

COUNCIL ASSESSMENT REPORT

Panel Reference	
DA Number	2016/087
LGA	Strathfield
Proposed Development	Demolition and construction of an eleven storey retail/commercial development over three levels of basement.
Street Address	1, 3-9 The Boulevarde and 2-10 Churchill Avenue, Strathfield
Applicant/Owner	Esperia Court P/L
Date of DA lodgement	30 May 2016
Number of Submissions	3
Recommendation	REFUSAL
Regional Development Criteria (Schedule 4A of the EP&A Act)	Cost of works - \$22,349,675
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ Part H – Waste Minimisation and Management Plan ○ Part L – Notification; and ○ Part N – ‘Water Sensitive Urban Design’ (WSUD) Strathfield Consolidated Development Control Plan 2005
List all documents submitted with this report for the Panel’s consideration	<ul style="list-style-type: none"> • Without Prejudice Conditions of Consent • Assessment Report to Panel Meeting dated 18 May 2017 • Report, Site Plan and Elevation plans
Report prepared by	Kerry Gordon – Consultant Town Planner
Report date	3 August 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

No

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council’s recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SUMMARY

PROPERTY:	1, 3-9 The Boulevarde and 2-10 Churchill Avenue, Strathfield Lot 1 in DP 173685, Lot 1 in DP 173763 and Lot 1 in DP 172769
DA NO.:	2016/087
APPLICATION TYPE:	Demolition and construction of an eleven storey retail/commercial development over three levels of basement.
REPORT BY:	Kerry Gordon – Consultant Town Planner
RECOMMENDATION:	REFUSAL
SUBMISSIONS:	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.
ZONING:	B3 Commercial Core
DATE APPLICATION LODGED:	30 May 2016
APPLICANT:	Esperia Court P/L
OWNER:	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 1,853m² of retail floor space, 4,951m² of commercial floor space, one level containing plant at Level 10 and (24) residential units.

A meeting was held with the applicant to outline the concerns with the application, including excessive height and FSR, solar access, accessibility, urban design, location of vehicular access, adequacy of parking, setbacks, inappropriate roof top use and lack of clarity of application.

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 had not been addressed and the application was reported to the Sydney Central Planning Panel Meeting of 18 April 2017 with a recommendation for refusal.

At the Meeting the Panel resolved to defer the matter as follows:

“The Panel unanimously agree to defer the determination of the matter. The reason why the Panel did not accept the recommendation for refusal is because it considered that the applicant’s response provided at the meeting was of sufficient merit to be reviewed by the assessment planner.

The Panel requests the applicant to provide to Council, by 2 June 2017, any further information or amendments it wishes to make in light of the council’s assessment report and the objectors’ concerns raised at the public meeting on 19 May 2017.

This may deal with:

- *The interface with the public domain including the access ramp;*
- *The use of first level basement (currently not assigned to any use); and*
- *The blank southern wall with nil setback.*

The Panel requires the Council to prepare, by 23 June 2017, a supplementary report which

- *Assesses the clause 4.6 variation request presented at the public meeting (and now given to Council);*
- *Considers the reasons for refusal in response to further information submitted by the applicant;*
- *Lists the remaining reasons for refusal in order of importance; and*
- *Provides “without prejudice conditions of consent”.*

Following receipt of the supplementary report, the Panel will determine the matter at a further public meeting.”

In response to the Panel’s deferral, the applicant, on 2 June 2017, submitted a response containing:

- Amended plans altering Basement 1 to provide 9 parking spaces, garbage room with hoist to the ground floor, plant and a service parking space and amendments to the Ground floor by deletion of one retail tenancy (to allow additional head height to access the service area at Basement Level 1).
- No change is proposed to the address of the relationship of the building with the public domain.
- Further justification as to why the public domain interface design is acceptable;
- Further justification as to why a blank southern wall with nil setback is acceptable

In addition to the above information the submission made to the Panel will also be considered in this report.

Finally, on 23 June 2017, the applicant lodged further amended plans purported to remove the portions of the building that overhung public land (ie the elevated awning elements that overhung the footpath). The letter accompanying the plans indicates the applicant would submit these plans to the Panel should Council not provide owner’s consent to the lodgement of the application including the overhanging elements. As there is no delegated authority to provide Council consent to the lodgement of the application and insufficient time exists to obtain such approval from the Council, the amended plans have been considered in this report and are addressed in the requested “without prejudice conditions of consent”.

The response did not adequately address the substantive original reasons for refusal and as such the application is again recommended for refusal. Notwithstanding the recommendation, as the Panel requested a condition set for the application, attached is the recommended condition set, including deferred commencement conditions to attempt to address the design concerns, should the Panel decide to approve the application. At the end of the report, the special conditions recommended are identified and reasons for the conditions are given.

This report should be read in conjunction with the original assessment report which is attached.

ASSESSMENT OF ADDITIONAL INFORMATION/AMENDMENTS

The assessment will comprise two parts, being an assessment in relation to the matters raised in the Panel's deferral of the application and an assessment against the recommended reasons for refusal.

Panel's Deferral Matters

The interface with the public domain including the access ramp

In response to this matter the applicant provided additional justification of the design, rather than a redesign. In summary, the justification is as follows:

- The site is flood prone and as such the ground level needs to be raised;
- As a result of the need to raise the ground level above the footpath level the problem with providing a design solution where the retail has no setback should be evident immediately;
- The proposal is a responsible and respectful solution to a busy corner with the open food court providing direct engagement with the streetscape;
- The best way to engage the street traffic at street level is not by providing shops at the boundary with solid walls, signage and other graphic paraphernalia but by an open food court with small market stalls surrounding it;
- If the design has no setback every shop would need its own set of stairs to access it (with no disabled access) or an internal arcade style access which would have poor interface with the street;
- The frontage presents "the Town Hall steps" for Strathfield, a place to sit at the edge of the Square allowing participation with the activity in the Square without interrupting the flow of pedestrians along the streets;
- The provision of two accessible ramps means persons with disabilities do not need to travel further to enter the site;

An artist's impression of the interface with the public domain is provide following viewed from the Square:



Comment: Concern is still raised with the design of the ground floor and its poor interface with the public domain. Whilst the need to raise the ground floor level for flooding reasons indicated by the applicant would presents some constraints to design, the solution is a poor one with only 11.5m of retail frontage on 70m of street frontages. The stairs to the Square provide some activation to the Churchill Avenue frontage, but the extensive ramps and landscaping to The Boulevarde and poor location of the garbage collection area at the Churchill Avenue frontage severely reduce integration with the public domain.

At a minimum, the reduction of the two ramps to a single ramp by deletion of the southernmost ramp would allow better activation of The Boulevarde and would potentially allow patrons of cafes or restaurants to sit adjoining the footpath (albeit at a higher level), promoting a far superior level of activation. Access to the café could still be provided from the “food court”.

Similarly, relocation of the garbage collection to below ground level (at the base of the ramp in Basement Level 1) would allow a similar treatment to the Churchill Avenue frontage, again significantly improving activation.

The amended proposal to remove one of the three ground level retail spaces further reduces the activation of this ground level space, resulting in only 177m² of retail floor space at ground level on a site with an area of 1,207.62m². Such a poor provision of ground level retail on the site is inappropriate to the site’s significant location opposite Strathfield Square.

