Attachment D

Submissions

Allens
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia

GPO Box 50
Sydney NSW 2001 Australia

[redacted]
allens.com.au

ABN 47 702 595 758

12 January 2026

City of Sydney Council
Town Hall House
Gadigal Country
Level 2, 456 Kent Street
Sydney 2000

Attention*:* Brian Li

By email: dasubmissions@cityofsydney.nsw.gov.au

Dear Mr Li

D/2025/1160 - 65 Martin Place, SYDNEY NSW 2000
Interim submission on DA on behalf of Land and Environment Court of NSW

We act for the Department of Communities and Justice (***DCJ***) which represents the Land and Environment Court of NSW (the ***LEC***). The Court owns and occupies 8 floors within the Windeyer Chambers building at 225 Macquarie Street, Sydney.

We refer to our letter dated 19 December 2025 seeking an extension of time to make a submission on behalf of the LEC, as well as your response on the same day, in which you confirmed that all submissions received prior to the application being determined will be considered as part of the assessment and encouraged us to submit our final submission by 7 February 2026.

At the outset, we emphasise that the DA documents are materially deficient. The DA documents do not provide a sufficient (or in some cases any) assessment of key issues. Rather, the DA impermissibly defers for future assessment and consideration certain key aspects of the proposed development's impacts, including on the LEC which adjoins 65 Martin Place. The DA does not meet the threshold required for Council to lawfully determine the application.

Based on our initial review we have identified six key issues which we address in this interim submission. This interim submission is supported by the ***attached*** technical memorandum prepared by Arup dated 23 December 2025 (***Arup Memo***) which sets out a number of technical comments and recommendations based on their review of the Construction Noise and Vibration Management Plan prepared by Acoustic Logic dated 14 November 2025 (the ***CNVMP***).

As foreshadowed in our letter dated 19 December 2025, this interim submission will be supplemented by a further submission once it has obtained further technical advice in relation to the DA. DCJ is in the process of engaging additional consultants to undertake a technical review of the DA in the disciplines of structural engineering and environmental consulting/occupational hygiene. This review will inform a further, detailed submission to Council regarding the DA, which we expect to provide by 7 February 2026.

Our ref
lmfs 818506163v1 121422186 12.1.2026

1 Key issue 1: The DA is silent on the practical reality that the development can only be carried out by gaining access to and use of 225 Macquarie Street and does not assess impacts arising from such use.

1.1 The DA documents describe all construction access, work zones, and hoardings as being located entirely within the 65 Martin Place site and its street frontages (Phillip Street, Martin Place, and Macquarie Street).[1] There is no reference to or assessment of access being obtained through, over, or within 225 Macquarie Street, despite the fact that such access is being requested by RBA's contractor outside the DA process.

1.2 The DA does not address the practical reality that, given the proximity of the RBA building to the LEC and the scale of works, access to and encroachment upon or within 225 Macquarie Street will be required for scaffolding, hoarding, and construction activities along the RBA's southern boundary. Both the Statement of Environmental Effects prepared by DFP Planning dated 14 November 2025 (***SEE***) and the Construction Methodology Plan dated 23 October 2025 (***CMP***) refer to the erection and maintenance of 'full perimeter scaffolding' and 'hoardings',[2] but neither document considers the extent to which this scaffolding and hoardings will necessarily project beyond the RBA site's boundary into 225 Macquarie Street, and will depend upon construction workers having access to and use of 225 Macquarie Street to erect this scaffolding and hoarding or to carry out the work for which consent is being sought.

1.3 Plainly, the development for which consent is being sought depends upon certain construction activities being carried out at 225 Macquarie Street, as well as on the RBA site. The DA was not accompanied by land owner's consent from the owner of 225 Macquarie Street nor from the LEC which owns levels 1, 3, 4, 5, 10, 11, 12 and 13 of 225 Macquarie Street.

1.4 Section 23 of the *Environmental Planning and Assessment Regulation 2021* requires a development application to be accompanied by written consent of an adjoining landowner where, as here, development is proposed on the neighbour's land.

1.5 Owner's consent is an essential prerequisite to a consent authority's power to determine a development application.[3] In the absence of land owner's consent, the DA cannot be approved.

1.6 Assuming for present purposes that this legal defect is capable of being cured, the DA does not contain any information about, or assessment of the impacts of, such activities to the owners and occupiers of 225 Macquarie Street. We address this further in key issue 2.

1.7 ***Additional information required***: Council should require the proponent to:

(a) confirm the nature and extent of development and construction-related activities which are proposed to be carried out on 225 Macquarie Street. Based on our initial review it appears that, at a minimum, these will include construction of scaffolding, storage of construction materials and some demolition activities;

(b) provide written consent to the DA from the owner of 225 Macquarie Street; and

(c) assess the impacts of such activities to be carried out on 225 Macquarie Street including specifically within the areas owned by the LEC (which we address further in key issues 2 – 6).

2 Key issue 2: The DA impermissibly defers assessment of certain impacts and does not justify the acceptability of others. Council cannot proceed to determine the DA in the absence of this information.

[1] See for example paragraph 6.5 of CMP, p 19 which states 'The Head Contractor will ensure that the Scaffold and Edge Protection measures within the 65MP site to protect people, property and the environment are thoroughly planned.'

[2] See for example, pages 19 – 21 of the CMP.

[3] *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170

2.1 The DA documents contain numerous statements acknowledging that there will be impacts on adjoining landowners, including 225 Macquarie Street, but no sufficient justification (and in some cases no justification at all) is provided for why the predicted (and at times non-compliant) impacts should be considered acceptable. Instead, the documents rely on general assurances, mitigation strategies, and promises of ongoing consultation, rather than evidence-based rationale or enforceable commitments.

2.2 The case law is clear that the assessment and consideration of essential matters cannot be deferred to later assessment.[4] However, in this DA the assessment of certain impacts is deferred to future stages or post-approval processes. Examples include:

(a) Vibration impacts – assessment deferred to future testing

The CNVMP identifies 225 Macquarie Street as a noise and vibration sensitive receiver. Page 9 of the CNVMP acknowledges that vibration from hydraulic hammering is a risk.

> The following sources have been identified as potentially producing significant ground vibration:
>
> • Hydraulic hammering (with excavator)…

However, page 9 of the CNVMP provides that assessment of vibration impacts will be deferred to a future, post-approval stage, rather than providing an evidence-based assessment at DA stage.

> A precise assessment of vibration emissions from the proposed works is not possible to model, therefore; site vibration levels from machinery and processes should be verified on site through field sample testing and future demolition trials.

This is directly at odds with page 41 of the SEE, which asserts that 'vibration impacts are expected to be significantly below amenity or damage risk management levels at all receivers'.

In the absence of further analysis, Council cannot accept the statement at page 41 of the SEE nor can it rationally conclude that the impacts of the proposed development, including specifically on the LEC, will be acceptable.

Additional information required: Council should require the proponent to undertake further assessment of vibration impacts. As it stands, the proposal offers neither justification for deferring assessment nor any assurance that significant impacts can or will be avoided or effectively mitigated. Unless and until the proponent can demonstrate that these impacts have been genuinely assessed and can be effectively mitigated, the DA should not be determined.

(b) Acoustic impacts to LEC not adequately assessed

As set out in more detail in the Arup Memo, the noise management levels (***NMLs***) adopted in the proponent's CNVMP do not reflect the NML's previously agreed with the LEC following acoustic testing. This is a fundamental deficiency in the CNVMP as it purports to measure acoustic impacts against an incorrect NMLs. Predictions of, and assessment of, likely exceedances need to be revisited having regard to the correct NMLs.

Additional information required: Council should require the proponent to provide updated acoustic assessment which addresses the recommendations set out in the Arup Memo. In particular the revised acoustic assessment and proposed management plan should:

- adopt the agreed NMLs for LEC spaces;
- treat the LEC as a highly noise-sensitive receiver, having regard to the functional requirements of courtrooms, Judges' chambers, Commissioners' chambers , mediation rooms, Registrars' offices; and

[4] See for example, *Weal v Bathurst City Council* (2000) 111 LGERA 181 at 201 [93]-[94]; *Ballina Shire Council v Palm Lake Works Pty Ltd* [2020] NSWLEC 41 at [37].

- be explicit about the proposed 'immediate review and mitigation' which the CNVMP says will occur when there are exceedances. Who will carry out this review and mitigation, and how will the consent authority and the LEC be informed?

(c) Noise and vibration exceedances

There are multiple acknowledgements throughout the DA documents that noise and vibration will exceed management levels, and that the proposed response is to monitor, provide respite, or manage complaints, rather than to avoid exceedance.

- Section 4.5.3 (p 27) of the CNVMP makes clear that predicted noise levels during both the structural rebuild and façade installation phases will exceed the nominated management levels with respect to 225 Macquarie Street.
- Section 5.2.1 (p 31) of the CNVMP contemplates that even with mitigation, noise will at times exceed management levels, and the response is to schedule respite rather than avoid exceedance.

> "Where the introduced acoustic scaffold barrier and machinery are found to be insufficient to reduce noise levels to below the NML, scheduling of hydraulic hammering should be undertaken to reasonably minimise noise impacts to all surrounding receivers.
>
> ...
>
> Respite periods are recommended for hydraulic hammering activities..."

These measures are patently unacceptable in the case of the LEC which is providing an essential service. Works which have the potential to exceed the corrected noise and vibration management levels should not be permitted to occur during the Court's normal hours of operation.

Additional information required: Council should require the proponent to address the recommendations set out in the Arup Memo with respect to the noise and vibration. In particular, the CNVMP must be updated to include additional details of the quantitative assessment of internal noise predictions for LEC spaces.

(d) No assessment of the risk of airborne asbestos fibre migration

The DA documents are silent on the risk, impact, or potential migration of asbestos to adjoining properties, including 225 Macquarie Street.

There is no assessment of how asbestos removal or disturbance will be managed to prevent cross-boundary contamination, nor any justification for why the proposed approach is acceptable. This omission is particularly significant given the proximity of the LEC and the fact that the LEC's air intakes are within 10 metres of the boundary with 65 Martin Place.

Additional information required: Council should require the proponent to undertake detailed assessment of these risks and propose appropriate mitigation measures including:

(i) assessment of airborne asbestos fibre transmission risk to neighbouring properties;

(ii) proposed boundary controls and off-site monitoring, including within the LEC;

(iii) real-time notification protocols for exceedances to adjoining building owners to be devised in consultation with adjoining landowners; and

(iv) justification of the adequacy of proposed mitigation and response measures.

The LEC is obtaining further expert advice regarding the Consolidated Asbestos Report prepared by Property Risk Australia dated 17 November 2025 (***Asbestos Report***), the adequacy of the proposed mitigation measures and any residual risks to the occupants of the LEC. The LEC reserves its right to make a further submission in this regard.

(e) Risk of 'incidental damage' to 225 Macquarie Street, and rectification of damage

The CMP acknowledges extensive, ongoing structural investigations and the possibility of discovering unknown structural deficiencies. While page 36 of the CMP provides that incidental damage is expected, it focuses solely on the internal structure of 65 Martin Place and does not address impact on adjoining properties:

> Incidental damage is also expected as a result of the demolition works, and this is not expected to be detrimental to the performance of the existing structural steel requiring rectification. The project structural engineer will progressively inspect the de-cased steel to confirm damage is not detrimental to the performance of the structural members.

Page 13 of the CMP states that a comprehensive dilapidation survey of existing, adjoining, and adjacent structures was carried out as part of the stage 1 works, however, only proposes a post-works survey to assess damage to 'public property'. This means that the very real risk of damage to the LEC and other occupiers of 225 Macquarie Street has not been considered or addressed.

<u>Additional information required</u>: Council should require the proponent to provide details on how damage to private property, including to the LEC and 225 Macquarie Street, will be avoided, and if it cannot be avoided, how it is justified. If damage occurs, the proponent should be required to provide detailed information about how the damage will be identified and rectified.

The LEC is currently seeking expert advice regarding the DA's potential impacts on the structural stability of the LEC and whether the mitigation measures proposed are adequate. The LEC reserves its right to make a further submission in this regard.

3 <u>Key issue 3:</u> Inadequate monitoring and reporting protocols proposed for noise and vibration monitoring and notification.

3.1 Noise and vibration monitors are proposed to be installed at or within the LEC ("sensitive receivers R6 & R7"), but the CNVMP does not commit to giving the LEC direct access to monitoring data. Instead, the Court would be entirely dependent on the contractor's reporting (e.g. see section 5.2.2.6 of the CNVMP). There is no commitment to real-time dashboards, automated alerts, or sharing of raw data with the LEC or other sensitive receivers. Because exceedances are predicted, the absence of direct data access may limit the LEC's ability to manage operational impacts.

(a) **Noise:** The CNVMP predicts that during the structural rebuild and façade installation phases, noise at the LEC may exceed management levels at certain times. Section 5.2.2 states:

> It is proposed to install noise and vibration monitors within the neighbouring sensitive receivers R6 & R7 for the duration of the works subject to approval from the owners of those buildings

However, there is no commitment to provide the LEC with direct or real-time access to this data, nor to automated alerts in the event of exceedances.

(b) **Vibration:** The CNVMP identifies 225 Macquarie Street as a vibration sensitive receiver, with vibration from hydraulic hammering identified as a risk. The CNVMP states that vibration cannot be reliably modelled and must instead be verified through on-site sampling and trials, meaning actual impacts are uncertain and must be assessed dynamically. Section 5.2.2.2 proposes installing geophones at 'nearest affected sensitive receivers', but again, there is no commitment to data sharing or real-time alerting for the Court.

The absence of a transparent, real-time reporting and notification protocol is a significant gap, particularly given the predicted exceedances and the operational sensitivities of the Court.

<u>Additional information required</u>: Council should require the proponent to address these concerns explicitly and commit to providing the LEC with direct, real-time access to noise and vibration monitoring data and automated alerts for exceedances. These recommendations are addressed in further detail in the Arup Memo.

4 Key issue 4: Inadequate monitoring and reporting protocols proposed for dust and air quality monitoring; and inadequate proposed responses to exceedances and notification.

4.1 There is no proposal for indoor air quality monitoring within sensitive adjoining buildings, including the LEC, despite the presence of extensive friable asbestos in the existing façade and the likelihood of prolonged demolition and decasement works.

4.2 In addition, there is no protocol proposed in the DA documents for notification or response in the event of dust or air quality exceedances, either for boundary monitoring or for potential impacts on neighbouring properties. This is a significant gap, especially given the known risks of airborne asbestos and the proximity of sensitive receivers.

4.3 Page 34 of the CMP refers to the operation of monitoring at key boundary locations during construction. However, this appears to refer only to noise and vibration exceedances, not to dust or air quality:

> Environmental controls will be maintained throughout construction, including noise, dust, vibration, and water management. All site activities will comply with the updated Construction Noise and Vibration Management Plan (CNVMP) prepared by Acoustic Logic. Monitoring stations will remain in operation at key boundary locations, and exceedances will trigger immediate review and mitigation.

4.4 ***Additional information required:*** Council should require the proponent to address these risks explicitly and prior to determination, including:

(a) assessment of airborne dust and asbestos fibre transmission risk to neighbouring properties;

(b) proposed boundary controls and off-site air quality monitoring, including within the LEC;

(c) real-time notification protocols for exceedances to adjoining building owners to be devised in consultation with adjoining landowners; and

(d) justification for the adequacy of proposed mitigation and response measures.

4.5 As noted above, the LEC is obtaining further expert advice regarding the Asbestos Report. The LEC reserves its right to make a further submission in this regard.

5 Key issue 5: Inadequate monitoring and reporting protocols proposed for structural movement and unknown structural deficiencies

5.1 The CMP does not propose any structural movement or vibration monitoring of adjoining buildings (including the LEC). This is unacceptable and inappropriate given the scale of heavy demolition and decasement works.

5.2 Page 14 of the CMP discusses geotechnical investigations and states that 'monitoring may be required during the de-loading and excavation phases, allowing for immediate identification and management of potential impacts on the surrounding assets.' However, this is discretionary and appears to be primarily focused on TfNSW assets, not on the potential for impacts to neighbouring properties such as 225 Macquarie Street.

5.3 As noted above, the CMP refers to a dilapidation and pavement condition survey for 'existing, adjoining, and adjacent structures', but the post-works survey is only proposed for 'public property'. There is no explicit commitment to pre- and post-works dilapidation surveys or rectification for private adjoining properties such as 225 Macquarie Street.

5.4 ***Additional information required:*** Council should require the proponent to address these risks explicitly and prior to determination, including by:

(a) proposing a regime for structural movement or vibration monitoring of adjoining ; and

(b) committing to pre- and post-works dilapidation surveys for all adjoining properties, and to real-time structural movement and vibration monitoring for sensitive receivers such as the LEC.

6 Key issue 6: Conflicting information

6.1 A review of the DA documentation reveals a number of inconsistencies and contradictions between key documents, particularly in relation to the assessment and management of impacts on the LEC.

6.2 These inconsistencies undermine the reliability of the DA information as a whole and raise significant concerns regarding the adequacy of the proposed mitigation measures and Council's ability to make an informed determination. For example:

(a) The CNVMP notes that the LEC has been in consultation with the Applicant's contractor and consultant in relation to current works being undertaken. However the report misstates the matters agreed. For example, the NMLs for the LEC referred to in the CNVMP do not reflect the agreed standards, and the agreements referenced relate specifically to Stage 1 works. See the Arup Memo for further details.

(b) The CNVMP (p 9) defers vibration assessment to future site testing, while the SEE (p 41) asserts impacts will be 'significantly below' risk levels. These statements are inconsistent and create uncertainty about the actual impacts to the LEC.

(c) The CNVMP and CMP mention boundary monitoring and 'immediate review and mitigation' for exceedances, but contain no information about how this 'immediate mitigation' could occur and lack commitments to providing real-time data access or direct notification to the LEC.

(d) The CMP (p 13) refers to dilapidation surveys for 'adjoining structures' but only commits to post-works surveys for public property, omitting any explicit commitment to private neighbours such as the LEC.

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[redacted]

[redacted]

[redacted]

[redacted]

ARUP

Technical memorandum

Project title	225 Macquarie Street
Job number	312842
File reference	312842-AC08 v1
To	Sarah Froh <Sarah.Froh@justice.nsw.gov.au>; Donette Holm <Donette.Holm@justice.nsw.gov.au>; Vince Panuccio <vince.panuccio@dcj.nsw.gov.au>; Patrick Bassil <patrick.bassil@dcj.nsw.gov.au> Rourke, Felicity <Felicity.Rourke@allens.com.au>; Tan, Eugene <Eugene.Tan@allens.com.au>; Zumot, Layth <Layth.Zumot@allens.com.au>
Prepared by	Ida Larrazabal <ida.larrazabal@arup.com> Glenn Wheatley <Glenn.Wheatley@arup.com>
Date	23 December 2025
Subject	65 MP Stage 2 DA CNVMP | Acoustic review

Level 5 151 Clarence Street Sydney NSW, 2000 Australia
t +612 9320 9320
arup.com

1. Introduction

This technical memo summarises an independent review of the 65 Martin Place (65 MP) Stage 2 Construction Noise and Vibration Management Plan (CNVMP) (20250936.11/2810A/R0/SN issued 14 Nov 2025) prepared by Acoustic Logic Consultancy. The review has been undertaken to assess the adequacy of the proposed management framework and its alignment with the consultation to date with the Land & Environment Court (LEC).

This review focuses on key aspects of the CNVMP relevant to the LEC at 225 Macquarie Street (Levels 1, 3 to 5 and 11 to 13), including:

- Noise and vibration management levels
- Noise predictions, and
- Noise and vibration management and monitoring methodology.

This review is based on the information provided in the current CNVMP. It does not include independent quantitative assessment or site measurements.

A detailed review of Built's Construction Methodology Plan (Demolition and Reconstruction) against the CNVMP has not been undertaken due to the timeframe available for this response.

2. Specific considerations for LEC use

The use of the LEC includes courtrooms, judges' chambers, assessors' offices, and mediation rooms. The functional use of such spaces introduces a higher level of sensitivity to construction noise. These spaces require low noise and vibration environments to support:

- Speech intelligibility during court proceedings

- Concentration during Reporting Services Branch (RSB) transcription, and
- Accuracy of recordings during court proceedings that may be required for evidence.

Should construction works adversely affect court proceedings, e.g. compromised recording or transcription, there is a risk of disruption, delay or the need for the proceedings to be repeated. This will have associated implications for the administration of justice and the efficient use of public resources.

Consistent with concerns previously raised by the LEC, these uses warrant robust noise and vibration management processes to ensure legal proceedings are not compromised or unduly impeded.

3. Key issues identified in the CNVMP

The LEC has been in consultation with the Applicant’s contractor and consultant in relation to current works being undertaken (D/2025/406 (PAN-532712). While this is noted in the CNVMP, the report misrepresents agreements reached. Any agreements were also specifically related to the current works.

Regarding the submitted CNVMP, several inadequacies have been identified, including:

- the agreed approach to managing construction impacts on the LEC including the applicable NMLs and assessment time periods is not outlined
- internal noise predictions are not included
- insufficient detail regarding the assessment for the external noise impacts, and
- does not fully reflect the monitoring approach discussed and agreed in principle with Built/Acoustic Logic and LEC.

3.1 LEC operating hours

The CNVMP does not reference the LEC operating hours. While the LEC can operate between 8:30 am and 4:30 pm, the most critical times have been identified as 9:00 am to 4:30 pm. These hours should be stated to inform construction staging, mitigation measures, respite planning, and management responses.

3.2 Noise Management Levels (NMLs)

3.2.1 Internal NMLs

The CNVMP does not accurately describe the agreed basis for establishing the NMLs for LEC spaces, nor does it consistently reflect the agreed NMLs.

- For non-critical LEC spaces such as the general offices, meeting rooms and conference rooms, the NML was agreed to be ‘BG + 10’.
- For the critical LEC spaces such as court rooms, judges’ chambers, assessors’ offices and Registrar’s office, a range of ‘BG + 2’ to ‘BG + 5’ was agreed following consultation and demolition trial testing in October 2025. A final single figure NML will be determined once the monitoring procedure is confirmed.
- In the absence of trial testing or internal predictions for the Stage 2 DA works, it is proposed that a conservative NML of ‘BG + 2’ be adopted.
- The measurement assessment period is to be reduced from 15 minute to 5 minutes. 15 minutes would delay response to potential excessive noise in the case of unattended real-time noise monitoring.

- Table 11 and Table 12 do not reflect the agreed internal NMLs for the LEC spaces, nor do they clearly identify the applicable assessment periods, including the agreed reduction in the assessment period from 15 minutes to 5 minutes. A combined table presenting the agreed NMLs is provided below:

Building / Occupancy	Time period	Space	NML criteria	Internal Noise Management Level dB(A)$L_{10,5min}$
LEC spaces (225 Macquarie St)	9:00 am to 4:30 pm	Offices	BG + 10	52
		Meeting / Conference Rooms	BG + 10	53
		Court rooms	BG + 2	41
		Judge's Chambers / Assessor's offices / Commissioner's chambers	BG + 2	41
		Registrar's Office	BG + 2	38

3.2.2 External NMLs

While the internal NMLs and management are likely to be most critical for the LEC, update of the external NMLs is requested.

Table 9, Section 4.3.1 of the CNVMP, presents the following external NMLs for LEC (225 Macquarie Street – R7). Despite the critical nature of the LEC use, the CNVMP has incorporated that additional + 5 dB allowance for the derived the NMLs, which are to be evaluated on a case-by-case basis. Given the internal NMLs, we are of the opinion that the external NMLs should be based on 'BG + 5 dB' during the critical hours of the LEC.

3.3 Quantitative assessment

The CNVMP does not include internal noise predictions for LEC spaces. Accordingly, the CNVMP has not fully evaluated the potential risk of impact to the LEC. Should there be uncertainty due to potential structure borne noise transfer, it is recommended that further trial testing be undertaken to validate any assumptions of predictions.

It is also unclear whether the external noise predictions appropriately reflect the potential impacts at the LEC, as the report does not identify the specific receiver or construction source locations. From brief review of the assumed source sound power levels and the minimal separation between the site and 225 Macquarie St, the predicted noise levels may not be representative of worst-case impacts.

3.4 Noise and Vibration Monitoring

Section 5.2.2 – Recommended Noise and Vibration Monitoring does not fully reflect the monitoring approach discussed and agreed in principle with the Built/Acoustic Logic and LEC. In particular:

- Due to restrictions on the use of audio enabled devices and the need for delineation between source and extraneous noise, an alternative monitoring procedure is to be deployed in LEC floors that enables use of vibration and ground-borne noise evaluation.
- Provision for real-time alerts to the LEC is also requested.
- The proposed vibration monitoring limits do not include explicit human comfort criteria, which are relevant to occupied LEC spaces.

4. Requested actions

Based on the findings of this review, it is requested that the City of Sydney and RBA give consideration to the sensitivity of the LEC when assessing noise and vibration impacts from the 65MP construction works.

The following matters are requested to be considered:

- The LEC be treated as a highly noise-sensitive receiver, having regard to the functional requirements of courtrooms, judges' chambers, assessors' offices, mediation rooms and registrar office.
- The CNVMP be updated prior to commencement of works to:
  - Include the critical LEC hours of 9:00am to 4:30pm,
  - Reflect the agreed NMLs for LEC spaces,
  - Clearly state the basis of establishing the NMLs, and,
  - Incorporate the agreed monitoring approach including ground-borne noise monitoring and real-time alerts.
- Additional information to be provided regarding the quantitative assessment in the CNVMP for peer review
- Should the proposal be approved, inclusion of conditions of consent that:
  - requires ongoing consultation with LEC,
  - requires trial testing outside of LEC critical hours prior to proceeding with potential high-noise and vibration generating works to verify potential impacts and/or mitigation effectiveness, and
  - refinement of the CNVMP and management of complaints where agreed NMLs are exceeded.

Allens
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia

T +61 2 9230 4000
F +61 2 9230 5333
allens.com.au

GPO Box 50
Sydney NSW 2001 Australia

ABN 47 702 595 758

6 February 2026

City of Sydney Council
Town Hall House
Gadigal Country
Level 2, 456 Kent Street
Sydney 2000

Attention*:* Brian Li

By email: dasubmissions@cityofsydney.nsw.gov.au

Dear Mr Li

D/2025/1160 - 65 Martin Place, SYDNEY NSW 2000 – Stage 2 remediation works Supplementary submission on DA on behalf of Land and Environment Court of NSW

As you know, we act for the Department of Communities and Justice (***DCJ***) which represents the Land and Environment Court of NSW (the ***LEC***). The Court owns and occupies 8 floors within the Windeyer Chambers building at 225 Macquarie Street, Sydney.

