

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-67
DA Number	DA-906/2019
LGA	Liverpool City Council
Proposed Development	Early works DA for: • Demolition of all existing structures on land at 52 Scott Street, 40-46 Scott Street and 64 Scott Street; • Bulk earthworks to a maximum depth of RL 10.35, including shoring using piles, on land at 52 Scott Street, 40-46 Scott Street, 48 Scott Street and 64 Scott Street; and • Removal of seven (7) trees including six (6) trees on an adjacent site at 306-310 Macquarie Street. Note: no demolition or excavation works are proposed on 306-310 Macquarie Street.
Street Address	40-46, 48, 52 and 64 Scott Street, Liverpool NSW 2170 Known as 52 Scott Street, Liverpool ('Liverpool Civic Place')
Applicant/Owner	Applicant: Built Development Group; Landowner: Liverpool City Council
Date of DA lodgement	13 December 2019
Number of Submissions	Two (2)
Recommendation	Approved with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	The development is 'Council related development' with a capital investment value of over \$5 million.
List of all relevant s4.15(1)(a) matters	Environmental Planning Instruments (EPIs) • State Environmental Planning Policy No.55 – Remediation of Land; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; • State Environmental Planning Policy (Infrastructure) 2007;

	• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment; • Liverpool Local Environmental Plan 2008. Development Control Plans (DCP) • Liverpool Development Control Plan 2008 ○ Part 1 – Controls applying to all development ○ Part 4 – Development in Liverpool City Centre Regulations • Environmental Planning and Assessment Regulation 2000
List all documents submitted with this report for the Panel's consideration	1) Demolition Plans 2) Civil Engineering Drawings 3) Site Survey 4) Construction Management Plan 5) Structural Report 6) Arboricultural Development Impact Assessment Report 7) Waste Management Plan 8) Preliminary Geotechnical Assessment 9) Preliminary Site Investigation 10) QS Report 11) Heritage Impact Statement 12) Hazardous Building Materials Assessment 13) Historical Archeological Assessment 14) Geotechnical and Environmental Investigation Report 15) Aboriginal Heritage Due Diligence Assessment 16) Construction Noise and Vibration Management Plan 17) Contamination, Ecological and Flood Report 18) Water NSW Cover Letter and General Terms of Approval (GTAs), dated 5 May 2020 19) Transport for NSW Response, dated 12 May 2020 20) Applicant's Response to Council's Request for Additional Information, dated 14 April 2020 21) Applicant's Response to Council's Request for Additional Information, dated 27 April 2020 22) Conditions of Consent
Clause 4.6 requests	NA
Summary of key submissions	• Retention of on-street car parking and loading zone along Macquarie Street • Noise, access and visibility impacts to restaurant located at 300 Macquarie Street, Liverpool

Report prepared by	Architectus
Report date	14 May 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

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

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

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

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

1. EXECUTIVE SUMMARY

Pursuant to Section 4.16 of the Environmental Planning and Assessment Act, development consent is sought for site preparation and early works at 52 Scott Street, Liverpool.

DA-906/2019 seeks to prepare the site for works associated with a Concept DA for the site (DA585/2019). The Concept DA has not yet been determined.

The early works DA seeks approval for:

- Demolition of all existing structures on land at 52 Scott Street, 40-46 Scott Street and 64 Scott Street;
- Bulk earthworks to a maximum depth of RL 10.35, including shoring using piles, on land at 52 Scott Street, 40-46 Scott Street, 48 Scott Street and 64 Scott Street; and
- Removal of seven (7) trees as offsite works, including six (6) trees on an adjacent site at 306-310 Macquarie Street.

Sydney Western City Planning Panel (SWCPP) is the determining body for the application under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, as the development is 'Council related development' with a value of more than \$5 million.

The following relevant Environmental Planning Instruments, Development Control Plans and Codes or Policies have been considered as part of the assessment of this application:

Legislation

- *Environmental Planning and Assessment Act 1979*
- *Water Management Act 2000*
- *Roads Act 1993*

Environmental Planning Instruments (EPI's)

- *State Environmental Planning Policy No.55 – Remediation of Land;*
- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;*
- *Liverpool Local Environmental Plan 2008.*

Development Control Plans

- *Liverpool Development Control Plan 2008*
 - Part 1 – Controls applying to all development
 - Part 4 – Development in Liverpool City Centre

Regulations

- Environmental Planning and Assessment Regulation 2000

Summary of relevant matters

Water Management Act 2000

The DA is integrated development in accordance with Section 4.46 (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The proposed works include excavation below the groundwater level and will require approval for water supply works under the *Water Management Act 2000*.

Water NSW has provided General Terms of Approval (GTA) on 5 May 2020. The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The applicant must apply to WaterNSW for the relevant approval after development consent has been issued and before the commencement of any work or activity.

The requirement to obtain approval from WaterNSW prior to the commencement of any work, will be included as a condition of consent.

State Environmental Planning Policy No. 55 – Remediation of Land

The site contains potential contaminants but can be made suitable for the proposed development and future uses consistent with the requirements of SEPP 55.

An Asbestos Management Plan (AMP) will be required to be prepared prior to the commencement of earthworks. This will be subject to a condition of consent.

It is considered that based on the imposition of suitable conditions, that the proposal is consistent with SEPP 55 and will be made suitable for the proposed development.

State Environmental Planning Policy (Infrastructure) 2007

The DA was referred to Transport for NSW in accordance the provisions of the Infrastructure SEPP. Transport for NSW has reviewed the proposal and on 12 May 2020 provided conditions to be imposed as a condition of consent.

This includes limiting access from Terminus Street to left-in only and the requirement for all demolition and construction vehicles to be contained wholly within the site. A construction zone will not be permitted on Terminus Street. Transport for NSW will require detailed stormwater drainage plans and excavation drawings to be submitted to Transport for NSW and approved in prior to the commencement of any works.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

Section 9(1) of the Vegetation SEPP establishes that the SEPP applies to any vegetation declared in a development control plan. In accordance with the tree preservation provisions in the Liverpool DCP 2008, approval is required for the proposed removal of seven trees.

The trees are not identified as having significance or high retention value and will be offset by a comprehensive landscaping strategy as part of any future development on the site. Therefore, the proposal is consistent with the Vegetation SEPP.

Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP).

It is considered that the early works DA satisfies the relevant provisions, including Clauses 8 and 9, of the GMREP No.2.

Liverpool Local Environmental Plan 2008

Land zoning

The site is zoned B4 mixed use pursuant to the Liverpool Local Environmental Plan 2008. Earthworks are permissible in the B4 Mixed Use zone. Demolition is permissible with consent under Clause 2.7 of the Liverpool LEP 2018.

Clause 7.31 – Earthworks

In accordance with the requirements of this Clause, a Construction Management Plan has been provided. The Plan outlines how earthworks will be undertaken to minimise disruption and environmental impacts.

Any impacts associated with the proposed earthworks will be managed by the imposition of suitable conditions of consent. This includes the requirement for an Excavation Environmental Management Plan to manage all potential environmental impacts associated with the proposed excavation and site works.

A Noise and Vibration Management Plan will minimise amenity impacts on adjoining properties and will be imposed as a condition of consent.

Liverpool Development Control Plan 2008

Section 2 Tree Preservation

The proposal includes the removal of seven trees as off-site works. The removal of seven trees is required to facilitate future development proposed in Concept DA (DA5858/2019).

The removal of the trees is considered justified and will be offset with new tree plantings as part of a comprehensive landscaping plan associated with the Concept DA for the site. Suitable conditions for the removal and retention of trees will be imposed as a condition of consent.

Section 10 Contaminated Land Risk

The site contains potential contaminants but can be made suitable for the proposed development and future uses consistent with the requirements of SEPP 55.

Council's Environmental Health Branch have reviewed the proposed works and raise no objections, subject to conditions.

The preparation of an Excavation Environmental Management Plan will be a condition of consent. This Plan will address all environmental aspects of the proposed works and include an Asbestos Management Plan and Unexpected Finds Protocol. The removal of Asbestos Containing Materials (ACM) and/or remediation of the site in accordance with the EPA's standard requirements will be required prior to the commencement of works.

Recommendation

It is recommended that Development Application DA-906/2019 be approved subject to conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The site's main address is at **52 Scott Street, Liverpool** but is officially comprised of 11 lots, legally described as:

Address	Legal Description
40-46 Scott Street, Liverpool	Lot 100, DP 877435
48 Scott Street, Liverpool	Lot 11, DP 522284 Lot 12, DP 657056
52 Scott Street, Liverpool	Lot 1, DP 229979 Lot 22, DP 441010 Lot 23, DP 441010 Lot 2, DP 229979 Lot 1, DP 507070 Lot 17, DP 81842 Lot 3, DP 229979
64 Scott Street, Liverpool	Lot 1, DP514817



Figure 1: Lot composition of development site.

Source: Six Maps

The landowner of the site is Liverpool City Council.

The development site is an irregularly shaped lot located at the southern end of Liverpool City Centre and has a total area of approximately 7,190m².

An aerial image of the subject site is provided in **Figure 2** below. A site plan is provided at **Figure 3**.

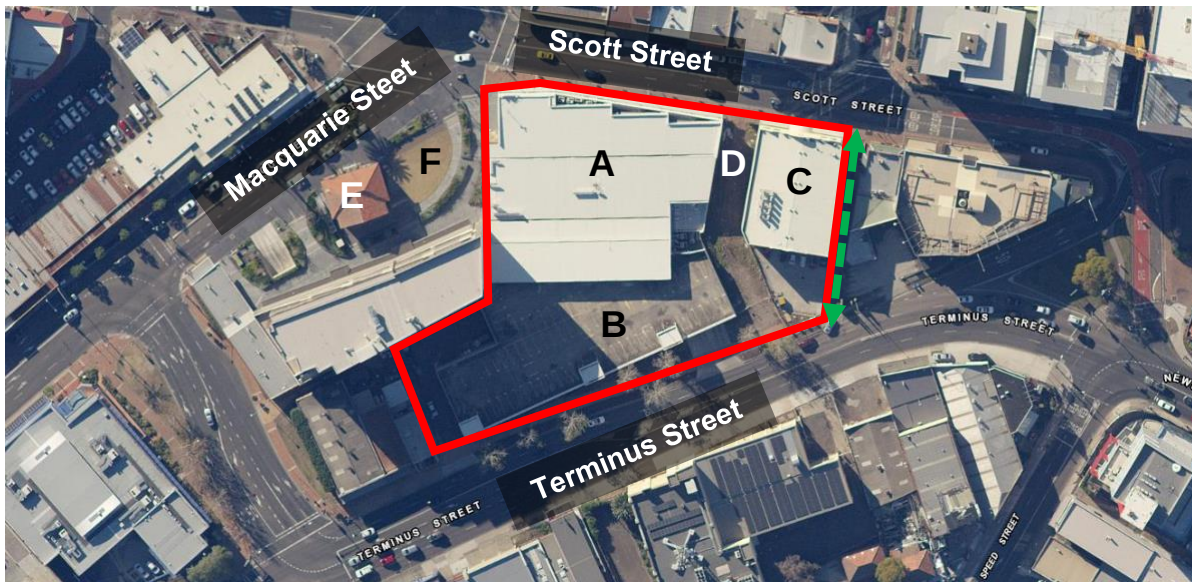


Figure 2: Aerial of subject site (in red) and surrounds. George Lane indicated in green dash.

Source: Six Maps

The site has three road frontages including the main frontage to Scott Street to the north, Macquarie Street to the north-west, George Lane to the east, and Terminus Street to the south.

The site currently contains:

- A. A two storey commercial building fronting onto Scott Street;
- B. Above ground car parking structure accessible from Terminus Street, servicing the aforementioned commercial building;
- C. A two storey commercial building located at the eastern side of the site with an adjoining carpark at the rear; and
- D. A vacant lot separating the two commercial buildings.

Adjacent to the site at 306-310 Macquarie Street is:

- E. A heritage item (I99) 'Memorial School of Arts' building fronting Macquarie Street; and
- F. Augusta Cullen Plaza, a small public park located adjacent to the Memorial School of Arts.

The site slopes to the north with a fall of approximately 3.5m from its Terminus Street frontage (approx. RL25.95) to its Scott Street frontage (approx. RL22.74).