The use of first level basement (currently not assigned to any use)

The amended plan shows an additional 9 parking spaces at Basement Level 1, with 6 of the spaces being in stacked formation. The response indicates this is to be achieved by relocating some plant (sprinkler pumps) to the roof. It is noted that no amended plan showing the proposed roof top plant has been provided and the existing plans show the majority of the roof is already proposed to be covered by plant. As such it cannot be determined what this does to the level of compliance of the building with the height controls contained in the LEP.

The other changes proposed were provision of a service space with increased clearance above the space and the ramp from the street. Whilst a large area is “hatched” on the plans as service parking area, only an area slightly larger than a car space is accessible, with the remainder of the area being located behind the ramp, and as such this space appears to only provide access to the lifts, rather than a larger space for service vehicles. The garbage collection is shown to be retained at the ground level using a turntable to turn the truck and the space above the ramp and service area is now to be void, removing one of the ground level retail tenancies (53m²).

Comment: The layout to this basement level still appears to be inefficient, with significantly longer east/west ramps than proposed on the levels below, which prevents an additional row of parking spaces along the eastern edge of the basement. Further, the provision of stacked parking is not supported for retail/commercial parking spaces, particularly at the first basement level where manoeuvring into and out of the stacked spaces would have an impact on traffic movement to and from the two lower basement levels.

The relocation of the plant to the roof cannot be supported without information as to the location and height of the plant to allow an assessment of whether the plant would result in a breach of the height control.

The blank southern wall with nil setback

In response to this matter the applicant provided additional justification of the design, rather than a redesign. In summary, the justification is as follows:

- The adjoining building to the south is the Plaza Tower, a 10 storey high building with blank wall built to the northern boundary adjoining the subject site.
- The proposal seeks to build to this existing wall with a building that is setback from The Boulevarde to match the setback of the Plaza Tower.
- It is typical in business centres that buildings are built to the boundary with a nil setback.
- It is appropriate that the building be built with no setback.
- There should be nil setbacks to common boundaries as the neighbours have the right to build up to them.

Comment: As indicated previously in the assessment report, the design of the building takes two different approaches at each of its boundaries with adjoining properties. To the southern boundary it proposes a nil setback with a blank wall at all levels and to its western boundary it proposes a nil setback for a two storey high podium and then a tower element 9 storeys high, setback 3m.

As such, a street wall design is proposed to The Boulevarde and a podium and tower design is proposed to Churchill Avenue.

The design has an angled frontage to The Boulevarde, to attempt to integrate the setback at the southern edge with the setback of the Plaza Tower. This is appropriate as the setback of the Plaza Tower reflects its front property boundary and will not change with any redevelopment of that site.

It is also proposed to have a setback from the Churchill Avenue frontage in an articulated “V” shape, providing a nil setback at the intersection, increasing to approximately 7.8m at the centre and then decreasing to approximately 2m, in proximity to the western boundary, above podium level, which is to have a nil setback. The significant setback from Churchill Avenue, whilst providing significant articulation to the built form, results in the building being pushed to the southern boundary.

Provision of a nil setback to the southern boundary may be appropriate in the context of the existing development on the Plaza site, but with a maximum height control of 54m and the existing Plaza Tower being approximately 15m below this height, there is a significant chance the tower will be redeveloped as part of the future redevelopment of the adjoining site, particularly given the large size of the site. I note the applicant indicated that one of the tenants of the Plaza had a long lease and as such the redevelopment may not be imminent, however, notwithstanding this, it is important to consider the future development potential of the site to ensure appropriate development of the town centre in the future, given the absence of any suitable DCP guidance.

The adjoining site is zoned to permit residential flat buildings and given the size of the site and its maximum FSR and height controls, along with the large residential flat buildings in the locality to the west, it is likely that in the future at least the upper levels will be developed for residential purposes. Given the size and depth of the site, such development could only be achieved with a podium and tower/s design, in order to achieve suitable residential amenity.

As previously indicated in the assessment report, the Town Centre is not the subject of a current set of DCP controls, with the DCP predating the up-zoning of the area by the LEP. As such, this development is likely to set the design character of the area, whether it be street-wall or podium and tower design and a design choice effectively has to be made for the future redevelopment of the area with this development.

In my opinion the street wall approach is inappropriate and the podium and tower design is the most appropriate choice given the high likelihood of residential development at the upper levels of the adjoining Plaza site and the size and depth of the site. The design, in part already achieves this to the Churchill Avenue frontage, but should also achieve this to The Boulevarde frontage both in terms of appropriate urban design for the town centre and so as to not limit the development potential of the adjoining site in the future.

It is noted that whilst there is no current information as to the intent of the form of development within the town centre that is appropriate under the LEP height and FSR provisions, a draft town centre masterplan was prepared which pre-dated the LEP changes which was referred to by the applicant in the additional information submitted to the Panel at the determination meeting.

The draft masterplan referred to by the applicant was resolved by Council to be exhibited from August to September 2008. A Draft Final Concept Masterplan was prepared after the notification consisting of four 'posters'. The four "posters identified a graphical representation of the plan, an implementation strategy, details of how the transport would work and examples of how the town centre could look. It is noted that the masterplan focuses on the provision of an enlarged town square and bus interchange. Following is the graphical representation of the plan which shows the Strathfield Plaza site adjoining the subject site being developed with a large town park and one or two 15-16 storey towers (presumably residential). The subject site and the location of the adjoining Plaza Tower is shown with what appears to be a podium and tower redevelopment on each however there is no notation indicating what the redevelopment would consist of or of its height.



The masterplan has effectively been “shelved” and is superseded by the amendments to the LEP and therefore provides no assistance to the Panel in determining the intention of the built form outcome of the current LEP controls, however it did appear to favour podium and tower style development.

Assess the clause 4.6 variation request presented at the public meeting (and now given to Council)

The amended information provided at the Panel meeting by the applicant (Drawing DA 9300 Issue A) showed a proposed maximum building height of RL 54.05 to the fire stair access on the roof and RL 53.5 to the lift overrun. However, at Drawing DA9301 Issue A, also submitted at the same meeting, the fire stair is shown as RL 53.978 and the lift overrun is shown as RL 53.428.

This information is different from what was shown on the previously assessed plans which showed a maximum height of RL 54.2 to the fire stairs. It is also noted that the final amended plans submitted by the applicant on 23 June 2017 still note the lift overrun being at RL 54.2. It is noted that the various plans show a roof floor level of RL 51.728 or RL 52.800.

Using the most lowest roof level of RL 51.728, the fire stairs would have a height of only approximately 2.25m to the roof, or approximately 2m floor to ceiling, so it is unclear if these figures are accurate. Also, the lowest roof level diagram shows each floor level below being lower than on all other sets of plans.

Given the three different levels shown on the current plans, the height of the building cannot be determined as it is unclear as to which height is the actual proposed height.

Based on the minimum existing ground level of RL 11.64, which was confirmed by the applicant's surveyor in the amended information submitted at the Panel meeting, any part of the building over a height of RL53.64 would breach the height control. As such notwithstanding the variation in the heights shown, all versions would breach the height control at the fire stairs, with the breach ranging from 0.34- 0.56m.