We refer to our letter dated 19 December 2025 seeking an extension of time to make a submission on behalf of the LEC, your response on the same day encouraging us to submit our final submission by 7 February 2026, and our interim submission dated 12 January 2026 (***Interim Submission***).

We are now writing to provide a supplementary submission with respect to the DA. This supplementary submission is supported by two technical reports:

- EHO Consulting letter report dated 5 February 2026 (***EHO Report***) which comments on and makes recommendations following their review of the *Consolidated Asbestos Report* prepared by Property Risk Australia dated 17 November 2025 and the *Asbestos Management Plan* prepared by Property Risk Australia dated 15 April 2025, both of which accompanied the DA; and
- Richmond + Ross letter report dated 2 February 2026 (***R+R Report***) which comments on and makes recommendations following their review of the following documents which accompanied the DA:
  - Structural Technical Memo dated 7 November 2025 prepared by TTW;
  - Building Code of Australia 2022 Amendment 2 (BCA) Capability Statement dated 12 November 2025 prepared by Group DLA;
  - Architectural drawings prepared by Architectus dated 7 November 2025; and
  - Construction Methodology Plan (Ref No 201694 dated 23 October 2025.

1 Summary

For the reasons given below, Council does not have sufficient information to proceed to determine the DA.

Our ref
lmfs 818506163v1 121422186 6.2.2026

In alliance with Linklaters

There is important information missing from the application materials, and the Construction Noise and Vibration Management Plan (***CNVMP***) prepared to accompany the DA is – by the proponent's own admission – out of date.

Until these deficiencies have been addressed, Council should not proceed to determine the DA.

If, following consideration of the additional information identified in this letter, Council is minded to recommend approval of the DA, this letter also sets out a number of recommendations as to conditions of consent which should be imposed.

2 Stage 2 Construction Noise and Vibration Management Plan

2.1 Our Interim Submission made a number of comments on the draft Stage 2 CNVMP dated 14 November 2025 submitted with the DA (under key issues 2, 3 and 6).

2.2 On 3 February 2026, representatives of the RBA advised us that they do not intend to proceed with the draft Stage 2 CNVMP in the form lodged with the Stage 2 DA. Instead, they confirmed that the draft Stage 2 CNVMP needs to be, and will be, updated following finalisation of the CNVMP relating to the Stage 1 DA (DA/2025/406).

2.3 Presently, therefore, the Stage 2 DA documentation before Council **does not reflect** the most recent form of the CNVMP being negotiated between the RBA's consultants and our client, and contains no qualification to this effect. Rather, the draft Stage 2 CNVMP is presented by the RBA as a completed document.

2.4 The public exhibition process has therefore proceeded on the basis of a document which the proponent now concedes does not reflect its proposed management measures.

2.5 Noise and vibration impacts are central, and in our view determinative, issues for this DA, particularly given:

(a) the proximity of highly sensitive receivers such as the LEC which is the closest and most seriously affected neighbour to 65 Martin Place; and

(b) the much more extensive nature of the works for which consent is being sought under the Stage 2 DA.

2.6 Council should not progress its assessment of the DA until it has received an updated draft Stage 2 CNVMP which demonstrates how noise and vibration impacts can be acceptably managed for the works subject to the DA.

2.7 As the DA presently stands, it is not capable of determination.

2.8 As Council is aware, we are in discussions with the RBA's representatives regarding amendments to the draft Stage 1 CNVMP. At a minimum, the amendments to that draft plan will need to be carried across into an updated version of the draft Stage 2 CNVMP. However, given that the scope of work in the DA to which the draft Stage 2 CNVMP relates is:

(a) materially greater in scale and intensity than the works to which the draft Stage 1 CNVMP relates; and

(b) is expected to involve different construction activities and equipment to those assessed in the draft Stage 1 CNVMP,

we expect that further, material updates to the draft Stage 2 CNVMP will be required.

2.9 Given the potentially serious implications for our client posed by the proposed development, and the critical importance of ensuring that the operations of the LEC can continue during its normal business hours without acoustic and vibration interruption, it is essential our client and its consultants be given a proper opportunity to review and comment on any updated draft stage 2 CNVMP provided by the proponent.

2.10 Our client's concerns in this regard are reinforced by the extent of excessively noisy and disruptive works already occurring at 65 Martin Place, including as recently as yesterday, which caused Court hearings to be interrupted. We will write separately to Council with a formal complaint in this regard.

3 Structural engineering matters – R+R Report

3.1 As foreshadowed in key issue 2(e) of the Interim Submission, the LEC sought expert advice regarding potential impacts of the proposed development on the structural stability of the LEC, and whether the mitigation measures proposed are adequate.

3.2 The R+R Report relevantly concludes the information accompanying the DA is inadequate, including that:

The documentation reviewed to date does not provide sufficient detail to demonstrate how the structural integrity of the adjoining property, nor the integrity of the shared boundary condition, will be protected during demolition and reconstruction. In particular, the methodology for sequencing removal of slabs, walls and structural elements at the boundary, the temporary works strategy, and the physical protective measures to prevent impact or collapse hazards affecting the Windeyer Chambers Building have not been adequately described.

3.3 The R+R Report recommends that additional information must be provided to enable assessment of a number of matters, all of which have the potential to affect our client's building (discussed below) and concludes that:

Until these matters are resolved, the risks to the safe operation and amenity of the Land and Environment Court building cannot be considered adequately addressed.

3.4 In light of these deficiencies in the DA material, Council does not have sufficient information to proceed to determine the DA.

3.5 We urge Council to require the proponent to provide additional information addressing the following key matters identified in the R+R Report:

(a) A detailed demolition and reconstruction sequencing plan for works along the southern boundary, including temporary stability measures.

(b) A temporary works design strategy demonstrating how structural stability will be maintained at all stages and how risks to the adjoining building will be controlled.

(c) Boundary protection details, including physical barriers, debris containment and exclusion zones.

(d) Clear documentation of the intended structural performance criteria for the modified building and how the proposed works will achieve those criteria without adverse impact on neighbouring properties.

(e) Confirmation of compliance with the current National Construction Code and Australian Standards.

3.6 Given the potentially serious implications for our client posed by the proposed development, we request that our client and its consultants be given a proper opportunity to review and comment on any supplementary information provided by the proponent.

4 Asbestos issues – EHO Report

4.1 As foreshadowed in key issues 2(d) and 4 of the Interim Submission, the LEC has now obtained advice regarding the adequacy of the proposed mitigation measures and any residual risks to the occupants of the LEC with respect to potential asbestos migration.

4.2 The enclosed EHO Report sets out the results of that review and contains a number of recommendations.

4.3 The LEC submits that it is essential that, if Council intends to recommend that consent be granted, conditions of consent be included to give effect to those recommendations. Specifically, conditions of consent should be imposed which:

(a) require the proponent to prepare the following documents for approval by Council prior to work commencing:

(i) Project-specific Asbestos Risk Management Plan;

(ii) Asbestos Removal Control Plan (***ARCP***) in accordance with the 'How to Safely Remove Asbestos Code of Practice, 2022';

(iii) Integrated contamination management plan;

(iv) Progressive destructive survey program during the removal works of areas not accessed; and

(v) A site specific re-occupation validation protocol.

(b) require copies of the documents referred to in (a), once approved by Council, to be made publicly available and copies provided to our client

(c) require the proponent to consult with the LEC during the preparation of the ARCP referred to above, and provide evidence to Council that adequate consultation has occurred,.

In light of the above, Council does not have sufficient information to proceed to determine the DA.

Yours sincerely

[redacted]

Encls.

EHO Consulting Pty Ltd
16/380 Pennant Hills Rd, Pennant Hills
Pennant Hills, NSW 2120
Ph: 02 9980 1742
E: info@ehoc.com.au
W: www.ehoc.com.au

05 February 2026

Job Number: JN06957
Allens
126 Phillip Street
Sydney

Attention: Layth Zumot

RE: Review of Asbestos Register and Management Plan of 65 Martin Place, Sydney

EHO consulting was commissioned by Mr Layth Zumot of Allens to review two documents related to asbestos management and upcoming removal from 65 Martin Place, Sydney. The aim of the review was to determine:

- Summarise findings
- If the documents are of sound professional standard
- Review the proposed control measures and risk to Department of Communities and Justice which represents the Land and Environment Court of NSW (LEC) who reside at Windeyer Chambers at 225 Macquarie Street.

Summary of the Consolidated Asbestos Register

The consolidated asbestos report identifies widespread asbestos contamination throughout the building, predominantly in the form of highly friable sprayed insulation ("Limpet") and vermiculite residue, as well as friable insulation debris associated with historical removal works.

