town Centre.
4. The application should be refused as the proposal makes inadequate provision for onsite parking, providing 54 parking spaces where compliance with Strathfield Development Control Plan 13 – Strathfield Town Centre would require at least 185 parking spaces. The lack of parking is proposed notwithstanding an entire basement level is proposed with no parking provided within it.
5. The application should be refused as it provides inadequate setback from the western and southern boundaries, resulting in unacceptable impacts upon the development potential of the adjoining properties in relation to visual bulk, shadow impact and separation for adequate privacy should the sites be redeveloped with residential uses at the upper levels.
6. The application should be refused as inadequate provision is made for the disposal of stormwater. The proposal is required to provide an onsite detention system located as close as possible to the lowest point on the site pursuant to Section 4.2 of Council's Stormwater Management Code 1994 and provides the onsite detention at Level 10 of the building.
7. The application should be refused as inadequate provision is made for disposal of waste from the development with the design failing in regard to the following:
  - a) The truck turntable is visible from the public domain;
  - b) The truck turntable is inadequate at only 8.6m in diameter;
  - c) For the amount of commercial space available the bin collection room at 31.86m<sup>2</sup> is inadequate,
  - d) Access to the bin collection room has not been detailed, and it appears the only access is through the driveway where there is no safe pedestrian zone; and
  - e) Not all levels have waste storage rooms or access to the garbage chute.
8. The application should be refused as inadequate information has been provided to allow an appropriate assessment of the application in relation to:
  - a) No information has been provided to carry out an assessment under the provisions of SEPP 55;
  - b) The survey plan of the site provides inadequate information of existing ground levels to allow an accurate assessment of the height of the proposed development;
  - c) No information has been provided to allow an assessment of the impact of the development which is located on land identified as Class 5 in relation to the potential for acid sulphate soils; and

- d) No waste management plan has been provided as required under the provisions of Part H of DCP 2005. Part H – ‘Waste Management’ of the Strathfield Consolidated Development Control Plan (DCP) 2005.