Finally, the originally assessed plans showed plant on the roof but failed to identify a height for that plant, and the new submission indicates additional plant will be located on the roof but gives no information as to where or of its height. As the roof floor level is either RL 51.728 or RL 51.800 (depending on which plan you refer to) the maximum height of any plant (if it were to comply with the height control) would be 1.8m – 1.9m. In my opinion it is unlikely the plant will be this low and as such it is likely the plant would also breach the height control.

The clause 4.6 request for variation submitted with the additional information provided by the applicant at the Panel meeting does not indicate the building breaches the control but suggests that even if the building breaches by 0.6m the variation can be supported for the following reasons:

- The design fits closely with the adjoining development and maintains the rhythm of the line of buildings that the existing controls permit to be built on adjoining properties fronting The Boulevarde.
- The development option with the increased height will provide a better lift service for the occupants of the building and its top occupied floor thereby presenting a better urban design and planning outcome.
- The proposal is generally consistent with the objectives of the B3 Commercial Core zone.
- The small variation to the height standard has no impact on the zone objectives and the height limit is not a factor in assessing the consistency with the zone objectives.

- The variation to the height limit does not raise any matters of significance for planning or State or Regional significance.
- Requiring inflexible compliance with the development standard is unnecessary and unreasonable as the objectives of the clause is met by the proposal.
- The design will provide a continuity or rhythm in the streetscape on the southern side of Strathfield Square.
- Neither the lift overrun nor stairs are visible from the ground.
- The variation allows for a more complete and better urban design and planning outcome.

Comment: The arguments put forward in the clause 4.6 variation request are not supported. There is no need to breach the height control on this site and the breach is only required due to the additional height caused by Level 3 of the building, which is a void and serves no purpose. The removal of Level 3 would result in a building that complied with the height control and would not affect the suitability of urban design of the building to any significant degree.

Further, whilst the variation to height may not be visible from the public domain, although this is unclear as there is no height information in relation to the proposed roof top plant, it is likely to be visible from the adjoining properties when redeveloped given their greater height controls and as such will have a visual impact.

As such the variation of the height breach is not supported as it does not result in a better planning outcome than a compliant building. It is therefore considered that the clause 4.6 variation request is not well-founded. A preferable option would be the deletion of Level 3, which would result in compliance with the control and would result in a better planning outcome.

Reasons for Refusal

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.

This has been addressed above in relation to the matters for consideration in the deferral by the Panel. As the breach is unnecessary and does not result in a better planning outcome, the clause 4.6 variation request is not well-founded and the breach is not supported. As such the reason for refusal is maintained.

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 2,350m², 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.

In response to this reason for refusal the applicant provided the following information in support of the design to the Panel meeting:

- The proposal complies with the FSR control.
- The inclusion of voids, gardens and balconies in the building's design delivers a much better design outcome than would a blank façade.
- They create open, light filled spaces (internal and external), improve the quality of the urban space, facilitate multilevel engagement with Strathfield Square and promote visual pedestrian activation throughout several levels of the building.

- The design allows occupants access to direct sunlight on the northern side of the building.
- Access to sunlit open space directly from the commercial offices provides an advantage to the building which is not generally available in Sydney CBD or Parramatta office towers and is a significant incentive for businesses to relocate to Strathfield.
- It provides suitable conditions for a range of planting and landscape options at different levels that will significantly enhance the amenity of the building for its occupants and improve the attractiveness of the northern elevation.
- It appears the Planner has assessed the bulk and scale against the current streetscape rather than what is permitted by the new controls.

The applicant's arguments are not supported by the history of design of the proposal. The large balconies that are now being argued as central to the design and amenity/urban design of the building were only provided when Council required the applicant to reduce the FSR. They appear to have come about by the applicant relocating the external walls to reduce floor space and not as a result of the suggested design choice identified above. Further, the argument that the balconies are a better urban design outcome than a blank façade is not supportable as the level of articulation of the northern façade with or without the balconies is significant given the “V” shape façade.

Notwithstanding how the design choice occurred, the extent of balconies proposed is excessive and the provision of two large balconies at each office level unnecessarily adds to the bulk of the structure. Whilst the north facing balconies may provide some level of amenity, the extent of use that the balconies would achieve is questioned given the office use of the building and the lack of connectivity to the staff facilities area. The east facing balconies would achieve no solar access during working hours in winter, provide little amenity to the offices and are not even connected to the staff facilities. It is considered that a more regular shaped and larger floor plate, rather than one containing angles and insets, would be more attractive to future tenants than the addition of such large balconies, particularly as the floor plate is significantly below the 1,000m² floorplate desired for premium office space.

The elevations and finishes schedule identify that all of the eastern balconies will have full height “vertical aluminium louvres”, which if operable will effectively enclose the balconies and make them floor space. The elevation identifies the northern balconies of the office levels as having “glass louvres” and the finishes schedule identifies them as having “vertical aluminium louvres”, other than two portions of the balconies which are identified as having trees planted in them. Again, if the louvres are operable, rather than fixed open, the balconies would be included as floor space. The inclusion of the enclosed portions of the balconies would result in the proposal breaching the FSR control and no clause 4.6 variation request has been provided. Accordingly, if the Panel is of a mind to approve the development a condition of consent is recommended deleting the louvres.

It is also suggested by the applicant that the balconies provide a range of planting and landscape options that would enhance the building, but the only landscaping shown on the balconies is an east facing green wall, which could occur with or without the balconies, and the provision of two trees at the upper levels, which could also occur without the significant size of the balconies. The east facing balconies provide no landscape relief.

Finally, in terms of interaction with the Square, whilst the lower level balconies off the retail space are likely to provide some interaction due to their closer proximity to the Square and their intensive use, the balconies to the offices will not improve such interaction. It is noted that the balconies to the retail levels are supported, however the size and location of the north-eastern balcony to Level 2 is questioned given its distance from the adjoining retail suite and the fact it is more than double the size of the retail suite. The north-western balcony at this level is also larger than the retail suite and

concern is raised at the westernmost part of the balcony due to its proximity to the boundary and potential impacts upon any future adjoining residential development.

Accordingly, should the Panel support the application it is recommended the balcony be reduced in size and the 3m side setback be a landscaped planter box to provide a separation to any future adjoining residential use.

Therefore this reason for refusal is maintained, however the wording is to be changed to clarify that if the louvres are operable, the proposal would breach the FSR control.

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.

This reason for refusal has been discussed in detail in relation to the matters for consideration in the deferral by the Panel, other than in relation to the requirement for awnings. The applicant still does not propose awnings to provide weather protection at street level to the adjoining footpaths. It is noted that the ground level design to the Churchill Avenue frontage provides a nil setback (ground floor) and as such there is no reason why an awning could not be provided. The provision of awnings in areas of high pedestrian activity and in retail centres is well established as an appropriate planning outcome and is required by the current DCP. For this reason it is appropriate that an awning be provided to the Churchill Avenue frontage. Provision of an awning to The Boulevarde frontage is more difficult with the angling of the lower levels due to the setback of the front façade of the adjoining site. In such a case an awning would be unworkable and is not required.