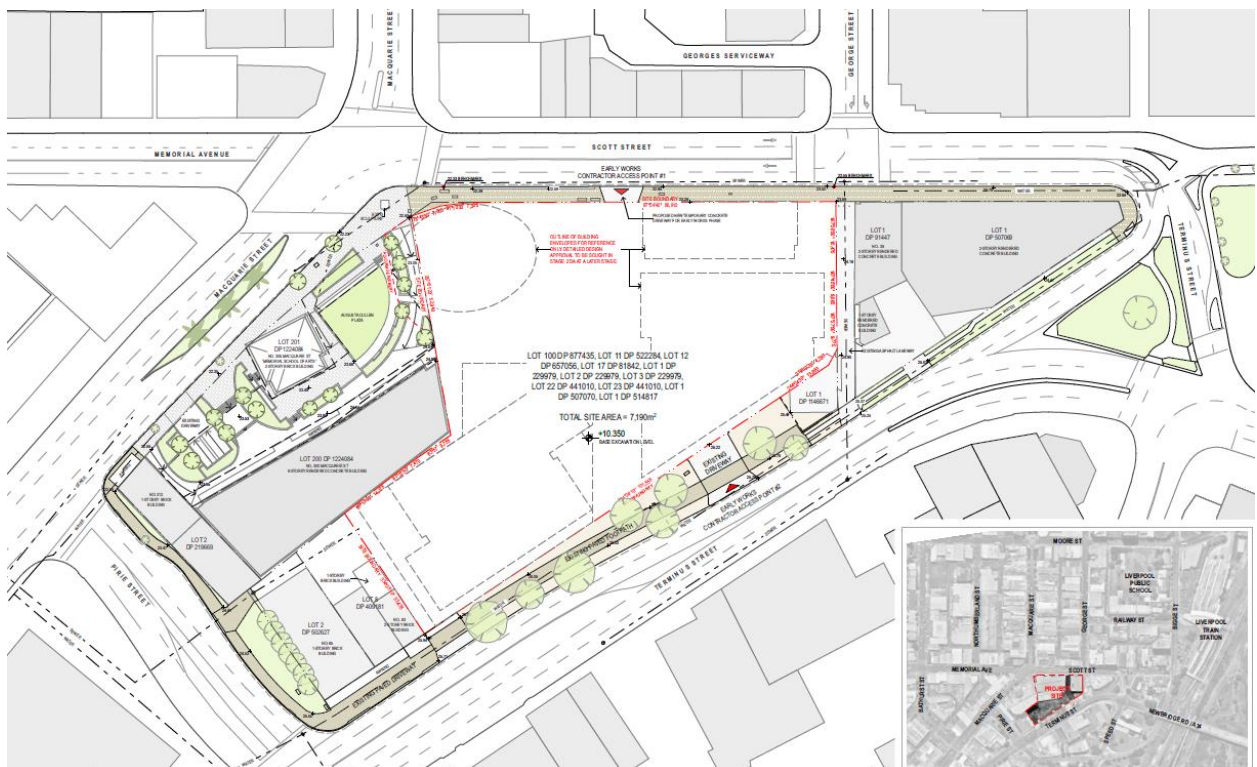


Figure 3: Site Plan

Source: FJMT

2.2 The locality

The development site is located approximately 250m south west of Liverpool railway station, and approximately 550m south of Westfield Liverpool and the Western Sydney University Liverpool Campus. Being located at the southern end of Liverpool City Centre, the surrounding locality is predominantly characterised by a range of retail / commercial premises of varying heights within the immediate vicinity.

The surrounding locality is indicated in **Figure 4** below.



Figure 4: Locality Plan

Source: Nearmap

2.3 Site affectations

The subject site has number of constraints, which are listed below:

2.3.1 Heritage

The site:

- **is not** listed as a heritage item in the Liverpool LEP 2008;
- **is** located within the immediate vicinity of heritage items.

The site is adjacent to heritage item I99, the 'Memorial School of Arts', a building of local heritage significance identified under Schedule 5 of the Liverpool Local Environmental Plan (LEP) 2008. The heritage item is located at 306-310 Macquarie Street, Liverpool (Lot 201 DP 1224084), to the west of the site.

Other surrounding heritage items in the vicinity of the site are summarised in the table below and identified in **Figure 5**.

Item name	Item number	Address	Significance
Plan of town of Liverpool (early town centre street layout – Hoddle 1827)	I89	Streets in the area bounded by the Hume Highway, Copeland Street, Memorial Avenue, Scott Street, Georges River and Main Southern Railway Line (excluding Tindall Avenue and service ways)	Local
Commercial building (formerly Rural bank and State bank)	I91	Macquarie Street and Memorial Avenue	Local
Boer War Memorial, including memorial to Private A.E. Smith	I92	Corner of Macquarie and Scott Streets (Macquarie Street public footpath adjacent to 296 Macquarie Street)	Local
Macquarie Monument	I93	Corner of Macquarie and Scott Streets (Macquarie Street public footpath adjacent to 296 Macquarie Street)	Local
Row of three palm trees	I94	Macquarie Street median strip	Local
Golden Fleece Hotel	I103	Corner of Scott and Terminus streets	Local
Liverpool Fire Station	I109	70-78 Terminus Street	Local
Bigge Park Conservation Area	Conservation Area	Area bounded by and including College, Goulburn, Railway, Scott and Bigge Streets as shown hatched red in Figure 5	Local



 The Site

Figure 5: Heritage items in the vicinity of the site
Source: Liverpool LEP 2008



Figure 6: Photo looking south-west towards the 'Memorial School of Arts Building', Macquarie Monument and 'row of three palm trees', all of which are heritage items identified under LEP 2008.
Source: Architectus

2.3.2 Traffic

The southern boundary of the site fronts Terminus Street, an RMS Classified Road that is currently four to six lanes wide. The site currently has a main vehicular entrance from Terminus Street to the car parking structure servicing the main two-storey commercial building on Scott Street.

Terminus Street is the main east-west thoroughfare for district traffic, connecting the Hume Highway at its western terminus and Bankstown Airport and beyond in the east. It is a major road that enables vehicles to bypass Liverpool City Centre and experiences high volumes of traffic. Part of the site along Terminus Street is subject to land acquisition by RMS to facilitate future widening of the road.

Two construction vehicle access points are proposed: one from Terminus Street and one from Scott Street. Approximately 100 construction vehicle movements a day are expected to facilitate the construction activities, with peak vehicle movements anticipated between 7am – 3pm Monday to Friday.

Traffic management impacts associated with the proposed works will be addressed in a Traffic Management Plan. The DA was also referred to Transport for NSW for comment and recommended conditions will be imposed as condition of consent.

2.3.3 Flooding

The proposed development is within the Georges River catchment area; however, the site is not within the 100-year ARI flood extent, and as such is not impacted by flooding.

2.3.4 Acid Sulfate Soils

The site is mapped as Class 5 under the Acid Sulfate Soils Map in the Liverpool LEP 200. The Geotechnical and Environmental Investigation Report prepared by Golder Associates, outlines the results of soil testing at the site. Acid sulfate soils were not identified in the soil testing and an Acid Sulfate Soils Management Plan is not required for the site.

2.3.5 Contamination

A Preliminary Site Investigation identified that the site contains potential contaminants including uncontrolled filling, existing and former buildings on site, the former fire station and the adjacent mechanical workshop. The removal of Asbestos Containing Materials (ACM) in accordance with the EPA's standard requirements will be required prior to the commencement of works.

