

DATE OF DEFERRAL	4 September 2025
DATE OF PANEL BRIEFING	11 August 2025
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, David Kitto,
APOLOGIES	Peter Ristevski, Ned Mannoun
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 8 August 2025.

MATTER DEFERRED

PPSSWC-512 – Liverpool – DA-565/2024 – 2 Charles Street and 134 Terminus Street, Liverpool - Concept Development Application for the Construction of a 34 Storey Mixed Use Building, Comprising of Ground Floor Commercial/Information & Educational Facility, a Child Care Centre, 118 Hotel Suites, 190 Residential Apartments, and Four (4) Levels of Basement Parking.

REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the meetings listed at item 8 in Schedule 1.

Proposed Amendment to the DA

On 22 July 2025, the Applicant sought to formally amend the development application (DA) for the proposal to address Council's concerns. This included uploading several documents to the planning portal justifying the proposed amendment, including a revised masterplan, urban design study and landscape plans. However, not all of the documents intended to support the amendment had been uploaded (noting the requirements of clause 37 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)).

Council did not consider the proposed amendment or additional information in its assessment report to the Panel, dated 8 August 2025, noting that under clause 38 of the EP&A Regulation, it is ultimately for the Panel as the consent authority to approve or reject an application for a significant amendment to a development application.

Record of Briefing

In its record of the briefing on 11 August 2025, the Panel:

- noted the importance of determining DAs for regional development as quickly as possible, ideally within 250 days of the lodgement of the DA;
- noted that the assessment of this DA is already over this timeframe;
- agreed to defer its consideration of Council's assessment report to allow the Applicant to submit any outstanding information by 15 August 2025; and then,
- determine the next steps for the determination of the DA.

Additional Information

On 15 August 2025, the Applicant uploaded all outstanding information to the planning portal.

It also wrote to the Panel asking it to accept the proposed amendment to the DA and to defer the determination of the DA so that the additional information supporting the proposed amendment can be considered.

This letter included a detailed chronology of the assessment process, highlighting its attempt to clarify the level of information required for the DA, given it is a concept DA rather than a detailed DA for the development of the site.

Panel's Decision

After carefully considering the Applicant's request and Council's arguments that the determination of the DA should not be delayed any further, the Panel has decided to:

- accept the proposed amendment of the DA
- resolve with the Secretariat the earliest time by which a supplementary assessment report addressing the amendments to the DA can be supplied for the amended DA.

In the Panel's view, this decision strikes a reasonable balance between allowing the merits of the amended DA to be properly considered and ensuring the DA is determined as quickly as possible.

The Panel's decision was unanimous.

Importantly, the Panel has deferred its own merit assessment of the DA until it receives the supplementary assessment report, and its decision to permit the amendment does not indicate support for or opposition to the approval of the DA.

There are several substantive issues that will need to be fully investigated before the DA is determined, including the concerns raised in Council's initial assessment report and the matters raised in the report of Council's Design Excellence Panel.

This includes:

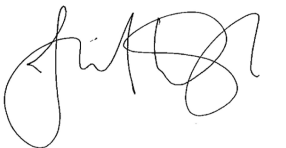
- **Compliance with development standards** – the DA as lodged included two clause 4.6 requests – one a 22% variation in the LEP car parking requirement, and one seeking variations of more than 50% to the LEP setback requirements to the eastern and southern elevations.
- **Site isolation effects:** the Panel is interested in the impacts of the DA on the development potential of site on the eastern boundary of the site and whether that site would become "isolated" (see *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251) if the DA is approved. Relevant, in that regard is the likelihood that the site further to the east (what appears to be a five storey strata complex dating from around the 1990s) is likely to be redeveloped in the medium term and the potential for that site to achieve a reasonable development potential in isolation. That issue seems to be acknowledged in the Clause 4.6 written request as it relates to the non-compliance with the side setback to the east above the 14th floor which states that the site to the east will not have any opportunity to build to that height. That is, the clause 4.6 request assumes that the development potential of the adjoining site will be constrained – at least to its potentially taking advantage of clause 7.5A – in justifying the proposed setbacks.
- **Heritage impacts:** the amended DA proposes excavation of most of the site other than the footprints of the buildings forming part of the heritage item, and a building which at its upper levels has minimal setback to the alignment of the heritage item. While that design approach might be justified (subject to assessment against the design excellence principles) it will increase the need for design elements in the concept to respond to the likely impacts on the future conservation and use of the item. The Council and the DEP have called for a conservation management plan to be available prior to determination of the DA which would presumably identify principles to be adopted in that regard.
- **Applicability of Clause 7.5A of the LEP:** to apply, the site must have two or more street frontages; in addition to Terminus Street. This site only has connection to a service lane (the Nagle Serviceway) to a small portion of the rear of the site. On the one hand that connection does allow for vehicular access to the rear, and might therefore be said to achieve technical compliance. On the other, most of the rear boundary of the site is shared with existing residential apartment buildings to the rear. The Panel notes the DEP's query about whether such a frontage is consistent

with what was envisaged during the strategic planning of Area 8, and whether any divergence ought to be recognised in the design.

- **Design excellence:** whether the amended proposal exhibits design excellence, given the significant concerns raised by the DEP about the original proposal noting the substantial work within the curtilage of the heritage item.

Given the importance of ensuring the amended proposal exhibits design excellence, the Panel considers that it may be useful to obtain a review of the design elements of the amended concept proposal prepared by an independent expert with particular expertise in the tower building typology, with particular attention to whether the amended proposal achieves design excellence and the significance of the heritage item.

When the updated assessment report is received the Panel will determine whether a final briefing is necessary, or whether determination can proceed by way of electronic determination.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 David Kitto	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-512 – Liverpool – DA-565/2024
2	PROPOSED DEVELOPMENT	Concept Development Application for the Construction of a 34 Storey Mixed Use Building, Comprising of Ground Floor Commercial/Information & Educational Facility, a Child Care Centre, 118 Hotel Suites, 190 Residential Apartments, and Four (4) Levels of Basement Parking.
3	STREET ADDRESS	2 Charles Street and 134 Terminus Street, Liverpool
4	APPLICANT/OWNER	Applicant: Chanine Design Pty Ltd Owner: Mr N David and Mr P Costi
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Housing) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - Liverpool Local Environmental Plan 2008 - Draft environmental planning instruments: Nil - Development control plans: - Liverpool Development Control Plan 2008 - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council assessment report: 1 August 2025 - Applicant's letter to the Panel, dated 15 August 2025 - The Applicant's proposed amendment to the DA, including the additional information uploaded to the planning portal on 22 July and 15 August 2025 - Written submissions during public exhibition: 1 - Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: 17 March 2025 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Ned Mannoun <u>Council assessment staff</u>: Emily Lawson, Nabil Alaeddine, Thomas Wheeler <u>Applicant representatives</u>: Declined to attend - Final briefing to discuss council's recommendation: 11 August 2025 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, David Kitto, Ned Mannoun, Peter Ristevski

		○ <u>Council assessment staff:</u> Emily Lawson, Nabil Alaeddine ○ <u>Applicant representatives:</u> James Corry, Margaret Roberts, Geoff Bonus, Rudy Jasin
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable