



COUNCIL SUPPLEMENTARY ASSESSMENT REPORT
SYDNEY WESTERN CITY PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSSWC-512 - DA-565/2024
PROPOSAL	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.
ADDRESS	2 Charles Street and 134 Terminus Street, Liverpool
APPLICANT	Chanine Design Pty Ltd
OWNER	Mr N David and Mr P Costi
DA LODGEMENT DATE	6 December 2024
APPLICATION TYPE (DA, Concept DA, CROWN DA, INTEGRATED, DESIGNATED)	Concept Development Application
REGIONALLY SIGNIFICANT CRITERIA	Clause 2, Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021: CIV over \$30 million
CIV	\$81,907,711.82(excluding GST)
CLAUSE 4.6 REQUESTS	No Clause 4.6 has been submitted
KEY SEPP/LEP	Environmental Planning and Assessment Act 1979 Environmental Planning and Assessment Regulation 2021 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
TOTAL & UNIQUE SUBMISSIONS KEY	

ISSUES IN SUBMISSIONS	
DOCUMENTS SUBMITTED FOR CONSIDERATION	Attachment A – Refusal Notice Attachment B- Compliance Tables, ADG, LEP and LDCP Attachment C – Architectural Plans Attachment D – Design Excellence Panel Minutes
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	N/A
RECOMMENDATION	Refusal
DRAFT CONDITIONS TO APPLICANT	NO
SCHEDULED MEETING DATE	20 October 2025
PLAN VERSION	N/A
PREPARED BY	Emily Lawson
DATE OF REPORT	9 October 2025

1 EXECUTIVE SUMMARY

On 11 August 2025 the SWCPP considered the report for DA-565/2024. The Panel raised the following issues related to the application:

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.

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.

The panel resolved to defer determination of the application on the 4th of September 2025 as follows:

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.

2 ASSESSMENT OF OUTSTANDING ISSUES

The following comments are provided to each of the matters raised by the Panel:

Compliance with Development Standards:

Council’s Comment:

The additional information submitted on 15 August 2025 contained a Clause 4.6 Request pertaining to Clause 7.3 Car parking in Liverpool City Centre. Council has reviewed the Clause 4.6 request and is of the opinion it does demonstrate sufficient and adequate Environmental Planning grounds to support such a variation.

The applicant seeks a variation on a prohibition of parking and further in turn does not appropriately utilise the correct parking to ascertain the appropriate variation sought.

The applicant states a variation of 22% being 37 spaces, yet Council has confirmed with Council's Traffic Expert that the development is deficient by 73 spaces. Additionally, the parking sought under Clause 4.6 Request differs from the number sought in the Statement of Environmental Effects (SoEE) lodged with the application.

The SoEE states a title number of 134 parking spaces; however, Clause 4.6 states 166 spaces are proposed. This, in turn, highlights the inconsistency across the submitted documentation to Council, which prohibits Council from undertaking a fair and adequate assessment in compliance with 4.15 of the EP&A Act.

Site Isolation Impacts

Councils Comment:

The additional information submitted in August has not addressed or responded to the site isolation impacts identified within the Council's assessment report. The site isolation issues are resulting in the neighbouring site (127 Terminus Street, Liverpool) not being developed to its potential, noting that the site further east (No. 100 Terminus Street) can be developed without the need to consolidate with No. 127 Terminus Street.

The site isolation matters raised in the report remain pressed, and no solution has been addressed in the amended material.



Figure 1: Aerial View – Site Isolation Context

Heritage Impacts

Councils Comment:

The information submitted on 15 August lacked the required justification to support the proposal. The amended information was referred to Council's Heritage Expert, who provided the following assessment:

Heritage Assessment

The assessment has been undertaken for each document individually:

Conservation Management Plan

Topic	Strengths	Gaps	Recommendations
Alignment with the Purpose of CMP	<ul style="list-style-type: none"> • Clear structure and purpose statement. • Detailed historical and physical analysis • Conservation policies are extensive and well cross-referenced 	<ul style="list-style-type: none"> • The CMP is closely tied to the proposed 34-storey mixed-use development, compromising the independence of the assessment and its fundamental purpose to conserve the significance of the site. 	<ul style="list-style-type: none"> • Reframe CMP language to focus on conservation, not development justification. • Clarify that conservation policies apply regardless of future use or ownership. • Focus DA-specific design controls into the conservation policies or a separate development guidance document in the appendix. • Policies and guidance for future development should not seek to support the proposed typology but guide the development in a manner that is appropriate in terms of the bulk, scale and materiality.
Understanding of Cultural Significance	<ul style="list-style-type: none"> • Strong historical narrative, including Aboriginal and European Histories • Detailed assessment against NSW Heritage Council criteria 	<ul style="list-style-type: none"> • The conservation management plan has undertaken a limited exploration of the community associations or intangible heritage values of the item. • There is no evidence of engagement with local stakeholders or descendants of the McVicker family. • While the Cabrogal history is acknowledged, no formal Aboriginal Cultural Heritage Assessment or consultation is included. 	<ul style="list-style-type: none"> • Include a social significance assessment. • Document intangible heritage values. • Seek to engage with any known McVicker descendants (seek assistance from the Liverpool Genealogy Society). • Include a chronological diagram of the history of the site to allow for quick reference. • The description of Figure 145 is incorrect. This cottage is not the Homestead.
Fabric Analysis and Grading	<ul style="list-style-type: none"> • Extensive schedules of significant elements. • Clear grading system aligned with NSW Heritage Standards 	<ul style="list-style-type: none"> • Highly technical details may be overwhelming for non-specialist users. • No visual summary or simplified guide for non-specialists, owners, planners or Council. 	<ul style="list-style-type: none"> • Create a supplementary non-technical summary for public and non-technical users. • Include visual aids (e.g. annotated maps, diagrams of significant elements). • No defined curtilage for the heritage item. • Include condition ratings for elements of the fabric, either poor, fair or 1 to 5. This allows for future benchmarking to determine whether the building condition has improved, remained the same or gotten worse. • Include in the appendices, with reference in the main body, room-by-room schedules of all fabric, including period,

			condition, significance and brief description.
Interpretation and Public Engagement	<ul style="list-style-type: none"> • Interpretation is mentioned as a future opportunity 	<ul style="list-style-type: none"> • Despite the conservation management plan identifying the requirement to develop a Heritage Interpretation Plan, one has not been prepared as a supplement to the CMP. 	<ul style="list-style-type: none"> • Prepare a formal Heritage Interpretation Plan. • Include interpretive signage, digital media, and public engagement strategies.
Statutory and Regulatory Integration	<ul style="list-style-type: none"> • Comprehensive coverage of Commonwealth, State and Local Legislation. • Clear explanation of BCA/NCC compliance pathways and exemptions 	<ul style="list-style-type: none"> • CMP reads partly like a planning justification document, which may dilute its conservation focus. 	<ul style="list-style-type: none"> •
Adaptive Reuse and Development Interface	<ul style="list-style-type: none"> • Thoughtful consideration of compatible future uses. • Policies for managing change are detailed and aligned with the Burra Charter principles. 	<ul style="list-style-type: none"> • The CMP may be perceived as supporting the DA rather than independently assessing heritage values. The consultant needs to ensure that the guidance and advice regarding future development are not influenced by the existing proposal and establish an independent consideration of what is possible and how the development should occur. 	<ul style="list-style-type: none"> • Create a new section, "Guidance for Adjacent Development to Protect Heritage Significance". • Move all development-related policies into this new section. • Frame these policies as external planning controls and not conservation policies. • For conservation policies, emphasise policies that retain and conserve significant fabric, manage change sensitively, and guide maintenance and repair. • Insert a paragraph in the General conservation policies section that reinforces the intent of the CMP is to conserve the heritage item regardless of future ownership, use or adjacent development. • Add a visual buffer and interface plan, which is an annotated diagram showing significant view corridors, recommended setbacks and sensitive interface zones.
Maintenance and Implementation	<ul style="list-style-type: none"> • Includes a Cyclical Maintenance Plan and Schedule of Urgent Repairs • Implementation strategies are prioritised and cross-referenced. 	<ul style="list-style-type: none"> • No mechanism for tracking implementation or compliance with conservation policies. • Missed opportunity to involve local groups or schools in guiding ongoing care and conservation. • No engineering assessments have been undertaken of the item to understand the footings and foundations, structural condition and implications to ongoing use, development, conservation and 	<ul style="list-style-type: none"> • Including a tracking system for the implementation of conservation policies for actionable items. • Provide a feedback mechanism for users of the CMP. • Link each conservation policy to a clear action item and a responsible party. • Prioritise actionable items (e.g. urgent repairs, interpretation, community engagement). • Include budgeting guidance or funding sources for

		maintenance.	conservation works.
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Reference Documents:

Heritage NSW CMP Guidelines (2021)

The Burra Charter (2013)