Key Findings

1. **Primary Asbestos Type**
    - Sprayed insulation ("Limpet")
    - Vermiculite insulation and dust
    - Pipe insulation and lagging
    - Rope insulation
    - CAF (compressed asbestos fibre) gaskets
    - Insulation debris and residue

2. **Dominant Risk Profile**
    - The majority of asbestos identified is **friable**.
    - Many locations are **unsealed or poorly encapsulated**, creating a high potential for fibre release.
    - Significant contamination remains in:
        - Structural beams
        - Beam penetrations
        - Ceiling voids
        - Service risers
        - Plant rooms
        - Boiler and tank rooms
3. **Structural Contamination**
    - Sprayed insulation and vermiculite residue is present on beams and around penetrations on multiple levels.
    - In many areas, asbestos remains embedded in pitted and honeycombed concrete, making decontamination difficult.
4. **Mechanical and Hydraulic Systems**
    - Extensive friable asbestos associated with:
        - Boilers
        - Hot water pipework
        - Valves
        - Risers
        - Plantrooms
    - Pipe insulation debris is present throughout the building.
5. **Plant Rooms and Services**
    - Plant rooms and service ducts contain:
        - Friable insulation residue
        - CAF gaskets
        - Presumed friable insulation
        - Some non-friable bitumen adhesives and mastics

6. **Non-Friable Materials**
    - Limited to:
        - Bitumen adhesives
        - Duct mastics
        - Window/glazing mastics and
        - Some gaskets
    - These are generally in better condition and pose lower immediate risk if undisturbed.
7. **Waste and Remediation Implications**
    - Many finishes (plasterboard, tiles, timber, membranes, carpet) are presumed contaminated where fixed to affected substrates.
    - Large volumes are likely to require disposal as **Special Waste Asbestos (SWA)**.
    - Full remediation would require major intrusive removal and surface preparation.

Overall, the building should be considered **heavily contaminated with friable asbestos**, particularly in concealed and service areas.

Table 1-Level-by-Level Asbestos Summary

Level	Location / Area	Asbestos Material	Friability
Ground / Mezz	Beam penetrations	Vermiculite residue	Friable
Level 1	Beams	Vermiculite / sprayed insulation	Friable
Level 1	Beam penetrations	Vermiculite residue	Friable
Level 2	Beams	Sprayed insulation	Friable
Level 3	Beams	Sprayed insulation residue	Friable
Level 4	Beams	Vermiculite residue	Friable
Level 4	Column J / Slab	Insulation packing/residue	Friable
Level 4	Tank room	Pipe insulation residue	Friable
Level 5	Southern plantroom	Gaskets / insulation residue	Friable
Level 5	Southern plantroom	Bitumen adhesive	Non-Friable
Level 6	Service duct/riser	Insulation residue	Friable
Level 7	Beams (ceiling)	Sprayed insulation	Friable
Level 7	AHU plantroom	Millboard, gaskets, residue	Friable (Presumed)
Level 7	AHU plantroom	Bitumen adhesive	Non-Friable
Level 7	Service duct/riser	Dust/debris	Friable
Level 9	Service duct/riser	Dust/debris	Friable
Level 11	Beams (ceiling)	Sprayed insulation	Friable
Level 11	Service duct/riser	Dust/debris	Friable
Level 15	Beams (ceiling)	Partially sealed sprayed insulation	Friable
Level 17	Boiler room	Rope insulation	Friable
Level 17	Boiler room	Boiler lagging	Friable
Level 17	Boiler room	Pipe insulation residue	Friable (Presumed)
Level 20	Tank room	Heater insulation residue	Friable
Level 20	Hydraulic riser	Fibrous insulation debris	Friable
Multiple	Service ducts	CAF gaskets	Friable
Multiple	Throughout	Duct/window mastic	Non-Friable

Key Interpretation

- **Primary Hazard:** Friable sprayed insulation and vermiculite residue on structural elements.
- **Most Affected Levels:** 1–4, 7, 11, 15, 17, 20.
- **Highest Risk Areas:**
    - Boiler room (Level 17)
    - Ceiling spaces
    - Service risers
    - Plant rooms
    - Beam penetrations
- **Limited Lower-Risk ACM:** Mainly mastics and bitumen adhesives.

This building would be classified as **high-risk for disturbance works** and would require **Class A asbestos removal** for most major refurbishment or demolition activities and well as a **license asbestos assessor (LAA)** to conduct daily air monitoring and visual inspection.

Summary of the Asbestos Management Plan

The purpose of the document is to provide guidelines to manage known asbestos hazards during occupation, maintenance, and refurbishment works.

The AMP is designed to:

- Support compliance with WHS Regulation Clause 429
- Provide procedures for:
  - Access control
  - Removal
  - PPE
  - Air monitoring
  - Waste handling
  - Emergency response
- Reference the site asbestos register and consolidated survey findings

It is not a new survey document, but a **management framework** based on existing registers and investigations.

Risk Assessment Framework

Formal Risk Assessment System

The AMP contains a structured, semi-quantitative risk assessment methodology.

PRA applies a scoring system based on:

Material Assessment

Factor	Description	Score Range
Product Type (Friability)	Fibre release potential	1–15
Condition	Damage/deterioration	1–15
Surface Treatment	Encapsulation/sealing	1–15

Accessibility / Exposure

Factor	Description	Score Range
Work Activities	Likelihood of disturbance	1–15

Risk = Material Assessment + Accessibility

Risk Rating Categories

Score	Rating	Meaning
1–19	Low	Minimal risk
20–48	Moderate	Restricted access, remediation
>48	High	Immediate remediation

Management Actions by Risk Level

Rating	Required Action
Low	Monitor only
Moderate	Restrict access, remediate within 6 months
High	Immediate control/removal

Level-by-Level Asbestos Information

The management plan confirms that ACM is present throughout the building and typically located in:

- Service ducts
- Risers
- Plant rooms
- Structural areas
- Exclusion zones

Based on cross-reference to the consolidated report, the primary known materials are:

Table 2-Summary Table (From AMP + Linked Reports)

Area / Level	Material Type	ACM Type	Friability	Risk Basis
Multiple Levels	Sprayed insulation (Limpet)	Insulation residue	Friable	High product score
Multiple Levels	Vermiculite	Insulation / debris	Friable	High
Plant rooms	Gaskets, lagging	CAF / insulation	Friable–Moderate	Moderate–High
Service risers	Dust / residue	Asbestos dust	Friable	High
Ducts / services	Mastics	Bitumen / sealant	Non-friable	Low

Generic Controls and Management Measures

The AMP details comprehensive control systems, including:

Access and Zoning

- Asbestos Exclusion Zones (AEZ)
- Signage
- Entry procedures
- Restricted personnel

PPE and Respiratory Protection

- AS/NZS 1715 compliant RPE
- P2 minimum
- Risk-based selection
- Fit testing
- Supervisor oversight

Monitoring and Testing

Includes:

- Air monitoring
- Equipment calibration
- Exceedance notification
- Clearance inspections

Health Monitoring

Long-term health surveillance required:

- Baseline
- Periodic
- 40-year record retention

Note this is more applicable to the asbestos removal contractor and the LAA

Removal and Licensing

Clear compliance with licensing:

- Class A for friable
- Class B for non-friable
- Notification requirements

Specific Risk Assessments Conducted

What Is Included

The AMP confirms that:

1. Every register item is risk scored
2. Material condition is assessed
3. Accessibility is assessed
4. Work activity risk is assessed
5. Risk ratings drive remediation

This constitutes a **formal, systematic risk assessment framework**.

What Is Not Included

The AMP does **not** include:

- Individual risk scores per location (This is found in the register)
- Exposure modelling (It is not known if air monitoring has been conducted)
- Personal exposure history (Information not available)
- Control air monitoring and fibre concentration data (except via separate monitoring reports)

It is a management document, not a detailed exposure study, nor an asbestos removal control plan (ARCP). Note an ARCP is provided by the asbestos removalist and reviewed by the LAA.

Identified Limitations (Stated in Document)

The AMP and linked reports acknowledge:

Survey Limitations

No survey can locate all asbestos without destructive methodology. A full pre-demolition survey has not been conducted throughout and it is only a targeted inspection (Consolidation of various reports throughout the years).

Key constraints:

- Occupied floors limited intrusive access
- Time restrictions
- Fit-out could not be disturbed
- Concealed voids not fully inspected

Note, a full access is normally only possible prior to commencement of demolition / remediation works.

Reliance on Assumed Materials

The AMP accepts assumed ACM where sampling was impractical. Additional items may come into light if all assumed/presumed items were sampled.

Professional Assessment: Gaps and Missing Considerations

Based on the document content, the following gaps are evident.

No Standalone Site-Specific Exposure Assessment

Although risk scoring exists, there is:

- No comprehensive exposure risk study
- No cumulative exposure analysis
- No worker task-based exposure modelling

Risk is qualitative/semi-quantitative, not epidemiological.

Please note, such studies are not the norm and the report has been conducted to a very professional standard. The above points are from an occupational hygiene perspective and not industry standard.

No Detailed Remediation Prioritisation Matrix

The AMP provides general timelines, but lacks:

- Integrated building-wide priority sequencing
- Cost–risk optimisation
- Dependency mapping between zones

This is important for staged refurbishments. It should form part of the ARCP and would not be available at this stage.