As such, this reason for refusal is maintained, however the wording should be amended to clarify the awning is required only to the Churchill Avenue frontage.

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.

The additional 9 parking spaces, 6 of which are stacked and as such are inappropriate for retail/commercial purposes, does not alter the position that the site provides an inadequate amount of onsite parking.

Concerns is still raised with the efficiency of the layout of Basement Level 1 as the other basement levels achieve a significantly higher number of parking spaces due to the small length of the east/west ramps whilst Basement Level 1 has long east/west ramps which prevents parking adjoining the eastern edge of the basement.

It is noted the applicant, at the Panel meeting, indicated that the Plaza site was required to provide 475 public parking spaces and as such any shortfall of spaces could be provided for by that site as it was intended to provide parking for the area in general as part of its conditioning. The conditions in question are shown below:

“2. Off-street parking space for 475 cars being provided, paved, drained and line-marked to Council’s satisfaction.”

16. All off-street parking being provided free of charge to the public at all times unless otherwise approved by Council”.

The above conditions are conditions that are usually put on large scale retail uses to ensure the shoppers at the venue are able to reasonably park without having to pay for parking at the facility. The conditions give no indication that the parking is intended to provide for general public parking for other uses in the vicinity of the site, though it is acknowledged that others may use the parking for this purpose.

The conditions in no way indicate that the substandard provision of parking on this site should be permitted due to the availability of parking on the Plaza site. As such, this reason for refusal is maintained.

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.

This reason for refusal has been address in relation to the southern boundary previously in addressing the matters identified by the Panel and is maintained in regard to that boundary.

In relation to the western boundary, a 3m setback above podium is proposed. Whilst this provides a reasonable setback (in concert with a setback in the redevelopment of the adjoining property to the west) in relation to a streetscape treatment of podium and tower, the provision of clear glazing to the side wall raises potential design concerns for residential development at upper levels in future development on the adjoining site. If a privacy treatment were included in the façade treatment to the western wall, no concern would remain in relation to the side setback proposed.

As such this reason for refusal is maintained, however it is to be reworded to relate to the southern setback and the privacy issues for the western setback.

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.

The drainage engineers have considered the proposal again and do not support the provision of OSD at Level 10 of the building and as such this reason for refusal is maintained.

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 31.86m² 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.

The visibility of the truck turning circle and its provision at grade, removing the potential for further retail frontage at Churchill Avenue, is still considered to be an inappropriate design response on such a significant site. A more appropriate design choice would be to provide for garbage collection within Basement Level 1. This reason for refusal is maintained.

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.

The applicant has provided additional information in the form a waste management plan, additional survey information, and a preliminary Acid Sulfate soil assessment which adequately address Reason for Refusal (b), (c) and (d).

In response to Reason for Refusal (a) the applicant has provided a vague statement that the site has no history that would raise contamination concerns but the information does not provide a history of uses and does not constitute a Phase 1 assessment. The applicant indicates that testing can only occur after demolition and that a condition can require this to happen after demolition. The information does not constitute a Phase 1 assessment and as such does not satisfy the requirements of SEPP 55. It is noted that the assessment that a site is suitable, or can be made suitable, for the proposed use cannot be deferred to a later stage and as such cannot be conditioned. The requirement for a Phase 1 assessment remains valid and as such this component of the Reason for Refusal remains valid.

Conditions

Whilst it is still recommended that the application be refused, and it is considered that in the absence of a well-founded clause 4.6 variation request and Phase 1 contamination assessment as required by SEPP 55 that the Panel has no power to grant consent to the application, as requested a set of “without prejudice conditions” is contained attached to this report.

The conditions are generally standard conditions, however a deferred commencement condition is recommended to address the height breach, location of garbage collection, poor response to the public domain (as has been discussed throughout the report), need for an awning, removal of the louvres to the balconies, need for a landscaped side setback at the podium to the western boundary and the stormwater issues.

This condition needs to be a deferred commencement condition as it requires the redesign of the ground and basement 1 levels along with the removal of Level 3. This would require the provision of amended plans for assessment, rather than reliance upon a PCA to determine whether an appropriate public domain interface is provided along with garbage collection to the satisfaction of Council.

CONCLUSION

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

The proposal breaches the height control under the LEP, but the extent of the breach is unclear due to the inadequate information provided about roof top plant and the inconsistencies in the heights shown on the plans. The clause 4.6 variation request does not specify the extent of breaches as is necessary under clause 4.6 and is not considered to be well-founded as the breach does not result in a better planning outcome than a compliant building.

The design of the development is inappropriate, with a significant number of design flaws that reduce the level of amenity for the office retail spaces and result in a development with a poor relationship to the Town Centre and public domain.

The inappropriate design approach is particularly problematic in the absence of DCP controls for the area as any approval of this development it is likely to guide future redevelopment of nearby sites in a similarly inappropriate manner, compounding the unacceptable impacts upon the public domain. The design flaws are summarised following:

- Elevated ground floor with poor connectivity to public domain due to dominance of accessible ramps along The Boulevarde frontage.
- The design is neither street-wall nor podium and tower and as such does not set a consistent approach for future development in the area. For this reason the design is likely to result in a poor relationship to future development on the adjoining sites and a poor overall urban design for the Town Centre.
- Lack of retail frontage with only 11.5m of retail frontage on 70m of street frontages.
- Provision of visible garbage collection area at Churchill Avenue frontage addressing the Square.
- Lack of southern setback limits design options for adjoining Plaza site when redeveloping and would be inconsistent with the likely future podium and tower design of the redevelopment of the adjoining sites.
- The balconies to the offices, particularly the eastern ones, provide little amenity and if the louvres are operable result in additional floor space that would result in a significant breach of the FSR control, with no clause 4.6 variation request submitted.
- The size of the balconies to the retail levels are larger than the retail floor space and in relation to the retail space fronting The Boulevarde at Level 2, is located distant from the floor space, separated by a void.
- The irregular and small size of the office floor plates, being ½ the critical 1,000m² office floor plate required for high class office space, reduces the amenity of the office space and makes fitout of the space difficult and inefficient. Such a design choice is inappropriate, particularly on a site with an area of 1,207.62m² which could achieve a significantly larger floor plate more suited to high class office space.
- The provision of only 176m² of retail floor space at ground level (in the form of two suites) on a site with an area of 1,207.62m² provides poor activation and makes the use of the open area as a food court unlikely to be feasible.
- The provision of OSD at the roof top level is inappropriate and is an unacceptable stormwater drainage concept for the site.
- The lack of detail of plant proposed on the roof does not allow the Panel to consider its visual impact (including on future redevelopments of adjoining sites which have a greater height limit) or whether the plant breaches the height control.

- The proposal provides 4 lifts, which is unusual for such a small development, appears to be inefficient use of space.
- The west facing 2m² balconies in the western façade serve no purpose but affect the efficiency of fitout for the office space due to the creation of an irregular shape.
- The inconsistencies between the plans in relation to the floor levels and height of the roof and lift overrun/stairs mean that the Panel cannot determine the height of the development or the extent of breach of the height control.