The Conservation Plan (James Semple Kerr)

With reference to the recommended guidance for adjacent development to protect heritage significance. The following table outlines the aspects for consideration as part of the policies. These policies should be detailed in the guidance for any future design work. In relation to this assessment, the proposal has been considered with reference to these guidelines:

Policies	Does the current proposal comply	Recommended changes
Maintaining the visual prominence of Lyndeer House from Charles Street and key public viewpoints	No	Without further details on the design, it is difficult to determine whether the proposed tower will sit recessively behind the heritage item along Charles Street. Based on current views, primarily Street View B, it is clear that the proposed tower will dominate the viewpoint from Charles Street to the house. While it is acknowledged that any development is likely to dominate the small cottage, there is a need to ensure any future development is designed carefully through the use of recessive materials, colours and articulating forms which are not available at the concept stage.
Avoid overshadowing or enclosing the cottage with bulky podiums or overhangs.	No	The proposed overhang, while higher than the heritage item, has the potential to visually enclose and overshadow the heritage item. This should be pulled back to ensure breathing space above the heritage item.
Use a setback (minimum 6 to 10m) from the heritage boundary to create breathing space between the tower and the heritage item.	Yes	The tower is setback 9m at the ground floor of the heritage item.
Introduce a low-rise podium 2-4 storeys adjacent to the cottage to mediate scale.	No	The current podium is a 21m street wall. The consultant argues that the reasoning behind this is to align with future development potential along Terminus Avenue. However, despite the planning controls allowing for additional height, the existing development is a multi-storey shop-top housing development which is strata titled. The future redevelopment opportunities are constrained by the requirement to gain over 70% acceptance of all strata owners to redevelop the site, but also the existing development likely exceeds the existing FSR. This is not uncommon with older developments due to the lack of FSR controls up until 2007 in most LGAs. Based on the above, the development should not be designed based on a hypothetical that has various constraints limiting the ability for the hypothetical to become reality and designed based on the need to transition to the heritage item adjacent to the tower. The podium should be modified to a 2 to 4-storey typology, which will mediate the scale of the new development.
Step the tower upward and away from the heritage item.	No	The development aligns flush with the outer edge of the heritage item for the full height of the tower. The tower does step away from the item at the rear of the site, but this is only a small portion of the development and has little mitigation impact on the views to and from the development. The concept should be modified to step away from the heritage item as the tower gains height, so the height of the tower is loaded to the north-eastern edge of the site.

Podium should reflect the human scale and rhythm of the heritage streetscape.	No	The proposed street wall design, while consistent with a hypothetical typology along Terminus Street, which, as discussed above, is unlikely to be achieved, is inconsistent with the streetscape on Charles Street and particularly the heritage item. A combination of the street wall, in line with the sheer mass of the development, results in a proposal that is in conflict with the human scale and rhythm of the heritage item. It is recommended that while a street wall may be maintained at the boundary on the north east, as the development moves towards the heritage item, the podium should taper off towards the front wall alignment of the heritage item. This will create greater visual separation between the item and the tower, provide a transition to the differing streetscape of Charles Street and eliminate the perception of a visual barrier which is currently presented by the proposal.
Use materials and proportions that echo the cottage without mimicking it.	No	This item can be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Break the tower into vertical elements to reduce bulk.	No	The tower concept features basic vertical elements; however, without a more detailed and refined design, it is difficult to determine whether the vertical elements are sufficient to break up the bulk and scale of the proposal.
Use recesses, setbacks and modulation to soften the visual impact.	No	This item can be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Avoid monolithic facades facing the heritage item.	No	As mentioned, the lack of detailed design makes it impossible to accurately assess the impacts of the proposal. Based on current diagrams, the proposal dominates the heritage item with sheer vertical walls behind the item, which would impact views to the item from Charles Street.
Use a shadow line or vertical recess to visually separate the tower from the heritage item.	No	This item cannot be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Create a landscaped forecourt or courtyard between the tower and Lyndeer House.	Yes	
Use this space for interpretation, public access or passive recreation.	No	No interpretation currently provided.
Avoid hard boundaries like blank walls or service areas facing the cottage.	N	This item cannot be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Include interpretive signage or a heritage garden that celebrates the McVicker legacy.	No	No details have been provided for the concept development. A strategy should be prepared and included with the CMP for further refinement and implementation as a part of a future development application.
Use neutral, recessive colours and materials to complement the heritage item.	No	This item cannot be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Consider textural contrast to	No	This item cannot be assessed at this time and would be subject