Limited Contractor Interface Risk Management

The AMP does not comprehensively cover:

- Multi-contractor coordination risks
- Interface contamination
- Shared access routes
- Material transfer pathways

Which is significant in large refurbishments. It should form part of the ARCP and would not be available at this stage.

Overall Professional Evaluation

Strengths

✓ Comprehensive regulatory compliance

✓ Formalised risk scoring system

✓ Clear control procedures

✓ Strong documentation structure

✓ Integrated health monitoring

Weaknesses

- Reliance on external registers
- Limited quantitative exposure analysis
- Incomplete legacy contamination controls
- Limited strategic remediation planning (To be finalised at removal stage)
- Reactive rather than predictive risk management (A note for the PCBU)

Summary Conclusion

Overall, any asbestos removal project can be divided into 4 main sections:

1. Identification of asbestos and risk assessment (Covered under the Consolidated Asbestos Register in this project).
2. Manage the asbestos risk, normally in an asbestos management plan, which is reviewed every 5 years (Current document PRA asbestos management plan).
3. Appoint a licensed asbestos removal contractor and LAA for safe removal of asbestos under monitored and controlled conditions. Generate ARCP and other project related documents which may or may not include exposure monitoring (This project appears not to be at this stage yet as they are awaiting DA approval).
4. Final stage is re-occupation clearance monitoring and visual examinations by LAA and re-occupation of the building.

This AMP and Register:

- Includes a structured, defensible risk assessment framework
- Meets WHS and SafeWork NSW requirements
- Is suitable for operational asbestos management

However:

It does **not** function as a full project risk strategy for major redevelopment involving extensive friable contamination.

For high-risk works, additional documentation should be developed:

Recommended Supplements

1. Project-specific Asbestos Risk Management Plan
2. Asbestos Removal Control Plan. In accordance to "How to safely remove asbestos Code of practice, 2022" page 20:
    - *As a licensed asbestos removalist you must prepare an asbestos removal control plan for any licensed asbestos removal work you are commissioned to undertake*.
3. Integrated contamination management plan
4. Progressive destructive survey program during the removal works of areas not accessed
5. Re-occupation validation protocol which may be site specific.

- Develop a **client-facing compliance and gap analysis report**, or
- Prepare a **remediation priority and staging matrix**.

It is recommended that, once the Asbestos Removal Control Plan (ARCP) is in place and prior to the commencement of removal works, the control measures proposed by the removalist be reviewed and verified for adequacy.

Furthermore, if the two properties share any voids, service penetrations, or boundary walls that may allow air movement between buildings, the client should consider undertaking air monitoring within Windeyer Chambers as an additional precautionary measure and to provide further assurance.

It is noted that the air intake for the Windeyer Chambers air conditioning system is located less than 10 metres from the boundary brick wall. A solid brick wall is expected to act as an effective barrier during internal asbestos removal works at 65 Martin Place. However, should external asbestos removal works be undertaken at the site, it is recommended that air monitoring be conducted throughout the works to verify that no fugitive asbestos fibres enter the air intake zone serving the Chambers.

If you have any further queries on this matter, please do not hesitate to contact me.

Farzad Jalali
Occupational Hygienist BSc Hons MSc MAIOH

Richmond+Ross PTY LIMITED
A.B.N 34 001 485 436

CONSULTING ENGINEERS AND PROJECT LEADERS

SUITE 2.02, 1 CHANDOS STREET
ST LEONARDS NSW 2065
PH: (02) 9490 9600 FAX: (02) 9438 1224
EMAIL: info@richmondross.com.au

Department of Communities and Justice **2 February 2026**
c/- Ref No: 26-0017
Allens
Via email: Felicity Rourke <felicity.rourke@allens.com.au>, Layth Zumot <layth.zumot@allens.com.au>

Dear Felicity & Layth,

RE: PRELIMINARY REVIEW OF STRUCTURAL IMPACT OF PROPOSED WORKS TO 65 MARTIN PLACE, SYDNEY ON LAND AND ENVIRONMENT COURT AT 225 MACQUARIE STREET, SYDNEY

1. INTRODUCTION

We, Richmond + Ross Pty. Ltd., being consulting structural engineers, have been engaged to provide structural advice in relation to the impacts upon the Land and Environment Court operations of the proposed development of the adjoining building at 65 Martin Place, Sydney, which is the subject of the Development Application no D/2025/1160. The review was carried out at the request of ***Felicity Rourke & Layth Zumot*** of ***Allens***.

The review was conducted by a qualified and experienced structural engineer. We refer to the following documents below within our review;

Document Reference	Prepared by	Date & Revision
Structural Technical Memo – Reserve Bank of Australia	TTW	07/11/2025 rev2
Building Code of Australia 2022 Amendment 2 (BCA) Capability Statement (GDL50272)	Group DLA	12/11/2025
Architectural Drawings (145 drawing sheets)	Architectus	07/11/2025 revA
Construction Methodology Plan – Demolition & Reconstruction (Ref No. 201694)		23/10/2025

Unless otherwise stated, the following matters are specifically excluded from the assessment:

- Noise and vibration impact assessment
- any subsurface, other inaccessible spaces or otherwise hidden aspects and;
- health regulations and requirements.

We accept no responsibility to third parties under the law of contract, tort, or otherwise for any loss or damage resulting from this report.

2. DOCUMENTATION REVIEW & COMMENT

The proposed works to 65 Martin Place are outlined to be *"substantial redevelopment of the existing building, including further remediation, retention of the existing basement and steel frame structure, installation of new slabs and external facades, construction of a new building core and a new roof pavilion, reconstruction of the Malcolm Munro Garden on Macquarie Street, and associated internal works, heritage works, landscaping, and public domain works"*

The Windeyer Chambers Building, which contains the Land and Environment Court, is located directly adjacent to the site's southern boundary.

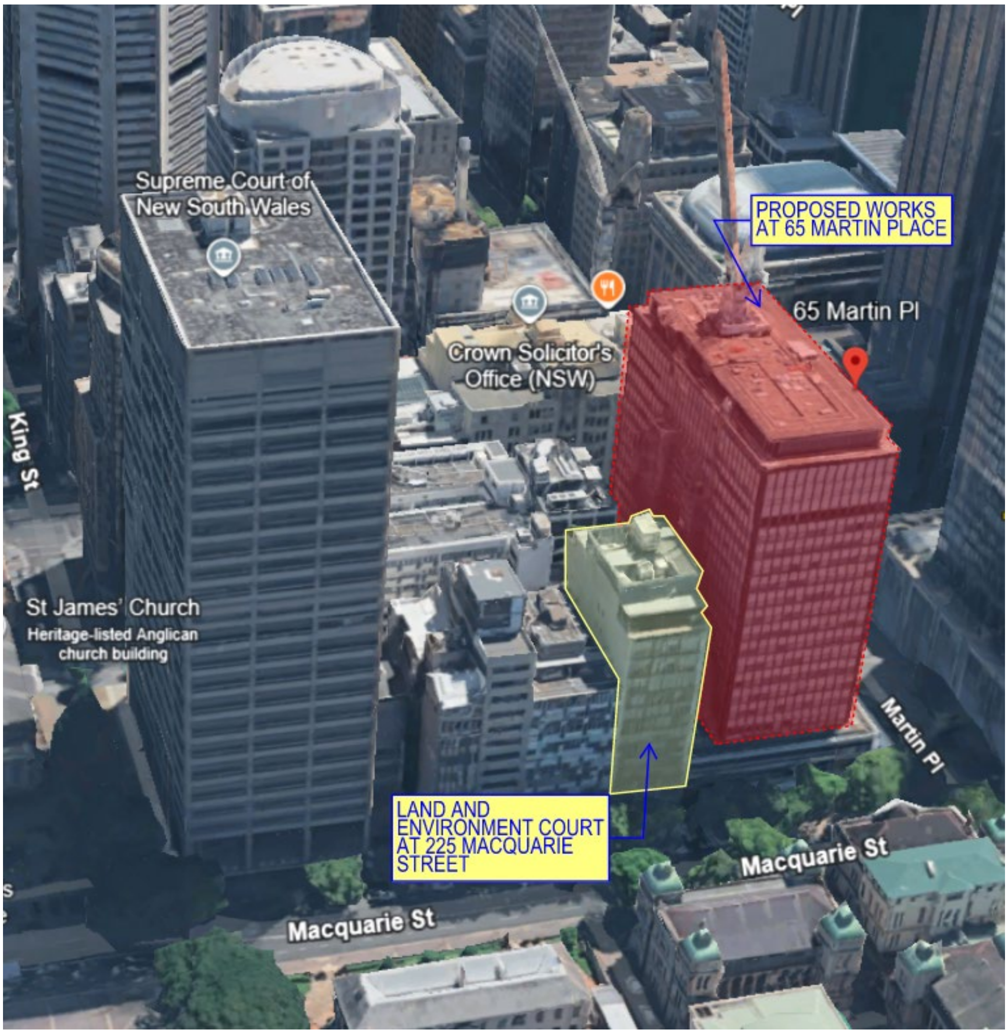

Figure 1 – Building/Site Location (Google Earth)

Group DLA

".... we note that specific detailed compliance with the BCA is not a prescribed head of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979 and accordingly, we trust that the determination of the development application will not be subject to the assessment of any technical matters under the state's building regulations."