3. BACKGROUND

3.1 History of application

- DA was lodged on 13 December 2019
- DA was internally to Council's Engineering, Environmental Health, Traffic and Heritage Branches for comment, and referred externally to WaterNSW and Transport for NSW on 20 January 2020
- Notification of the DA from 20 January to 4 February 2020 – three responses received (two submissions and one request for time extension to provide submission)
- Initial comment from Transport for NSW dated 7 February 2020 requesting additional information
- Request for Information (RFI) letter dated 12 March 2020 was sent to applicant to address issues raised by Council's Environmental Health and Traffic Branches
- Additional information received from applicant on 15 April 2020 addressing RFI
- Final comments from WaterNSW received 11 May 2020
- Final comments from Transport for NSW received 12 May 2020

3.2 Site background – related applications

The proposed early works subject to this DA and assessment are associated with a Concept DA for the site (DA585/2019). The early works DA will prepare the site for the future mixed-use precinct also known as Liverpool Civic Place, detailed in Concept DA (DA/585/2019).

Summary of relevant history of the subject site:

- A Concept DA (DA-1259/2016) was lodged on 21 December 2016 by Council for the following:
 - A new 4 storey information and education facility (public library)
 - An 11-storey public administration building (Council office)
 - Two x 31 storey mixed use residential towers
 - Basement and above ground parking, through site links and public open space

DA-1259/2016 did not include the three eastern lots which were later procured by Council.

- Council withdraws DA-1259/2016 following the acquisition of the three eastern lots and the gazettal of Liverpool LEP 2008 Amendment 52 which provided incentive planning controls (height and FSR) under Clause 7.5A for certain sites within Liverpool City Centre if certain criteria within the clause are met.
- A Concept DA (DA-585/2019) was lodged on 20 September 2019 taking into account the additional site area and Clause 7.5A. No residential uses are proposed.

- A briefing to the Sydney Western City Planning Panel occurred on the 10 February 2020 and 14 April 2020 in relation to the Concept DA. The Concept DA is currently under assessment and has not yet been determined.

4. DETAILS OF THE PROPOSAL

Development consent is sought for the early works to prepare the site for future development at 52 Scott Street, Liverpool, including:

- Demolition of all existing structures on land at 52 Scott Street, 40-46 Scott Street and 64 Scott Street;
- Bulk earthworks to a maximum depth of RL 10.35, including shoring using piles, on land at 52 Scott Street, 40-46 Scott Street, 48 Scott Street and 64 Scott Street; and
- Removal of seven (7) trees as offsite works, including six (6) trees on an adjacent site at 306-310 Macquarie Street.

4.1 Demolition works

The development application seeks consent for the demolition of;

- Two-storey commercial building fronting Scott Street;
- Above ground car parking structure and at grade car park fronting Terminus Street; and
- Two-storey retail building fronting Scott Street.

Existing utilities services will be removed or relocated prior to the commencement of demolition works. It is proposed that the smaller commercial development to the east of the site will be demolished first to provide space for a site office and vehicle parking/set down area. This will be followed by demolition of the larger commercial building and the car park. All demolition materials will be removed from site. Refer to Demolition Plan at **Figure 7**.

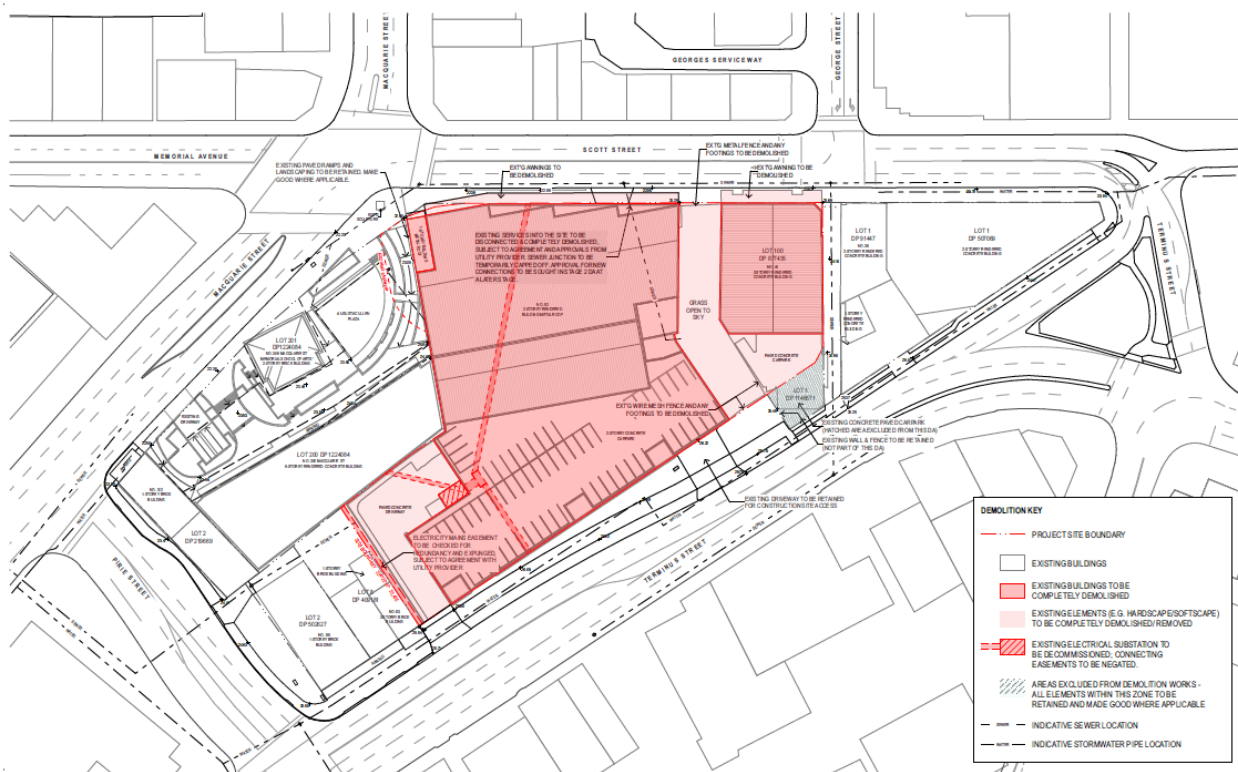


Figure 7: Demolition Plan

Source: FJMT

4.2 Earthworks

Excavation works are proposed for land at 52 Scott Street, 40-46 Scott Street, 48 Scott Street and 64 Scott Street. No excavation works proposed for 306-310 Macquarie Street.

Excavation will be to a maximum depth of RL 10.35. The groundwater level is at RL17.5. Excavation will be 7.15m below the groundwater level. Approval from the NSW Office of Water under Section 91 of the *Water Management Act 2000* is required.

Shoring (through the use of piles) is proposed to serve as a retention system and support adjacent structures as the site is excavated.