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 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 provides for a mixture of street-wall and podium and tower elements which will result in a poor urban design outcome with the future redevelopment of adjoining sites. The design also fails to incorporate awnings for pedestrian weather protection in Churchill Avenue, which is inappropriate in the Town Centre.
2. 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. Inconsistent information has been provided which shows different proposed heights, making assessment of compliance with Clause 4.3 difficult. Inadequate information has been provided of the height of the rooftop plant and it cannot be determined whether the plant breaches the height control. The clause 4.6 variation request provided is not considered to be well-founded as the breach of the height control results directly from the provision of an entire level of void at Level 3 which is unnecessary and inappropriately raises the height of the building. The proposal with a height breaching the height control is not a better planning outcome than a compliant proposal and as such does not satisfy the objectives of clause 4.6 of the LEP.
3. 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 2,350m², which increases the bulk of the building by 39%. Louvres are proposed to many balconies and if operable would result in a large breach of the FSR control for the site. It is not clear from the plans whether the louvres are fixed or operable and no clause 4.6 variation request has been provided to vary the FSR control. The excessive balconies and voids lead to the bulk and scale of the building being significantly increased beyond that anticipated by its maximum FSR, it being noted that whether operable or not the louvres to the balconies will visually read as walls, resulting in an unacceptable design for the site.
4. The application should be refused as it provides inadequate setback from the southern boundary and inadequate privacy protection measures to the western facade, 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.

5. The application should be refused as the proposal makes inadequate provision for onsite parking, providing 63 parking spaces where compliance with Strathfield Development Control Plan 13 – Strathfield Town Centre would require at least 185 parking spaces. The layout of Basement Level 1 is inefficient, providing less parking than that provided on lower levels and results in stacked parking spaces which are inappropriate in a retail/commercial use and would potentially impact access to the lower basement 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 31.86m² 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 SEPP 55.

LIST OF ATTACHMENTS

1. **Without Prejudice Conditions of Consent**
2. **Assessment Report to Panel Meeting Dated 18 May 2017**

WITHOUT PREJUDICE CONDITIONS OF CONSENT

Deferred Commencement Consent

This consent shall not operate until the following deferred commencement condition has been satisfied.

Amended plans shall be submitted to Council incorporating the following changes to the design of the proposal:

- a) Deletion of Level 3;
- b) Provision of detail of the roof top plant, including RL information for the height of the plant and detail of screening structures for the plant;
- c) Deletion of the louvres to the balconies;
- d) Provision of a 3m wide planter box to the western balconies at Level 2;
- e) Deletion of the western balconies to the commercial levels;
- f) Deletion of the southernmost ramp fronting The Boulevard;
- g) Provision of an outdoor seating area between the eastern façade of the eastern retail suite at the ground level and the footpath to The Boulevard;
- h) Relocation of the garbage truck bay to Basement Level 1 and replacement of the space with retail floor space (total FSR not to exceed maximum permitted on the site). The retail space is to be setback from Churchill Avenue to provide an outdoor seating area and access to the space is to occur from the food court;
- i) Privacy screening is to be provided to the western façade of the commercial levels to prevent overlooking of the adjoining site to the west;
- j) An awning is to be provided to the Churchill Avenue frontage of the site;
- k) The layout of Basement 1 is to be amended to provide the garbage collection from that level and to remove any stacked parking spaces. The easternmost north-south aisle is to be relocated westward to allow a row of parking spaces adjoining the eastern boundary of the site.

The applicant must satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent.

If the applicant fails to satisfy Council as to the matters specified in the deferred commencement conditions within 12 months of the date of the grant of this consent this consent will lapse in accordance with Section 95(6) of the Environmental Planning and Assessment Act 1979.

Plans

1. The development shall be completed in accordance with the approved plans and documents listed below, prior to the building being used or occupied and any variation as required by conditions of this consent (including the deferred commencement condition):

Demolition Plan, Drawing No. DA 0200, Issue B, prepared by Integrated Design Group, dated 21/12/16.

Basement 1, Drawing No. DA 1001, Issue N, prepared by Integrated Design Group, dated 1/6/17.

Basement 2, Drawing No. DA 1002, Issue I, prepared by Integrated Design Group, dated 21/12/16.

Basement 3, Drawing No. DA 1003, Issue I, prepared by Integrated Design Group, dated 21/12/16.

Ground Level, Drawing No. DA 1100, Issue O, prepared by Integrated Design Group, dated 19/6/17.

Level 1, Drawing No. DA 1101, Issue I, prepared by Integrated Design Group, dated 19/6/17.

Level 2, Drawing No. DA 1102, Issue H, prepared by Integrated Design Group, dated 19/6/17.

Level 3, Drawing No. DA 1103, Issue G, prepared by Integrated Design Group, dated 21/12/16.

Level 4, Drawing No. DA 1104, Issue G, prepared by Integrated Design Group, dated 27/1/17.

Level 5, Drawing No. DA 1105, Issue H, prepared by Integrated Design Group, dated 27/1/17.

Level 6, Drawing No. DA 1106, Issue H, prepared by Integrated Design Group, dated 27/1/17.

Level 7, Drawing No. DA 1107, Issue H, prepared by Integrated Design Group, dated 27/1/17.

Level 8, Drawing No. DA 1108, Issue H, prepared by Integrated Design Group, dated 27/1/17.

Level 9, Drawing No. DA 1109, Issue H, prepared by Integrated Design Group, dated 27/1/17.

Level 10, Drawing No. DA 1110, Issue H, prepared by Integrated Design Group, dated 27/1/17.

Roof Plan, Drawing No. DA 1111, Issue G, prepared by Integrated Design Group, dated 21/12/16.

East Elevation, Drawing No. DA 2001, Issue J, prepared by Integrated Design Group, dated 19/6/17.

North Elevation, Drawing No. DA 2002, Issue J, prepared by Integrated Design Group, dated 19/6/17.

West Elevation, Drawing No. DA 2003, Issue I, prepared by Integrated Design Group, dated 19/6/17.

Section A, Drawing No. DA 3000, Issue F, prepared by Integrated Design Group, dated 21/12/16.

Section B, Drawing No. DA 3001, Issue F, prepared by Integrated Design Group, dated 21/12/16.

Driveway Section, Drawing No. DA 3002, Issue D, prepared by Integrated Design Group, dated 21/12/16.

Finishes Schedule, Drawing No. DA 9600, Issue C, prepared by Integrated Design Group, dated 21/12/16.

IDG Standard Notes, Drawing No. DA 12, prepared by Integrated Design Group, undated0.

Acoustic Assessment Report, prepared by Koikas Acoustics, prepared 23 January 2016

Assessment of Traffic and Parking Implications, prepared by Transport and Traffic Planning Associates, Rev D, prepared January 2017

Preliminary Geotechnical Site Assessment prepared by JK Geotechnics, Ref: 28634Vrpt-Strathfield, prepared 18 August 2015

Access Review prepared by Funktion, Issue 1, prepared 30 January 2017

Environmental Site Management Plan Job.150192 ESM 1 prepared by Jones Nicholson Consulting Engineers, dated 14 February 2016

Environmental Site Management Details Job.150192 ESM 2 prepared by Jones Nicholson Consulting Engineers, dated 14 February 2016

2. A Construction Certificate must be obtained either from Council or a privately accredited person before commencement of any construction associated with this consent.
3. The Principal Certifying Authority must be appointed prior to work commencing to supervise the work and authorise occupation/use of the building when completed.
4. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and any approved Traffic Management Plan are to be retained on site at all times.