Given the scale of the works, it would be appropriate to demonstrate compliance with the current NCC, particularly with respect to fire separation along the adjoining boundary to the Windeyer Chambers Building.

TTW

"For the elements within the existing structure subject to modifications and/or alterations, as a minimum requirement, we propose to demonstrate:

- *Verification that the existing structure can adequately support the proposed new gravity loads in accordance with the with the Dead and Imposed Loading Provisions under the NCC (AS1170.0 and AS1170.1)*

- *Verification that the proposed additional loads and/or alterations do not cause a decrease in the existing structural performance of the building, including its performance under earthquake actions (AS1170.4) and wind (AS1170.2).*

The existing Tower structure would have been designed in accordance with the relevant Australian Standards in the 1960s and 1970s. The existing structure would not necessarily have been designed in a way that would satisfy modern regulations and design requirements related to lateral analysis. Therefore, it is proposed to demonstrate that the additional loads and alterations within the existing building, inclusive of the floor extension, do not reduce its existing structural performance. Consequently, it is proposed that the existing building will not be re-certified under the modern wind and seismic code requirements.

The strategy for Certification is to be confirmed through discussion with the PCA and project Stakeholders".

The proposed works involve significant structural modifications. 18 of the existing building's 20 floors are being reconstructed, including the main core, which provides lateral stability. The new work will affect the existing steel-framed structure; therefore, it should comply with current standards and building codes.

Construction Methodology Plan

*"**1.2. Objectives***
The primary objectives of Stage 2 are to:

- ***Minimise risk**: By reconstructing the building structure to meet the BCA and NCC requirements of today to ensure the building can be certified for the long term..."*

This is a direct contradiction between the CMP and that what has been noted within the specialist reports provided by the BCA Consultant and Structural Engineers.

> *"**...Minimised Disruption to Stakeholders**: The CMP includes strategies to reduce disruption to neighbouring stakeholders, ensuring ongoing operations within adjacent buildings and minimizing impacts on the surrounding community whilst working within the agreed work methodologies."*

There is insufficient information about the protective measures to be provided for the boundary adjoining the Windeyer Chambers Building. Furthermore, there is also insufficient information on the demolition methodology and sequence of the walls and slabs along the adjoining boundary.

3. DISCUSSION/CONCLUSION

The documentation reviewed to date does not provide sufficient detail to demonstrate how the structural integrity of the adjoining property, nor the integrity of the shared boundary condition, will be protected during demolition and reconstruction. In particular, the methodology for sequencing removal of slabs, walls and structural elements at the boundary, the temporary works strategy, and the physical protective measures to prevent impact or collapse hazards affecting the Windeyer Chambers Building have not been adequately described.

Further, the stated position that the existing structure will not be reassessed against current code requirements, combined with the extent of structural modification proposed, introduces uncertainty regarding the final performance of the building and the implications for adjoining properties. Where significant new structural work is introduced into an existing frame, it is reasonable to expect clear demonstration that the modified structure meets contemporary safety expectations, or that any departure is technically justified and does not increase risk to neighbouring buildings.

Accordingly, in our professional opinion, the Development Application should not be determined without additional information addressing the following key matters:

- A detailed demolition and reconstruction sequencing plan for works along the southern boundary, including temporary stability measures.
- A temporary works design strategy demonstrating how structural stability will be maintained at all stages and how risks to the adjoining building will be controlled.

- Boundary protection details, including physical barriers, debris containment and exclusion zones.
- Clear documentation of the intended structural performance criteria for the modified building and how the proposed works will achieve those criteria without adverse impact on neighbouring properties.
- Confirmation of compliance with the current NCC and Australian Standards

Until these matters are resolved, the risks to the safe operation and amenity of the Land and Environment Court building cannot be considered adequately addressed.

This report shall not be construed as relieving any other party of their responsibilities, liabilities or contractual obligations.

Yours faithfully,

Raghav Bharadia
Senior Structural Engineer
BE(Civil) MIEAust NER (Structural) 4110055
for Richmond + Ross Pty Ltd

Allens
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia

T +61 2 9230 4000
F +61 2 9230 5333
allens.com.au

GPO Box 50
Sydney NSW 2001 Australia

ABN 47 702 595 758

11 March 2026

City of Sydney Council
Town Hall House
Gadigal Country
Level 2, 456 Kent Street
Sydney 2000

Attention*:* Bryan Li

By email: dasubmissions@cityofsydney.nsw.gov.au ;
bli@cityofsydney.nsw.gov.au

Dear Mr Li

D/2025/1160 - 65 Martin Place, SYDNEY NSW 2000
Further submission on DA on behalf of Land and Environment Court of NSW

1 Introduction

As you know, we act for the Department of Communities and Justice (***DCJ***) which represents the Land and Environment Court of NSW (the ***LEC***). The Court owns and occupies 8 floors within the Windeyer Chambers building at 225 Macquarie Street, Sydney.

This letter provides additional comments and recommendations for consideration by Council in its assessment of development application D/2025/1160 (***Stage 2 DA***) and should be read alongside the recommendations set out in our previous submissions dated 12 January 2026 (***January Submission***) and 6 February 2026 (***February Submission***).

This further submission (***March Submission***) is necessary because the development for which the Stage 2 DA seeks consent has changed over time, most notably by:

- the proponent's reliance on an amended draft Stage 2 CNVMP (Rev 2) (the ***draft Stage 2 CNVMP***), with which this March Submission is principally concerned; and
- reportedly, proposing what we understand to be a material change to the scope of works affecting our client, namely retention of the southern wall of the RBA building.

We say 'reportedly' because despite our recent requests for copies of the relevant amended DA documentation,[1] no documents have been provided to us, nor made available on Council's DA tracker website. Our client has accordingly had no opportunity to understand whether these reported amendments address – or exacerbate – any of the concerns raised in the January and February Submissions, nor how the proponent proposes to carry out those works by utilising areas within and access through our client's property which has not been agreed.

The LEC is not opposed to the proposed development in principle. The LEC remains willing to work constructively with the proponent and Council to put in place sensible and practical arrangements that will allow the proponent to carry out its development while ensuring that the LEC can continue its essential

[1] Our emails to Council dated 27 February 2026, 6 March 2026 and 9 March 2026..

operations without interference, and with sufficient advance notice of any 'noisy works' that our client has a genuine opportunity to make alternative arrangements where it is feasible to do so.

Regrettably, that has not been our client's experience of the project to date. This includes our client's very recent experiences in February and March 2026:

- of requesting advance notice of 'noisy works' only to be given less than 1 hour's notice or no notice at all; and
- where repeated noise complaints made by the LEC following the process set out under the now-approved Stage 1 CNVMP have been unanswered by Built.

As recently as last week, the LEC made two complaints on 2 and 3 March 2026 to Built in relation to excessively noisy works that were interrupting Court proceedings. Those complaints were not responded to until 5 March 2026, at which time the representative of Built informed our client that the nominated email address was not being actively monitored, and advised them to contact the contractor directly to make complaints.

This means that the LEC's operations have been disrupted without any real-time mechanism to address or rectify impacts.

It is in this context that our client submits that it is imperative for Council:

- not to determine the Stage 2 DA until it is satisfied that all of the impacts of the proposed development – including impacts on neighbours – have been fully assessed, and
- most critically, until there is a framework in place to prepare a comprehensive and effective Construction Noise and Vibration Management Plan.

2 Draft Stage 2 CNVMP

2.1 Overview

For the reasons set out below, the draft Stage 2 CNVMP is inadequate and requires major revision before it is in a form which Council could be satisfied will effectively manage construction noise and vibration impacts, especially impacts to the closest and most affected sensitive receivers including the LEC.

Our comments in the January and February Submissions concerning the (then) draft Stage 2 CNVMP have been overtaken by the revised draft Stage 2 CNVMP which was uploaded to Council's DA tracker website in late February 2026 (following our discussion with Mr Li on 23 February 2026).

We identify in the following paragraphs a number of specific deficiencies which need to be rectified in an amended version of the draft Stage 2 CNVMP.

2.2 Proposed works have not been tested

No trial testing of proposed works has been undertaken to inform the draft Stage 2 CNVMP.

The primary control measure for noise impacts in the Stage 1 CNVMP was to restrict activities that are deemed 'unacceptable' following trial testing and only to permit those works to occur outside of the respite period.

Given that trial testing has not occurred with respect to the proposed Stage 2 DA works, the potential impact of those works on LEC operations is not currently known and therefore cannot be properly assessed or regulated in the Stage 2 CNVMP.

As outlined in our February Submission, the scope of work under the Stage 2 DA is:

(a) materially greater in scale and intensity than the works to which the draft Stage 1 CNVMP relates; and

(b) expected to involve different construction activities and equipment to those assessed in the draft Stage 1 CNVMP.

