



Review of Environmental Effects

Hyde Park Seating Upgrade Elizabeth Street, Sydney

ON BEHALF OF

CITY OF SYDNEY COUNCIL C/- PLACE DESIGN GROUP

SEPTEMBER 2024

Project

Hyde Park Seating Upgrade

Document Control				
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1 Introduction

1.1 Proposal Overview

City of Sydney Council have identified the need for upgrade works to be undertaken throughout Hyde Park, in particular the provision of additional seating to be dispersed throughout the park. The proposal aims to increase the existing seating capacity including the installation of new seating, utilising a similar form and design as the existing seating, within the park.

The proposed new seating, alongside the existing seating in grassed areas and around pathways, will provide areas for rest, relaxation and passive observation for the visitors to Hyde Park. The identified seating upgrade is in line with the Hyde Park Plan of Management and Master Plan. The Plan of Management identifies the need for additional facilities and amenities including park seating, while continuing to maintain the heritage protection zones across Hyde Park.

1.2 Purpose of the Report

This *Review of Environmental Factors* (REF) has been prepared by Patch Planning (Patch) on behalf of City of Sydney Council (Council). For the purposes of the proposed works, the Council is the proponent and the determining authority under Part 5 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

This REF ensures that the legislative requirements have been addressed in accordance with Part 5, Division 5.1 of the EP&A Act. The description of the proposal and its associated environmental impacts have also been undertaken in the context of Clause 171 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation), including the guidelines issued pursuant to Section 170(1) of the EP&A Regulation, being the *Guidelines for Division 5.1 assessments* (Department of Planning & Environment, February 2022) (Division 5.1 Guidelines).

In doing so, this REF helps to fulfil the requirements of Section 5.5 of the EP&A Act, that Council examines and takes into account to the fullest extent possible, all matters affecting or likely to affect the environment by reason of the activity.

Based on the consideration of key environmental matters and information presented in this REF, it is concluded that subject to the mitigation measures identified in this assessment, it is unlikely that there would be any significant environmental impacts associated with the proposal and that an Environmental Impact Statement is not needed.

1.3 Proponent, determining authorities and any required approvals

Pursuant to and within the meaning of Clause 1.4(1) and 5.1 of the EP&A Act, Council is a 'public authority' for the purpose of being a 'determining authority' but is only where development is permitted without consent by *State Environmental Planning Policy Transport and Infrastructure 2021* (T&I SEPP).

Therefore, for the purposes of the proposed activity, Council is both the 'proponent' and 'determining authority' for the prescribed activities.

1.4 Supporting documentation / Project Team

The supporting team and supplementary information included as appendices to this REF are outline in Table 1.

Table 1. Project Team and Report Locations


Urban Planning	Patch Planning
Appendix 1 - NSW Title Certificate	NSW Land Registry Services
Appendix 2 - Landscape Plans	Place Design Group
Appendix 3 - Heritage Impact Assessment	City Plan
Appendix 4 - Aboriginal Heritage Information Management Systems (AHIMS) Search	NSW Government
Appendix 5 - EPBC Protected Matters Search	Australian Government
Appendix 6 - Section 10.7 Planning Certificate	City of Sydney

1.5 Certification

This REF provides a true and fair review of the proposal in relation to its potential effects on the environment. It addresses, to the fullest extent possible, all matters affecting or likely to affect the environment as a result of the proposal. The information contained in this REF is neither false nor misleading.

This REF has been examined and considered by those duly appointed and authorised persons, and has been accepted on behalf of City of Sydney, as the determining authority, as having satisfied those relevant objects of the EP&A Act and the matters prescribed by Sections 5.5 and 5.7 of the EP&A Act. The proposed activity can proceed, subject to the implementation of the specified mitigation measures stated in Section 7 of this REF.

a) Name of the person(s) who prepared the REF

<i>Name, Position and Qualifications of the person(s) who prepared the REF</i>	Joseph Bell (Director) Bachelor of Planning, University of New South Wales
<i>Signature</i>	
<i>Date</i>	02.09.2024

b) Reviewing Officer

I have examined this Review of Environmental Factors and the Certification and accept the Review of Environmental Factors on behalf of City of Sydney Council.

<i>Name, Position and Qualifications of the person(s) who prepared the REF</i>	
<i>Signature</i>	
<i>Date</i>	

c) Determination

I accept this Review of Environmental Factors on behalf of City of Sydney Council. As the determining authority and determine that the Proposal can proceed subject to the mitigation measures in Section 7 being implemented before any associated works. I certify that I have reviewed and endorsed the contents of this REF document, and, to the best of my knowledge, it is in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under Clause 170 of the EP&A Regulation, and the information it contains is neither false nor misleading.