General

5. The building shall not be occupied or used until the development has been completed in accordance with the conditions of this consent, construction has been completed in accordance with the Construction Certificate and an Occupation Certificate has been issued by the Principal Certifying Authority.
6. A Works Permit shall be obtained from Strathfield Council at least five (5) working days prior any work (including demolition, excavation and the erection of site fencing/hording). The approved Works Permit and any approved Construction Traffic Management Plan must be complied with at all times until all demolition, building, engineering and

construction work associated with the development has been completed. The permit must be retained on site at all times.

7. **Prior to the issue of a Construction Certificate**, photographs documenting any existing damage to the kerb and gutter and footpaths adjacent to the property shall be submitted to the consent authority. In the absence of this documentation, the applicant is liable for all damage that occurs to Councils' assets.
8. The applicant or any contractors carrying out works in public or Council controlled lands shall have public liability insurance cover to the value of \$20million and shall provide proof of such cover to Council prior to carrying out works.

Financial Matters

9. In accordance with the provisions of Section 94(1)(b) of the Environmental Planning and Assessment Act 1979 and the Strathfield Direct Development Contributions Plan 2010-2030, a contribution in the form of cash, cheque or credit card (financial transaction fee applies) shall be paid to Council for the following purposes:

Provision of Major Open Space	\$580,195.80
Provision of Local Open Space	\$200,210.68
Provision Roads and Traffic Management	\$381,104.23
Administration	\$11,616.75
TOTAL	\$1,173,127.46

The total amount of the contribution is valid as at the date of determination and is subject to quarterly indexation. Contributions shall be indexed at the time of payment in accordance with clause 2.14 of the Strathfield Direct Development Contributions Plan 2010-2030. Contributions must be receipted by Council and submitted to the Accredited Certifier, prior to the issue of any Construction Certificate.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

Note: A copy of Strathfield Council's Section 94 Direct Development Contributions Plan may be downloaded from Council's website.

10. A security (damage deposit) of **\$33,000.00** (calculated in accordance with Council's adopted Fees and Charges) shall be paid to Council, prior to the issue of a Construction Certificate.

The deposit is required as security against any damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the Building Code of Australia.

Payment may be accepted in the form of cash, bank guarantee, cheque or credit card (financial transactions fees apply). Note: Additional fees apply for the lodgement of a bank guarantee in lieu of cash bond applies in accordance with Council's adopted Fees and Charges.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

The damage deposit shall be refunded upon completion of all works upon receipt of a Final Occupation Certificate stage and inspection by Council.

Parking/Traffic Matters

11. All off-street parking spaces are to be line-marked and labelled.

These spaces shall only be used for the parking of motorcycles, sedans, utilities, vans and similar vehicles up to two (2) tonne capacity.
12. A sign shall be erected in a suitable location on the site advising that parking is available for visitors.
13. The entry and exit driveways shall be suitably signposted and directional arrows shall be painted on the internal roadway.
14. All vehicles entering and leaving the site shall be driven in a forward direction only.
15. The vehicle spaces must not be enclosed with walls or meshed security screens without the prior approval of Council.
16. All redundant vehicular crossings shall be removed and replaced with kerb and gutter and footpath at no cost to Council.
17. Reconstruct the footpath, kerb and gutter to Council's specifications for the full frontage of the development site at the completion of all building works.
18. An application for a 'Works Zone' must be submitted to and approved by the Strathfield Council Traffic Committee prior to the commencement of any site work (including demolition).

The suitability of the proposed length and duration of the Works Zone is to be demonstrated in the application for the Works Zone. The application for the Works Zone must be submitted to Council at least six (6) weeks prior to the commencement of work on the site to allow for assessment and tabling of agenda for the Strathfield Council Traffic Committee.

The requirement for a Works Zone may be varied or waived only if it can be demonstrated in the Construction Traffic Management Plan (to the satisfaction of Council) that all construction related activities (including all loading and unloading operations) can and will be undertaken wholly within the site. The written approval of Council must be obtained to provide a Works Zone or to waive the requirement to provide a Works Zone prior to the commencement of any site work.

19. A detailed Construction Site Traffic Management Plan (CTMP) must be submitted to and approved by Council, prior to commencement of any site work (including demolition). The approved CTMP must be complied with at all times until all demolition, building, engineering and construction work associated with the development has been completed.

The CTMP must be prepared by a suitably qualified person and must include the following details, to the satisfaction of Council:

- (a) A description of the demolition, excavation and construction works
- (b) A site plan/s showing the site, roads, footpaths, site access points and vehicular movements
- (c) Any proposed road and/or footpath closures
- (d) Proposed site access locations for personnel, deliveries and materials
- (e) Size, type and estimated number of vehicular movements (including removal of excavated materials, delivery of materials and concrete to the site)
- (f) Provision for loading and unloading of goods and materials
- (g) Proposed route(s) from the arterial (state) road network to the site and the proposed route from the site back to the arterial road network
- (h) Impacts of the work and vehicular movements on the road network, traffic and pedestrians
- (i) Proposed hours of construction related activities and vehicular movements to and from the site
- (j) Current/proposed approvals from other Agencies and Authorities (including Roads and Maritime Services, Police and State Transit Authority)
- (k) Any activities proposed to be located or impact upon Council's road, footways or any public place
- (l) Measures to maintain public safety and convenience
- (m) Any Traffic Control Plans (TCP's) proposed to regulate traffic and pedestrian movements for construction activities (such as concrete pours, crane installation/removal etc).

Drainage/Stormwater

20. **Prior to the issue of a Construction Certificate** a detailed Stormwater Management Plan (SWMP) in line with Council's Stormwater Management Code is to be prepared and certified by a practicing Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia and submitted to the Principal Certifying Authority and Council, prior to the issue of a Construction Certificate. The SWMP is to be based on the approved development as modified by any conditions of consent.

(Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.)

21. **Prior to the issue of a Construction Certificate** the approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

For Quick Check agent details please refer to the web site www.sydneywater.com.au (see Building Developing and Plumbing then Quick Check) or telephone 13 20 92. The consent

authority or a Certifying Authority must ensure that a Quick Check agent/Sydney Water has stamped the plans before the commencement of work.

(Reason: Compliance with Sydney Water requirements.)

22. Any footings or excavation to be located or undertaken adjacent to Council's stormwater must be designed to address the following requirements:

- i) all footings and excavation must be located wholly within the site and clear of any easement boundaries;
- ii) all footings and excavation must be located a minimum of 1000mm from the centreline of the pipeline or 500mm from the outside of the pipeline, whichever is the greater distance from the centreline; and
- iii) footings must extend to at least the depth of the invert of the pipeline unless the footings are to be placed on competent bedrock.

If permanent excavation is proposed beneath the obvert of the pipeline, suitable means to protect the excavation and proposed retaining structures from seepage or other water flow from the pipeline and surrounding subsoil, must be provided. The design must be prepared by a qualified practicing Structural/Civil Engineer.