Further, experience has shown our client that the location of works within the RBA site significantly affects the level of impact on the LEC, so a proper understanding of where the equipment is likely to be used is critical for the preparation and implementation of the CNVMP.

Recommendation 1

The draft Stage 2 CNVMP must be updated to:

- reflect the specific works proposed to be carried out under the Stage 2 DA.
- confirm the location, extent and type of equipment to be used for the works set out in section 3 of the draft Stage 2 CNVMP
- require trial testing of any works that are likely to generate noise/vibration to determine impact to LEC operations and therefore to determine the appropriate hours during which those 'noisy works' may occur.
- Provide that any works that are found to have an unacceptable impact following trial testing should be restricted to occur outside of the respite period.

2.3 Extended respite period is required

As Council is aware from our recent correspondence, there were instances in February 2026 when Court hearings could not continue and had to be adjourned, and where judges and Court personnel have been unable to work in their offices within normal business hours. In particular, excessively noisy, intrusive and disruptive works have commenced from exactly 4:30 pm on multiple occasions, resulting in significant disturbance to judicial officers and interruption of Court proceedings.

As set out above, the current arrangements for complaints, and for provision by the contractor of look-forward programs of noisy works under Stage 1 CNVMP, are inadequate and continue to have substantial impacts on the LEC's operations.

Recommendation 2

In the absence of trial testing to determine the nature and extent of 'noisy works', the Stage 2 CNVMP should contain an expanded respite period to apply between **7:00 am** and **7:00 pm**.

2.4 Default noise management levels (*NML*) for LEC to be adopted in the absence of testing

The internal NMLs at Table 13 of the draft Stage 2 CNVMP require review through further consultation and trial testing of the construction works proposed under the Stage 2 DA.

Recommendation 3

In the absence of trial testing or internal predictions for the Stage 2 DA works, a conservative NML of 'BG+2' should be adopted.

2.5 Inadequate prediction of noise impacts

The predicted noise impacts set out in Table 17 of the draft Stage 2 CNVMP do not include internal noise predictions for LEC spaces and therefore do not fully evaluate the potential risk of impact on the LEC's operations.

Recommendation 4

The external noise predictions in Table 17 of the draft Stage 2 CNVMP must be updated as they currently do not identify specific receiver or construction source locations. The minimal separation between the site and 225 Macquarie Street is not representative of worst-case impacts.

Once that information is included, trial testing is required to validate the assumptions underpinning these predictions.

2.6 Noise and vibration monitoring data to be shared with LEC

As set out in our January Submission, noise and vibration monitors are proposed to be installed at or within the LEC (identified as sensitive receivers R6 and R7). However, the CNVMP does not commit to providing the LEC with direct access to monitoring data.

Instead, the Court would be entirely dependent on reporting by the contractor (section 5.2.2.6 of the CNVMP). There is no commitment to real-time dashboards, automated alerts, or the sharing of raw data with the LEC or other sensitive receivers.

Recommendation 5

The proponent should be required to provide the LEC with direct access to noise and vibration monitoring data being gathered by the proponent, promptly upon request. This requirement should be imposed either as a condition of consent, or as a required amendment to the draft Stage 2 CNVMP.

2.7 More rigorous requirement to provide forward-looking program of noisy works, and requirement to consult

The LEC's recent experience is that, when pressed, Built is capable of producing useful and detailed information about upcoming noisy works.

This is welcome, and should be made a requirement of the CNVMP.

The CNVMP should also require Built to engage in regular consultation with the LEC about programming of upcoming noisy works, to explore whether that program can be tailored in a way which will ensure continuity of the LEC's operations.

Recommendation 6

<u>Forward program</u>

The Stage 2 CNVMP must be updated to require the proponent to provide information on a rolling monthly basis about the next 4 weeks' works schedule. At a minimum this should include:

- about the location of the dominant noise source(s) on the RBA floorplate;
- details of the sequencing of noisy works across the levels;
- the extent of concurrent works; and
- details of the equipment to be used.

<u>Consultation</u>

The Stage 2 CNVMP must be updated to require the proponent to meet with a representative of the LEC at least fortnightly to assess whether and how the upcoming scheduled works program can be tailored in a way which will ensure continuity of the LEC's operations.

2.8 Effective complaints management protocol

As discussed above, the complaints management protocol applicable to the Stage 1 DA, and reproduced in section 5.3 of the draft Stage 2 CNVMP, has proven inadequate and ineffective.

An effective complaints response procedure is essential to enable the Court to continue hearings without interruption.

Recommendation 7

The complaints response protocol in the draft Stage 2 CNVMP must be updated to require:

- the provision of a telephone 'hotline' which is required to be attended at a minimum between 7:00am and 7:00pm on weekdays; and
- compliance with the procedures set out in section 5.3.2 of the draft Stage 2 CNVMP.

3 Council should defer determination of DA until further information is provided

For the reasons outlined above, and in our January and February Submissions, Council should defer determination of the DA until:

(a) **works on adjoining land**: Council is satisfied that no works are proposed to be carried out upon, or in reliance upon, access being obtained through, over or within the adjoining premises at 225 Macquarie Street Sydney in which the LEC is located. If **any** work is proposed on or over 225 Macquarie Street, the Stage 2 DA must be refused because owner's consent has not been provided (see January Submission, key issue 1); and

(b) **noise and vibration impacts**: Council is satisfied that the missing information in relation to noise and vibration impacts to enable Council to assess the impacts of the proposed development, has been provided and thoroughly assessed (see January Submission, key issue 2(c)); and

(c) **asbestos removal**: Council is satisfied that there has been a comprehensive assessment of how asbestos removal or disturbance will be managed to prevent cross-boundary contamination, together with a justification as to why the proposed approach is acceptable (see January Submission, key issue 2(d)); and

(d) **damage to private property**: Council has received further information and is satisfied as to how damage to private property, including to the LEC and 225 Macquarie Street, will be avoided, and if it cannot be avoided, how it is justified (see January Submission, key issue 2(e))

(e) **indoor air quality monitoring**: The proponent has agreed to carry out indoor air quality monitoring within sensitive adjoining buildings, including the LEC, having regard to the presence of extensive friable asbestos in the existing façade and the likelihood of prolonged demolition and decasement works, and Council is satisfied that an appropriate protocol for notification and response is in place in the event of dust or air quality exceedances (see January Submission, key issue 4)

(f) **CMP updates**: The Construction Management Plan has been updated to include a proposal for structural movement or vibration monitoring of adjoining buildings (including the LEC), and Council is satisfied with those updates (see January Submission, key issue 5)

(g) **updates to draft Stage 2 CNVMP and consultation**: the works proposed under the draft Stage 2 CNVMP have been tested, the draft Stage 2 CNVMP has been updated, and further consultation with the LEC has occurred (as outlined in this March submission).

Council should not defer any of these matters to post-approval requirements given that they go to essential matters which are required to be considered at the time of determination, under s4.15 *Environmental Planning & Assessment Act 1979 (NSW).*

4 Alternative recommendation – conditions of consent

In the event that Council does not agree to defer determination of the DA (as is our primary submission in section 3) and instead receives a recommendation for approval and is prepared to entertain that recommendation, we urge Council to impose conditions of consent which:

(a) give effect to Recommendations 1 – 7 set out in this March Submission and require the draft Stage 2 CNVMP to be updated to address the recommendations in this March Submission, in genuine consultation with the LEC; and

(b) impose a condition of the following kind to ensure that the updated draft Stage 2 CNVMP (and any subsequent amendments to it) are the product of genuine and meaningful consultation with the LEC:

(#) CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN – CONSULTATION WITH LAND AND ENVIRONMENT COURT OF NSW

(a) Prior to the commencement of any noise and vibration generating works approved by this consent, a final Construction Noise and Vibration Management Plan (CNVMP) must be prepared and submitted to Council's Executive Director City Planning, Development and Transport for approval.

(b) The CNVMP must be prepared in consultation with the Land and Environment Court of New South Wales (LEC) and must address the operational requirements of the LEC as a sensitive receiver, including but not limited to construction methodology, staging, respite periods, noise and vibration criteria, monitoring arrangements and complaints management procedures.

(c) The CNVMP submitted to Council must demonstrate that effective consultation has occurred with the LEC, and be accompanied by written confirmation from the LEC that the LEC is satisfied that the CNVMP adequately addresses potential noise and vibration impacts on the LEC's operations.

(d) Any amendments to the CNVMP approved under this condition which may increase noise or vibration impacts on the LEC must be prepared in consultation with the LEC and submitted to Council for approval, and must demonstrate that consultation has occurred with the LEC and be accompanied by written confirmation from the LEC that the LEC adequately addresses potential noise and vibration impacts on the LEC's operations.

We look forward to your response.

Yours sincerely

Felicity Rourke
Partner
Allens
Felicity.Rourke@allens.com.au
T +61 2 9230 4366

Layth Zumot
Associate
Allens
Layth.Zumot@allens.com.au
T +61 2 9230 5160