The basement walls for future development (subject to Concept DA-585/2019) will be constructed using a piled shoring solution. Construction of the shoring system forms part of this DA. Once the piling is complete, the basement will be excavated, and surplus material removed from site.

Excavation for the future basement will be approximately 7m below the groundwater level. Groundwater seepage into the excavation site will need to be managed. Groundwater will be controlled by perimeter and subfloor drainage connected to a sump and pump system. Construction of the basement does not form part of this DA and will be subject to a separate detailed DA.



Figure 8: Bulk Earthworks Plan

Source: Wood and Grieve

4.3 Tree Removal

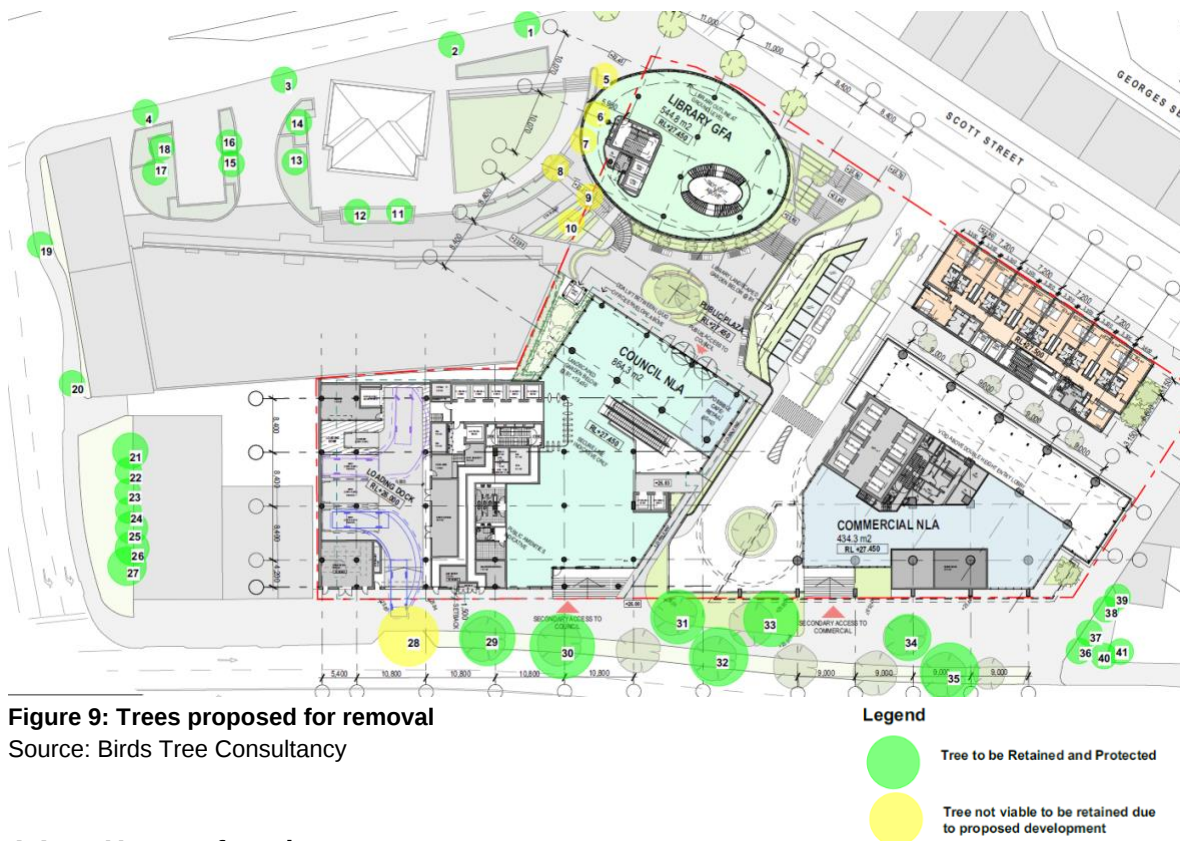
Seven trees are proposed to be removed as off-site works, including;

- Four (4) x *pyrus calleryana*;
- Two (2) x *lagerstroemia indica*; and
- One (1) x *populus delotides*.

Six (6) trees are proposed to be removed from 306-310 Macquarie Street (Lot 201 DP 1224084) and one (1) from the southern site boundary on Terminus Street.

The Arboricultural Development Impact Assessment Report prepared by Birds Tree Consultancy dated 22 November 2019 recommends the removal of seven trees and the retention of 34 trees. The removal of seven trees is required to facilitate future development proposed in Concept DA (DA5858/2019).

The Arboricultural Development Impact Assessment Report includes tree protection measures for the 34 trees to be retained. The requirement for works to be undertaken in accordance with the recommendations in this report, will be imposed as condition of consent.



4.4 Hours of work

In accordance with the Construction Noise Guideline, demolition work will be undertaken in the hours:

- Monday to Friday – 7am – 6pm;
- Saturday – 8am – 1pm; and
- Sunday and Public Holidays – No works to be undertaken.

It is estimated that the duration of the construction works will be 13 months.

4.5 Waste management

A preliminary Waste Management Plan (WMP) was prepared for the proposed works. The Waste Management Plan provides estimates of the amount of waste to be generated on site and details the materials that will be excavated. Waste will be classified, managed and removed in accordance with the Waste Management Plan. The requirement for a final Waste Management Plan, will be imposed as a condition of consent.

4.6 Construction Staging

The staging strategy seeks flexibility for the Stage 1 early works to progress ahead of the Stage 2 works. This is consistent with the staging strategy for the Concept DA which is divided into two stages, being Stage 1 (Council's assets) and Stage 2 (Developer assets).

The applicant is seeking to stage the Construction Certificates (CC) in the following phases:

- CC 1: Demolition of entire site;
- CC 2: Excavation and piling of Stage 1 site (possible public domain embellishments to Stage 2 site in the event Stage 1 proceeds in advance of Stage 2. Note: this would be subject to separate approvals process); and
- CC 3: Excavation and piling of Stage 2 site.