Construction plans must be approved by the appropriate utility's office (e.g. council, Sydney Water Corporation) to demonstrate that the development complies with the utility's requirements.

The applicant must provide written evidence (e.g. compliance certificate, formal advice) of compliance with the requirements of all relevant utility providers (e.g. Water, Energy, Telecommunications, Gas).

(Reason: To ensure protection of Council assets.)

23. Silt and gross pollutant traps shall be fitted in all new stormwater pits and designed in accordance with Council's specification for the management of stormwater. Details demonstrating compliance are to be submitted to the Principal Certifying Authority, **prior to the issue of a Construction Certificate.**

(Reason: Environmental protection.)

24. **Prior to the issue of an Occupation Certificate**, a Work As Executed (WAE) Plan of all engineering and/or drainage works is to be submitted to the Principal Certifying Authority. The WAE Plan is to be certified by a suitably Qualified Engineer, with Corporate Membership standing in the Institution of Engineers Australia and registered on the National Professional Engineers Register (NPER) under the appropriate professional category, demonstrating that:

- i) the stormwater drainage system; and/or
- ii) the car parking arrangement and area; and/or
- iii) any related footpath crossing works; and/or
- iv) the proposed basement pump and well system; and/or
- v) the proposed driveway and layback; and/or
- vi) any other civil works

have been constructed in accordance with the approved plans and any relevant Standards and Council policies/specifications.

For major works, such as subdivisions, works within the road reserve (requiring separate S138 approval) and as where specified by Council, a Part 4A Certificate will be required. It is strongly recommended that an Engineer supervise all engineering related works.

Where Council is not the Principal Certifying Authority, an electronic copy of the above documents is to be provided to Council, **prior to the issue of any Occupation Certificate.**

(Reason: Asset management.)

25. The constructed stormwater system shall be certified by a suitably qualified person, in accordance with Council's Stormwater Management Code, **prior to the issue of any Occupation Certificate.**

(Reason: Adequate stormwater management.)

26. **Prior to the issue of any Occupation Certificate**, the applicant shall register a Positive Covenant and a Restriction as to User under section 88E and or section 88B of the Conveyancing Act as appropriate in favour of Council, ensuring the ongoing retention, maintenance and operation of the stormwater facility (on-site detention, pump-out, charged lines, etc.).

Where any drainage line or service conduit is to traverse any property other than that which it serves, an appropriate easement will be required. In this case, the applicant shall register an easement no less than 1200mm wide over the proposed drainage line or service concurrently with any subdivision registration.

The wording on the 88B Instrument is to make reference to the Council file where the Construction plans and the Work As Executed (as built), plans are held. Typical wording can be obtained from Council's Specification for the Management of Stormwater document.

(Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard.)

27. The applicant shall comply with the flood recommendations provided in the Flood Impact Report prepared by Bewsher. A certificate from a suitably qualified Engineer shall be submitted to the Certifying Authority stating compliance with these recommendations, **prior to the issue of a Construction Certificate.**

(Reason: To mitigate flood risk and associated damage.)

28. The utility services within the area of effect of the proposed drainage works (i.e. gas, water, sewer, electricity, telephone, etc) shall be physically located **prior to the commencement of drainage works** in Loftus Lane. The relevant authority's written consent for excavation adjacent to their services shall be obtained. Any adjustments required shall be at no cost to Council.

29. A Works Permit shall be obtained from Council's Customer service Centre prior to undertaking any works on public/Council-controlled lands. This includes any work on the nature strip, footpath, driveways, Council's drainage kerb & guttering and roadways.

30. The applicant or any contractors carrying out works in public or Council's controlled lands shall have public liability insurance cover to the value of \$20 million, and shall provide proof of such cover prior to carrying out the works.

Public Authority Matters

31. **Prior to the issue of an Occupation Certificate** all existing overhead electricity and telecommunication cabling adjacent to the development site shall be consolidated into a single Aerial Bundle Cable (ABC) at the applicants' expense in accordance with the specifications of AusGrid and the telecommunications supplier.

Construction Matters

32. **Prior to the commencement of any construction or demolition work**, the Applicant or principal contractor must, subject to obtaining permission from the respective property owners, provide dilapidation reports prepared by a suitably qualified person (such as a structural engineer), on the buildings located on any lot adjacent to the subject site, inclusive of ancillary structures. A copy of the respective report must be provided to the Principal Certifying Authority and neighbouring property owners that are the subject of that report.
33. The proposed development shall comply with the Building Code of Australia and details demonstrating compliance shall be submitted to the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate**.
34. All construction, demolition and excavation work shall be restricted to 7am and 5pm (Eastern Standard Time) on Mondays to Saturdays (inclusive) and prohibited on Sundays and public holidays.
35. All excavations and backfilling associated with the approved works must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.
36. If an excavation associated with the approved works extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- (a) Must preserve and protect the building from damage; and
 - (b) If necessary, must underpin and support the building in an approved manner, and
 - (c) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
37. There are built structures which may be in the zone of influence of the proposed works and excavations on the site. A qualified practicing geotechnical engineer must prepare a Construction Methodology Report demonstrating that the proposed construction method including any excavation and the configuration of the built structures will have no adverse impact on any surrounding property and infrastructure.

The report must be submitted with the application for a Construction Certificate and must include an investigation to determine the design parameters appropriate to the specific development and site. This would typically include;

- (a) the location and level of nearby foundations and footings (site and neighbouring);
- (b) proposed method of excavation;
- (c) Permanent and temporary support measures for excavation;
- (d) Potential settlements affecting footings and foundations;
- (e) Ground water levels (if any);
- (f) Batter slopes;
- (g) Potential vibration cause by method of excavation; and
- (h) De-watering including seepage and offsite disposal rate (if any).

Excavation, retention, underpinning and construction must be undertaken onsite by an excavation contractor with specialist excavation experience. A suitably qualified geotechnical engineer, specialising in excavation must supervise the excavation procedure.

- 38. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- 39. The common access pathways, letterboxes and entry doorways to the building shall be provided with suitable low level artificial lighting systems to ensure safe and convenient access at night. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate**.

Building Matters

- 40. Identification numbers are to be clearly displayed at the front of the premises and be easily visible from the street.

If it is proposed to strata subdivide the building, the lot numbers and unit numbers shall be the same as those nominated on the approved plans and be in accordance with Council's requirements. For strata subdivision, parking spaces shall have the same lot number as the residential portion and shall not be numbered separately.

Demolition

- 41. Demolition shall be carried out in accordance with Australian Standard 2601 - 'The demolition of structures' or any subsequent standard and the relevant legislation.
- 42. The demolition of the building shall be carried out by a licensed demolition contractor. A copy of the licence shall be submitted to Council and the Principal Certifying Authority **prior to any work commencing on site**.
- 43. Details demonstrating that excavated and demolished materials including asbestos-based materials will be disposed of at an approved site shall be submitted to the Principal Certifying Authority **prior to any work commencing on site**.
- 44. The cleared ground surface of the site shall be suitably stabilised to prevent the generation of dust and the erosion of soil on the site.