Name and designation of the Delegated Officer of City of Sydney Council	
Signature	
Date	

2 The Site and Surrounding Context

2.1 Subject Site

The Site is known as Hyde Park, Sydney (110-120 Elizabeth, Park, Liverpool and College Streets). The Site has a combined area of 16.2 hectares and is irregular in shape as depicted in Figure 1.

The Site is within the City of Sydney Local Government Area (LGA) and is zoned RE1 Public Recreation, pursuant to *Sydney Local Environmental Plan 2012* (SLEP 2012).

The Site is divided into two (2) sections by Park Street, forming Hyde Park North (bound by College Street, St James Road, Elizabeth Street and Park Street) and Hyde Park South (bound by Park Street, Elizabeth Street, Liverpool Street and College Street). The northern section has predominately rectangular shape with slightly rounded northern boundary. This section comprises three separate lots being Lot 1 DP577983, Lot 1 DP1062688 and Lot 7303 DP1167657. The southern section has predominately rectangular shape and comprises five separate lots being Lot 1 DP1062685, Lot 1 DP1062686, Lot 1915 DP906666 and Lots 1 & 2 DP1246361.

The Park contains several monuments, fountains and pools combined with large open grass areas and a variety of figs, conifers, palms, and other trees. One of the major monuments within the Hyde Park is the Archibald Fountain located at the northern end of the of the park. The other major monument is the Anzac Memorial located at the southern end of the park.

The park is predominately surrounded by commercial development to the north and west, a mix of commercial and residential developments to the south and a combination of open space, religious and educational institutions, and commercial developments to the east.

Hyde Park is characterised by a highly structured geometrical layout defined by the pathways, landscape elements, monuments, fountains and pools.