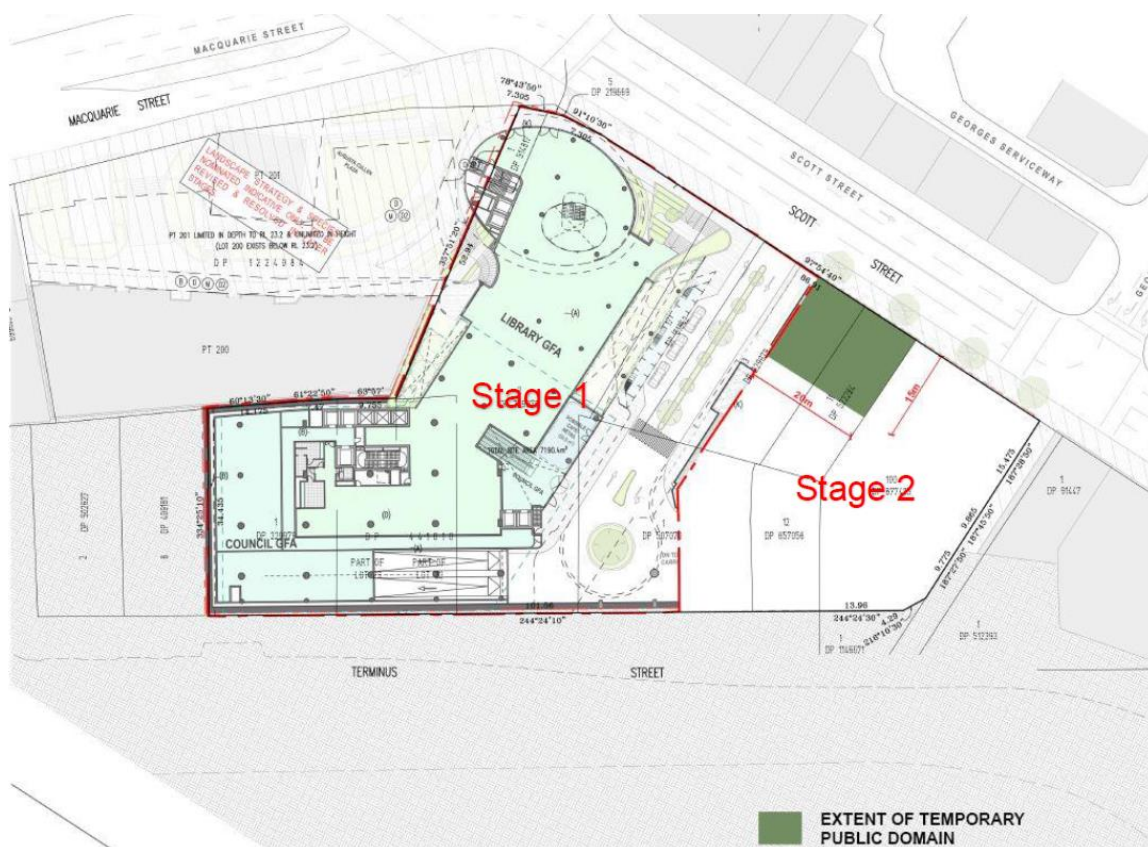


Figure 10: Staging plan

Source: FJMT

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Legislation

- *Environmental Planning and Assessment Act 1979*
- *Water Management Act 2000*
- *Roads Act 1993*

Environmental Planning Instruments (EPI's)

- *State Environmental Planning Policy No.55 – Remediation of Land;*
- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;*
- *Liverpool Local Environmental Plan 2008.*

Development Control Plans

- *Liverpool Development Control Plan 2008*
 - Part 1 – Controls applying to all development
 - Part 4 – Development in Liverpool City Centre

6. ASSESSMENT

The DA is integrated development in accordance with Section 4.46 (1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Clause 4.46 (1) of the EP&A Act states:

(1) Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals—

- *Water Management Act 2000* – ss 89, 90, 91 – water use approval, water management work approval or activity approval under Part 3 of Chapter 3.

The proposed works include excavation below the groundwater level and will require approval for water supply works under the *Water Management Act 2000*.

Water NSW has provided General Terms of Approval (GTA) on 5 May 2020. The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The applicant must apply to WaterNSW for the relevant approval after development consent has been issued and before the commencement of any work or activity.

The requirement to obtain approval from WaterNSW prior to the commencement of any work, will be included as a condition of consent.

6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are:

- *to provide for a state-wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Comment: The site contains potential contaminants but can be made suitable for the proposed development and future uses consistent with the requirements of SEPP 55.

An Asbestos Management Plan (AMP) will be required to be prepared prior to the commencement of earthworks. This will be subject to a condition of consent.

It is considered that based on the imposition of suitable conditions, that the proposal is consistent with SEPP 55 and will be made suitable for the proposed development.

(b) State Environmental Planning Policy (Infrastructure) 2007

The subject site has a frontage to Terminus Street and part of the site is reserved for acquisition for the purpose of widening Terminus Street, a classified road. As such the proposal must be considered under the relevant provisions of the State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).

Specifically, the following clauses have been considered during the assessment of the proposal.

- **Clause 100 Development on proposed classified road**

Development on land reserved for a classified road (with a value of more than \$185,000) requires concurrence of Transport for NSW (RMS).

(1) Consent for development for any of the following purposes on land reserved for the purposes of a classified road (but before the land is declared to be a classified road) may be granted only with the concurrence of the chief executive officer of RMS—

(b) development with a capital investment value greater than \$185,000,

- **Clause 101 Development with frontage to classified road**

(1) The objectives of this clause are:

(a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and

(b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.

(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

(a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and

(b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:

(i) the design of the vehicular access to the land, or

(ii) the emission of smoke or dust from the development, or

(iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and

(c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road

Comment: The DA was referred to Transport for NSW in accordance the provisions of the Infrastructure SEPP. Transport for NSW has reviewed the proposal and on 12 May 2020 provided conditions to be imposed as a condition of consent.

This includes limiting access from Terminus Street to left-in only and the requirement for all demolition and construction vehicles to be contained wholly within the site. A construction zone will not be permitted on Terminus Street. Transport for NSW will require detailed stormwater drainage plans and excavation drawings to be submitted to Transport for NSW

and approved in prior to the commencement of any works.

(c) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

The aims of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP), are to:

- (a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- (b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

Section 9(1) of the Vegetation SEPP establishes that the SEPP applies to any vegetation declared in a development control plan. In accordance with the tree preservation provisions in the Liverpool DCP 2008, approval is required for the proposed removal of seven trees.

The trees are not identified as having significance or high retention value and will be offset by a comprehensive landscaping strategy as part of any future development on the site. Therefore, the proposal is consistent with the Vegetation SEPP.

(d) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (deemed SEPP).

The Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application, the planning principles are to be applied (Clause 7(2)). Accordingly, a table summarising the matters for consideration in determining development application (Clause 8 and Clause 9), and compliance with such is provided below.

Clause 8 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries. The proposal is consistent with the aims of the Plan.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas	The proposal provides soil and erosion control measures. The proposed development is not considered to create a detrimental impact on an adjacent downstream local government area.