Fire Safety Measures

45. Upon completion of works a final fire safety certificate is to be issued from a properly qualified person in respect of each essential fire safety measure installed within the building and specified in the fire safety schedule. The final fire safety certificate shall be provided **prior to the issue of an Occupation Certificate**.
46. Each 12 months after the installation of essential fire or other safety measures, the owner of a building must submit an Annual Fire Safety Statement for the building to Council. In addition a copy of the statement must be given to the NSW Fire Commissioner and a copy displayed prominently in the building.

Hoardings

47. If 'A' type hoarding is to be erected about the building site, it is to comply with NSW Workcover's requirements; shall have a minimum height of 1.8 m and comply with AS1725-2003 (Galvanized Rail-Less Chain-Wire Security Fences and Gates) or AS 4687-2007 (Temporary Fencing and Hoardings). Inverted trench mesh is not an acceptable 'A' type hoarding and as such does not satisfy AS1725-2003 and as such shall not be installed to the building site.
48. An overhead 'B' type hoarding shall be constructed where buildings over 7.5 m in height above the footpath level and within 3.6 m of the street alignment are being erected or demolished or where the outer part of such a building adjoining a public way is being altered. Where the height of the building or the position of the site is such that danger is likely to occur from falling objects, additional safety hoarding shall be provided to the satisfaction of the principal certifying authority and Workcover NSW.
49. An overhead 'B' type hoarding shall be constructed where material is being hoisted over or across a public way.
50. The following additional requirements apply to the erection of a 'B' type hoarding:
 - a. No advertisement of any kind shall be affixed to hoarding with the exception of a board not exceeding 2400 –mm by 1800-mm on which may be shown the architects, builders and principal certifying authority company name / contact details or any particulars regarding the subject building, and notices regarding the existing or future occupancies in the building.
 - b. A sign reading 'Billposters will be Prosecuted' shall be attached or printed upon the front of the hoarding
 - c. A hydrant or other footpath box shall not be covered in any way or access to it impeded
 - d. Cranes shall not be placed upon the public way unless a permit has been obtained under section 68 Local Government Act, 1993.
 - e. The hoarding must be so constructed that it will not obstruct the view of traffic lights of motorists or pedestrians.
 - f. The use of the roadway for the storage of building materials is not permitted.
 - g. Where materials are being hoisted over a public way a sign shall be attached or printed upon the front of the hoarding at the decking level with the lettering 'Lifting Operation Above'. The lettering shall not be less than 300-mm in height.

- h. Persons undertaking the work in accordance with this Approval must hold this Approval/Permit on-site for inspection.
 - i. Approval for a temporary protective structure does not permit use of the roadway for general loading and unloading from construction vehicles. This requires a separate Construction Zone Application.
 - j. An appropriate qualified practising structural engineer shall certify the structural stability / adequacy of the erected 'B' type hoarding. A copy of the certificate shall be forward to the principal certifying authority and to Council, where Council is not the principal certifying authority.
51. The builder shall erect and maintain all necessary hoardings, barricades and warning signs required to provide adequate public safety. Night warning lamps are to be provided where necessary and must be in place before the approved activity commences.
52. Permits are required to erect Class 'A' or 'B' type hoardings. If any type hoarding is to occupy a section of Council's property, that section will require a permit for the occupation of Council's property. The applicant, owner, builder or site supervisor must apply for specific permits. The application form is available from Council's Customer Service Department.

Subdivision

53. The strata subdivision of the development shall be subject to a separate application.

Disabled Access

54. Access to the building for persons with disabilities shall be in accordance with the requirements of the Building Code of Australia, the relevant standards and the requirements of the Disability (Access to Premises – Buildings) Standards 2010. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**
55. Accessible car parking spaces for persons with disabilities shall be provided in accordance with the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Waste Management

56. **Prior to the issue of any Occupation Certificate** waste identification and educational signage is to be installed within or adjacent to the waste storage room in accordance with the requirements Part H 'Waste Minimisation and Management' of the Strathfield Consolidated Development Control Plan 2005.
57. A Positive Covenant under Section 88E of the Conveyancing Act shall be created on the title of the property as follows:
- (a) Full and free right must be provided to Strathfield Council employees or its authorised contractors to:
 - (i) Enter upon the land and remove any waste products using any vehicle or equipment as necessary;

- (b) The owner of the lot burdened shall be solely responsible for the cost of maintaining in good and sufficient repair at all times the internal roads or access ways used by Strathfield Council for the purpose of exercising its rights as set out in clause (a) above.

The wording of the Instrument shall be submitted to, and approved by Council prior to lodgement at Land & Property Information NSW. The Instrument shall be registered and a registered copy of the document shall be submitted to and approved by the consent authority **prior to the issue of an Occupation Certificate**.

Land Contamination

58. All soil material removed from the site is to be classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW DECC and disposed of at a suitably licensed facility. Copies of any weighbridge receipts from all approved waste disposal facilities shall be retained for presentation to the Principal Certifying Authority upon request.

Finish of Driveway Opening

59. The walls of the driveway opening are to be finished in a high quality treatment given their visibility from the public domain. Details shall be provided with the Construction Certificate Application.

Operable Conditions

60. The retail and commercial suites shall operate only between the hours of 9am and 5.30pm Monday to Friday and 9am-4pm Saturdays, except with separate approval. No approval is granted for the use of the retail/commercial suites as cafes/restaurants and such use would require separate development consent.

Integrated Development

Transport Sydney Trains

109. An acoustic assessment is to be submitted to Council prior to the issue of a Construction Certificate demonstrating how the proposed development will comply with the Department of Planning’s document titled “Development Near Rail Corridors and Busy Roads- Interim Guidelines”.
110. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.
111. Prior to the commencement of works, the Applicant shall provide certification from a qualified Geotechnical and Structural Engineers stating that the proposed works are to have no negative impact on the rail corridor and associated rail infrastructure.
112. If a crane is to be used at any stage of the proposed works, the following condition applies:

- Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority shall not issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

NSW Office of Water

General

113. An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
114. The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation.
115. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - a. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure; and
 - b. any elevated water table is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - c. where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
116. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
117. DPI Water requires documentation (referred to as a 'report') comprising measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the dewatering process must be provided. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to DPI Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

118. The following shall be included in the initial report:
- (a) measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including bore logs and three-dimensional identification information.
 - (b) a map of the site and its immediate environs depicting the water table (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the water table during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - (c) details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - (d) a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [DPI Water prefers that groundwater level measurements should be undertaken on a continuous basis using automatic loggers in monitoring bores.]
119. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
120. Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
121. Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
122. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability determined by slug-testing, pump-testing or other means).
123. A copy of a valid consent for the development shall be provided in the initial report.
124. The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the

provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.

125. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

126. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
127. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
128. Measurement and monitoring arrangements to the satisfaction of DPI Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
129. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
130. Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
131. The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
132. Access to groundwater management works used in the activity is to be provided to permit inspection when required by DPI Water under appropriate safety procedures.

Following excavation

133. Following completion of the dewatering operations, the applicant shall submit to DPI Water, Parramatta Office, the completion report which shall include:
- (a) detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and

- (b) a water table map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - (c) a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
134. The completion report is to be assessed by DPI Water prior to any certifying agency's approval for occupation or use of the completed construction.