highlight the heritage item's craftsmanship.		to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Retain and frame views to the primary facade of Lyndeer House from Charles Street and Terminus Street.	Yes	
Preserve the visual relationship between the house and the stable.	No	The visual relationship between the house and stables appears to be impacted by the presence of new landscaping and curved seating structures. No visuals have been provided to demonstrate the retention of a visual connection, which was a concern from the beginning of this application.
Avoid blocking or cluttering these views with signage, fencing or structures.	No	This item cannot be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Conduct shadow studies to ensure minimal overshadowing of the cottage and garden.	Yes	Overshadowing diagrams have been provided with the diagrams indicating overshadowing of the cottage, stables and garden from 10 am to 12 pm and primarily the garden and stables from 1 pm to 3 pm.
Ensure wind impacts are managed to avoid discomfort or damage to the heritage item.	No	No wind impact assessments have been undertaken
Use acoustic buffers if the mechanical plant is located near the boundary	No	This item cannot be assessed at this time and would be subject to a future development application. On face value, the building has a bulk and scale that are incompatible with a heritage item. Refer to the comment below in relation to G&J Drivas Pty Ltd and Telado vs City of Parramatta.
Link the towers' public realm to the heritage item through pathways, signage and storytelling.	No	No details provided at this stage.

G&J Drivas Pty and Telado Pty Ltd vs City of Parramatta

The question of the impact of bulk and scale of new development was raised in G&J Drivas Pty and Telado Pty Ltd vs City of Parramatta, whereby the commissioner questioned whether the impacts can be mitigated or minimised through further detailed design work as part of a future development. In the G&J Drivas Pty Ltd vs City of Parramatta case, the applicant sought partial demolition of the heritage item and a new concept building envelope of 67 metres. The item in question was the three-storey Murray's Building. In this instance, the court ruled that even with a further detailed design, it could not be determined whether the difference in height, bulk and scale between the item and the proposed 67m tower could be mitigated.

In relation to this proposal, the proposed tower is approximately 100m, and the heritage item is single-storey and substantially smaller than Murray's Building and the proposed tower. Further detailed design, while may improve the design, it is unlikely to mitigate the full impact of the bulk, scale and height of the proposed development and while concept developments may be viable for some sites, where an heritage item is involved a concept development is not seen as an appropriate approach as a full resolved detailed design is needed to understand the full impact of a proposal on the heritage significance of an item, regardless of the significance of that item.

Cyclical Maintenance Plan

The applicant has submitted a cyclical maintenance plan, although, despite being requested, the maintenance plan has not been costed by a quantity surveyor. The purpose of this costing is to ensure the applicant and owner are aware of the ongoing financial requirements of the heritage item and to align any benefit from the development to the expenditure required on the heritage item.

In addition to the cost analysis, the review has identified additional issues to be addressed:

- a. The absence of a structural assessment adds an element of unknown as to the existing structural integrity of the building and whether future maintenance works will have a positive, neutral or negative impact on the condition of the building.
- b. The maintenance plan includes scheduled inspections for the various elements within the building, but does not include general inspections to assess the overall condition of the building (annual), to monitor the progress of annual maintenance (quarterly) and in response to any storms, emergencies or incidents (as required).
- c. The maintenance plan does not appear to include any requirements or procedures around documenting, recording, monitoring and auditing of maintenance works to ensure they are being undertaken as required, appropriately and consistently. The maintenance plan needs to be amended to include the requirements and procedures and connected back to the CMP to provide an integrated conservation management framework.

Schedule of Repair Works

The applicant has submitted a basic schedule of repair works. The request for information requested a detailed schedule of conservation and upgrade works, which were not provided. Further, the applicant is seeking to justify the use of the opportunity clause of the LEP to allow for greater height and FSR, identifying the heritage items retention, conservation and reuse as a public benefit.

In this case, the applicant should be providing a fully documented and costed schedule of conservation works which demonstrates the public benefit of the retention and addresses the identified conservation requirements. Aspects of concern in the review of the current document include:

1. The schedule provides little information in relation to the removal and replacement of damaged or drummy plaster, particularly where there is evidence of moisture damage. This section of the document should include the requirements and specifications for removal and reinstatement, as well as desalination (captive head washing) and, if necessary, the use of cocoon to remove salts.
2. It is clear through the presence of moisture that the retention of the concrete floors is untenable and should be removed to ensure the long-term conservation value of the heritage item. The proposed development is one of scale that would justify extensive conservation works to the item, including the removal of the concrete floors and installation of a new hardwood timber floor system.
3. The existing Colorbond roofing is not significant to the building and should be removed before any issues of corrosion can cause internal problems. This would allow for the replacement and upgrade of the gutter and downpipe systems. Recommendation Z600 Galvanised, 0.60 BMT.