(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries	The proposed excavation works are not considered to have a detrimental impact on the Georges River or its tributaries. The requirement for an Excavation Environmental Management Plan will be imposed as a condition of consent.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments)	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department of Urban Affairs and Planning)	The imposition of suitable conditions and mitigation measures, will ensure the proposed development will not affect the diversity of the catchment.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice	Water NSW has been notified of this proposal and has provided general terms of approval.
(g) whether there are any feasible alternatives to the development or other proposal concerned	The site is located in an area nominated for mixed-use development. The proposed works will prepare the site for future mixed-use development, which is considered the most appropriate and feasible form of development on the site.

Clause 9 Specific Principles	Comment
(1) Acid sulfate soils	The site is mapped as Class 5 Acid Sulfate Soils under the LLEP 2008. However, soil testing did not identify acid sulfate soils and an Acid Sulfate Soils Management Plan is not required.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	The proposed development is not impacted by flooding.
(4) Industrial discharges	Not applicable.
(5) Land degradation	An Excavation Environmental Management Plan (including an site soil management plan) will minimise erosion and sediment loss.

(6) On-site sewage management	Not applicable.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	The proposal is for site preparation and early works only. The proposal will not contribute to an increase in urban/stormwater runoff. Suitable conditions will be imposed to manage the site during the works.
(10) Urban development areas	The site is not identified as being located within the South West Growth Centre within the Metropolitan Strategy. The site is not identified as being an Urban Release Area under LLEP 2008.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	Not applicable
(13) Wetlands	Not applicable.

It is considered that the early works DA satisfies the provisions of the GMREP No.2.

(d) Liverpool Local Environmental Plan 2008

(i) Permissibility

The site is zoned B4 mixed use pursuant to the Liverpool Local Environmental Plan 2008. Earthworks are permissible in the B4 Mixed Use zone. Demolition is permissible with consent under Clause 2.7 of the Liverpool LEP 2018.



Figure 11: Land Use Zoning Map

Source: NSW Planning Portal

(ii) Zone Objectives

The objectives of the B4 zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To allow for residential and other accommodation in the Liverpool city centre, while maintaining active retail, business or other non-residential uses at street level.*
- *To facilitate a high standard of urban design, convenient urban living and exceptional public amenity.*

The proposed works would prepare the site for a future mixed-use development, which is permissible in the B4 Mixed Use zone. Therefore, it is considered that proposed works are consistent with the objectives of the zone.

Earthworks are permissible with consent in the B4 Mixed Use zone. Clause 2.7 of the Liverpool LEP 2008 allows demolition to be carried out with development consent.

(iii) Principal Development Standards

The LLEP 2008 contains a number of principal development standards, which are discussed with respect to the proposal as follows:

Clause	Provision	Comment
Clause 2.7 - Demolition	Demolition may be carried out only with development consent.	The proposed application seeks development consent for demolition works in accordance with Clause 2.7 of LLEP 2008.
Clause 4.3	Height of buildings	Not applicable
Clause 4.4	Floor Space Ratio	Not applicable
Clause 7.31 – Earthworks	a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality, b) the effect of the proposed development on the likely future use or redevelopment of the land, c) the quality of the fill or the soil to be excavated, or both, d) the effect of the proposed development on the existing and likely amenity of adjoining properties, e) the source of any fill material and the destination of any excavated material, f) the likelihood of disturbing relics, g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area	The proposal seeks consent for earthworks in accordance with Clause 7.31 of LLEP 2008. In accordance with the requirements of this Clause, a Construction Management Plan has been provided. The Plan outlines how earthworks will be undertaken to minimise disruption and environmental impacts. Any impacts associated with the proposed earthworks will be managed by the imposition of suitable conditions of consent. This includes the requirement for an Excavation Environmental Management Plan to manage all potential environmental impacts associated with the proposed excavation and site works. A Noise and Vibration Management Plan will minimise amenity impacts on adjoining properties and will be imposed as a condition of consent.

(iv) Other Relevant LLEP 2008 Clauses

In addition to the above development standards, the application has also been considered in regard to other relevant standards of the LLEP 2008. The key clauses applicable to the application are discussed in further detail below.

- **Clause 5.10 Heritage Conservation**

The site is not listed as a heritage item in the Liverpool LEP 2008 but is located within the immediate vicinity of a heritage item.

The site is adjacent to heritage item 199, the 'Memorial School of Arts', a building of local heritage significance identified under Schedule 5 of the LLEP 2008.

The proposed works will not result in any adverse impacts to the Memorial Schools of Arts as all demolition and excavation works will be contained within the site. The proposed off-site tree removal is not considered to have any adverse impacts on the heritage significance of the Memorial School of Arts.

The buildings and structures proposed to be removed on site are not identified as having any heritage significance and the demolition of these buildings is considered acceptable.

Council's Heritage Officer has reviewed the proposal and confirms that the proposed works will not have a direct impact on any heritage listed items. Council's Heritage Officer has no objection to the proposed works, subject to conditions.

- **Clause 7.7 Acid Sulfate Soils**

The site is mapped as Class 5 under the Acid Sulfate Soils Map in the LEP; however, preliminary site investigations undertaken by the applicant have determined that an Acid Sulfate Soils Management Plan is not required for the site.

- **Clause 7.8 Flood Planning**

The proposed development is within the Georges River catchment area; however, the site is not within the 100-year ARI flood extent. The early works will not be impacted by flooding.

6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

No applicable draft Environmental Planning Instruments.

6.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

Part 1 - General Controls for all Development and Part 4 - Development in The Liverpool City Centre of the Liverpool Development Control Plan apply to the proposed development and prescribe standards and criteria relevant to the proposal.

The following compliance table outlines compliance with the relevant controls in the Development Control Plan.

LDCP 2008 Part 1: General Controls for All Development

Development Control	Provision	Comment
Section 2. Tree Preservation	Controls relating to the preservation of trees	The proposal includes the removal of seven trees as off-site works. The removal of seven trees is required to facilitate future development proposed in Concept DA (DA5858/2019). The removal of the trees is considered justified and will be offset with new tree plantings as part of a comprehensive landscaping plan associated with the Concept DA for the site. Suitable conditions for the removal and retention of trees will be imposed as a condition of consent.
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	No landscaping works are proposed as part of the DA. The DA is seeking approval for off-site works, involving the removal of 7 trees.
Section 8. Erosion and Sediment Control	Erosion and sediment control plan to be submitted.	An Erosion and Sediment Control Plan has been prepared and appropriate conditions will be imposed to ensure adequate erosion and sediment control as part of the proposed works
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	The subject site is not identified as flood prone land.
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	The site contains potential contaminants but can be made suitable for the proposed development and future uses consistent with the requirements of SEPP 55. Council's Environmental Health Branch have reviewed the proposed works and raise no objections, subject to conditions. The preparation of an Excavation Environmental Management Plan will be a condition of consent. This Plan will address all environmental aspects of the proposed works and include an Asbestos Management

		Plan and Unexpected Finds Protocol. The removal of Asbestos Containing Materials (ACM) and/or remediation of the site in accordance with the EPA's standard requirements will be required prior to the commencement of works.
Section 11. Salinity Risk	Provisions relating to development on saline land.	The development site is identified as containing a low salinity potential. A salinity management response plan is not required.
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	The site is mapped as Class 5 under the Acid Sulfate Soils Map of the LLEP 2008. The site is within an area of no known occurrence of Acid Sulfate Soils and soil testing did not identify acid sulfate soils on the site. An Acid Sulfate Soils Management Plan is not required.
Section 14. Demolition of Existing Development	Provisions relating to demolition works	All demolition will be conducted in accordance with the relevant Australian standards and suitable conditions will be imposed for the demolition works, including Waste Management Plan and Dust Management Plan. Demolition works will be undertaken in accordance with hours specified in the DCP. This will be a condition of consent.
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	There is a low risk of Aboriginal objects being located at the site; however, there is potential for isolated finds even in disturbed contexts. A condition of consent will be imposed to manage any potential unexpected finds during construction.
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	There are no heritage items located on the site; however, the site was investigated for archaeological potential. Further archaeological assessment is required to be

		undertaken prior to the commencement of works. The completion of testing and the issuing of any permits is to be undertaken prior to commencement of works and will be imposed as a condition of consent.
Section 18. Notification of Applications	Provisions relating to the notification of applications.	The development application was advertised for a period of 15 days between 20 January 2020 to 4 February 2020, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008). Two submissions were received during the exhibition period.
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	Suitable conditions to be imposed regarding the removal waste from the site. A Waste Management Plan will be a condition of consent.

LDCP 2008 Part 4: Liverpool City Centre

The proposal was also considered against the provisions of the LDCP 2008, Part 4 – Development in Liverpool City Centre. The proposal is for early works only and does not include any development on the site.

Therefore, it is considered that the proposal is consistent with the controls outlined in the Liverpool Development Control Plan 2008.

6.4 Section 4.15(1)(a)(iiia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

6.5 Section 4.15(1)(a)(iv) – The Regulations

Section 92 of the EP&A Regulation sets out additional matters to be considered by the consent authority. Section 92 (1) (b) provides that in the case of a development application for the demolition of a building, the provisions of AS 2601 must be considered.

Suitable conditions will be imposed to ensure demolition is undertaken in accordance with the relevant Australian Standard. The proposed development is consistent with the provisions of the EP&A Regulation.

6.6 Section 4.15(1)(a (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates

There are no coastal zone management plans that apply to the site.

6.7 Section 4.15(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

Built Environment

It is considered the proposal is unlikely to create any detrimental impacts on the surrounding built environment. All works will be contained within the site, with the exception off-site works which are limited to tree removal only.

Natural Environment

The proposed development is not considered to have a detrimental impact on the existing natural environment.

(b) Social Impacts and Economic Impacts

The proposed development is unlikely to generate any detrimental social impacts.

The proposed development would result in a positive economic impact through the capital investment value of the development and employment opportunities generated by the development.

6.8 Section 4.15(1)(c) – The Suitability of the Site for the Development

There are no significant natural or environmental constraints that would hinder the proposed development. Accordingly, the site is considered suitable for the proposed development.

6.9 Section 4.15(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

The following comments have been received from Council's Internal Departments:

Department	Comments
Engineering	Application considered acceptable subject to conditions of consent.

Heritage Advisor	Application considered acceptable subject to conditions of consent.
Traffic and Transport	Application considered acceptable subject to conditions of consent.
Environmental Health	Application considered acceptable subject to conditions of consent.

(b) External Referrals

The following comments have been received from External agencies:

Authority	Comments
Transport for NSW	Transport for NSW has reviewed the proposal and provided conditions to be imposed as a condition of consent.
Water for NSW	WaterNSW have provided General Terms of Approval. Note, the General Terms of Approval issued by WaterNSW do not constitute an approval under the <i>Water Management Act 2000</i> . Approval is required under the <i>Water Management Act 2000</i> and must be obtained prior to any works on site.

b) Community Consultation

The development application was placed on public exhibition from 20 January 2020 to 4 February 2020, in accordance with Liverpool Development Control Plan 2008 (LDCP 2008).

Two submissions (and one request for an extension of time) were received during the exhibition period. The concerns raised in the submission and the response to the submissions are provided below;

Parking

Increased parking is to be provided in the Liverpool CBD to support local businesses.

Comment: All construction and contractor vehicles will be contained on site. Parking around the site will not be affected by the proposed works. The Traffic Management Plan (imposed as a condition of consent) will manage all potential traffic and parking impacts.

Noise

Concern regarding noise pollution from the early works site preparation onto nearby

businesses.

Comment: Suitable conditions have been imposed to mitigate noise impacts on surrounding properties. A Construction Noise and Vibration Assessment and Management Plan is required as a condition of consent.

Access

More information is to be provided on how hoarding on the site will hinder or affect access to adjacent sites and businesses.

Comment: Suitable conditions will be imposed to manage access arrangements to adjoining properties.

Hoarding

Clarification is needed on the hoardings effect on local businesses.

Comment: Suitable conditions imposed in relation to hoarding.

6.7 Section 4.15(1)(e) – The Public Interest

The proposal generally complies with the relevant planning controls and is considered to be in the public interest.

7 SECTION 7.12 CONTRIBUTIONS

Development contributions do not apply to this development.

8 RECOMMENDATION

That Development Application DA-906/2019 be approved subject to conditions of consent.

9 ATTACHMENTS

- 1) Demolition Plans
- 2) Civil Engineering Drawings
- 3) Site Survey
- 4) Construction Management Plan
- 5) Structural Report
- 6) Arboricultural Development Impact Assessment Report
- 7) Waste Management Plan
- 8) Preliminary Geotechnical Assessment
- 9) Preliminary Site Investigation
- 10) QS Report
- 11) Heritage Impact Statement

- 12) Hazardous Building Materials Assessment
- 13) Historical Archeological Assessment
- 14) Geotechnical and Environmental Investigation Report
- 15) Aboriginal Heritage Due Diligence Assessment
- 16) Construction Noise and Vibration Management Plan
- 17) Contamination, Ecological and Flood Report
- 18) Water NSW Cover Letter and General Terms of Approval (GTAs), dated 5 May 2020
- 19) Transport for NSW Response, dated 12 May 2020
- 20) Applicant's Response to Council's Request for Additional Information, dated 14 April 2020
- 21) Applicant's Response to Council's Request for Additional Information, dated 27 April 2020
- 22) Conditions of Consent