4. The schedule of conservation works specifies the use of quad gutters. Quad gutters are based on a 1950s profile and are not specific to this item. All guttering should be either OGEE or Half Round.
5. The absence of an engineering assessment means there is a lack of detail in the conservation schedule, particularly in relation to crack repair works. The simple raking out and replacement of mortar in areas of cracking is unlikely to resolve the identified cracking, and either stitching or the use of wall ties (Helifix, Thor or Python) is likely to be required.
6. All external timber work exposed to the weather and showing signs of moisture damage should be treated with a marine-grade epoxy to prevent further deterioration. This would provide a safe foundation to then patch and repair where required.
7. To assist in finding replacement or supplementary bricks, the schedule should include brick specifications - dimensions, colour, density, etc.
8. The schedule should clearly specify methods for raking out mortar joints. While hand tools are preferred, where mortar is cement, the use of an 8mm mortar raking disc may be required, subject to Heritage Consultant consent.
9. There appears to have been no consideration of works associated with chimney or roof stabilisation. Due to the age of the building, it can be assumed that the roof has not been anchored to the structure of the building, and therefore, mechanical anchoring may be required. In terms of the chimney, the absence of an engineering assessment means the structural condition of the chimney is unknown, and whether any internal structural stabilisation is required is also unknown.
10. A clear overriding condition should be placed within the document, which states that where any works deviate from those outlined in this specification or what could reasonably be considered to be maintenance or repair, consultation with Liverpool City Council's Heritage Officer is required before proceeding.

The schedule of conservation works has not been costed by a quantity surveyor, which should be done to understand the full value of the conservation works and therefore the public benefit of the proposal.

Missing Information

Despite numerous requests, the applicant has not provided Council with a structural engineering assessment of the heritage item, including an inspection of the footings and a determination as to whether the proposed basement (regardless of whether it goes underneath or abuts as currently proposed). The absence of this assessment also impacts the quality of the cyclical maintenance plan, and the schedule of conservation works, as a baseline understanding of the structural condition of the building is unknown, and therefore improvements or declines in condition cannot be measured.

Consistent with the principle established in *Cameron v Nambucca Shire Council* [1997] 95 LGERA 269 at 275-276; *Weal v Bathurst City Council* [2000] 111 LGERA 181, [2000] NSWCA 88 at 93-94, the absence of a sufficient investigation, research and analysis are matters which impact the ability to undertake an accurate assessment of impacts under s4.15 of the EP&A Act and cannot be deferred for determination post consent.

Applicability of Clause 7.5A of the LEP

Council Comment:

The additional information submitted to Council has not addressed Clause 7.5a as previously requested within the Additional Information Request dated 22 April 2025. I refer the Panel to Part 1, Table 7 LEP considerations, and subsequent discussions within the submitted report to the Panel.

Design Excellence:

Council's Comment:

The additional information submitted on 15 August 2025 did not include a response to the Design Excellence Panel or respond to Council's RFI request dated 22 April 2025. The application was referred to Council's Urban Design Expert, who provided the following commentary:

This is a significant development in the City Centre and is required to achieve design excellence as per the LLEP. There are many concerns in relation to responding to the Heritage building, integration with the local character and streetscape, building separation non-compliances, and adequate landscaping. However, there are many key issues and information missing as previously requested from CDPD and the DEP, that have not been provided.

There is a lot of information in terms of the tower design, façade and materiality needed, especially to determine whether design excellence can be achieved on this site with the proposed density. Many of CDPD and the DEP's requests, have not been addressed. The absence of 'compare and contrast' drawings illustrating how the design has changed side by side makes it very difficult to understand and review the changes.

Summation

Having considered the Panel's deferral request and the additional information submitted on 15 August 2025, a significant number of items remain outstanding from the RFI request dated April 22, 2025, and subsequent extension granted by Council to the applicant.

Council is unable to support the proposal, given the lack of information, which leads to a level of uncertainty surrounding the proposal. Furthermore, it is inappropriate to condition items that require satisfaction under an Environmental Planning Instrument (EPI) to be dealt with at a later stage

Council maintains that the development should be refused as outlined above.

3 RECOMMENDATION

That the Panel receives and notes this supplementary report.