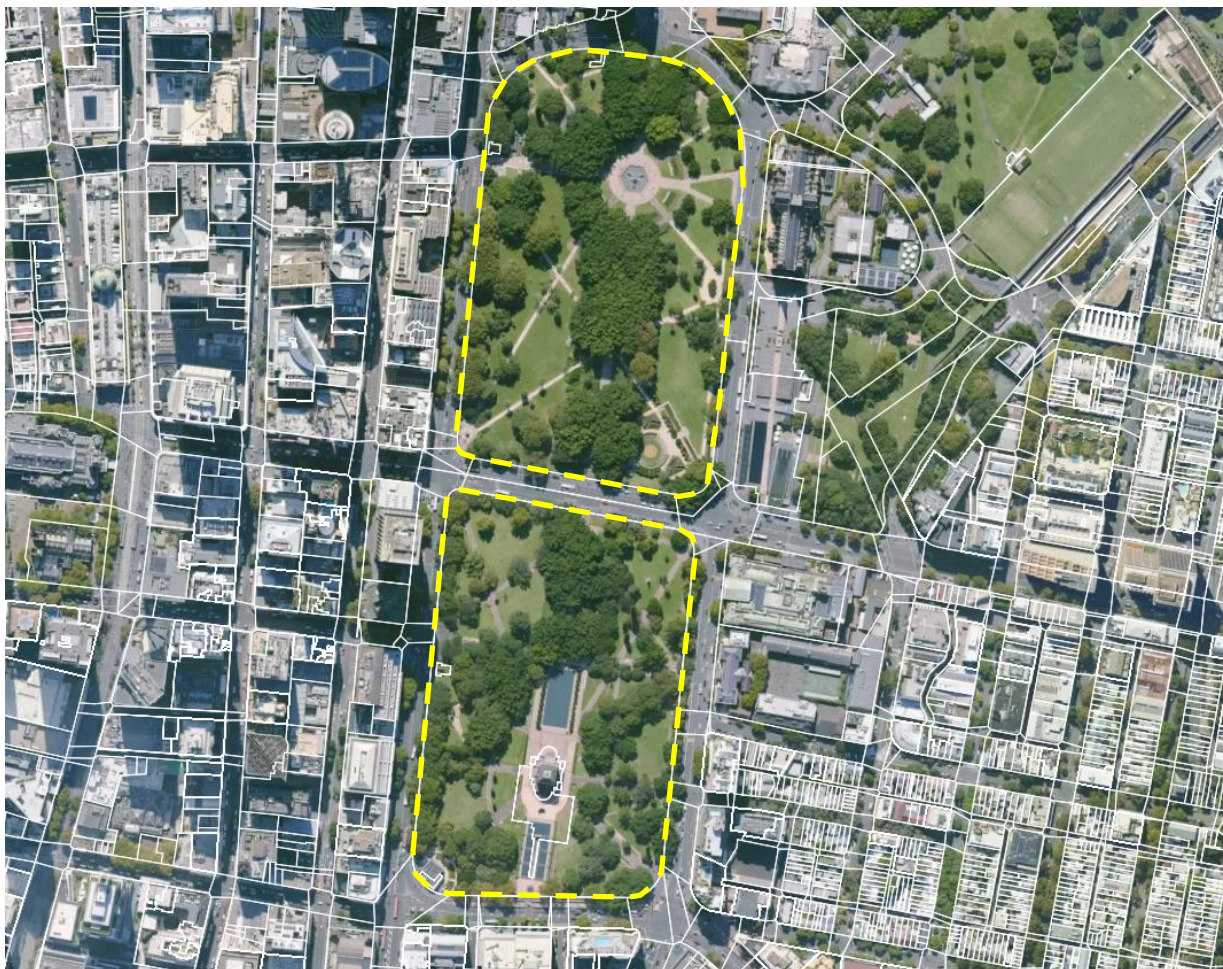


Figure 1. Site Aerial
Source: MetroMap modified by Patch

2.2 Surrounding Context

The Site is located within the City of Sydney Local Government Area (LGA). The Site is bound by College Street to the East, Elizabeth Street to the West and Liverpool Street to the south.

Hyde Park is on the eastern fringe of the Sydney city centre. The Supreme Court of New South Wales, St James Church, Hyde Park Barracks and Sydney Hospital are located to the north, St Mary's Cathedral, the Australian Museum and Sydney Grammar School to the east, the Downing Centre to the south, the David Jones flagship store and the CBD to the west.

2.3 Site Characteristics

2.3.1 Flora and Fauna

The Site is extensively vegetated and the proposed works do not include the removal of any existing trees or significant vegetation.

2.3.2 European Heritage

Hyde Park, including its surrounds, is listed on the following statutory instruments:

- Heritage Act 1977
 - 'Hyde Park', 110-120 Elizabeth, Park, Liverpool, College Streets (SHR #01871)

- ANZAC Memorial', Hyde Park South, near Liverpool Street (SHR #01822)
- Sydney Local Environmental Plan 2012
 - 'Hyde Park including north and south park reserves, Archibald Memorial Fountain, Anzac Memorial, Pool of Remembrance, stone perimeter walls and steps, St James Station, Museum Station, Dalley Statue, Oddfellows Memorial, Captain Cook Statue, Frazer Fountain, Fort Macquarie Cannon, Emden Gun, Thornton Obelisk, Sundial, former public toilets, Busby's Bore Fountain, Sandringham Gardens including memorial gates/pergola, Nagoya Gardens, Chess Board, F J Walker Fountain, John Baptist Fountain, Busby's Bore and archaeology', 110–120 Elizabeth Street, item no. 11654
 - 'St James Railway Station including interior', 108 Elizabeth Street, item no. 11740
 - 'Anzac War Memorial including Pool of Reflection, pavements, plantings, flagpoles, staircase, platform, interiors, lightwells, bas reliefs, statues, sculptures and movable heritage (artefacts and memorabilia)', 120 Elizabeth Street, item no. 11742
 - 'Museum Railway Station including interiors', Elizabeth Street, item no. 11743

2.3.3 Aboriginal Cultural Heritage

An AHIMS search has been undertaken and is provided within Appendix 4. The AHIMS search identifies five (5) aboriginal sites within proximity to Hyde Park.

The Archaeological and Paleoenvironmental Assessment of the Sediments of Hyde Park prepared by Professor Stephen Gale in February 2022 noted:

Overall, it is thought that the potential of the park to retain evidence of Aboriginal archaeology is low, although it is believed that the northwest quadrant may retain and preserve an undisturbed pre-contact soil landscape beneath a thin cover of landfill. However, nine core samples in this area determined no evidence 'of Aboriginal archaeological potential at depths of up to 700 mm beneath the ground surface.'

Given the proposed works include upgrades to the existing seating, there is considered to be a very low to nil potential for Aboriginal objects to be disturbed during construction work.

In the unlikely event that Aboriginal archaeological material is uncovered during the course of any works undertaken within the project area, all work must cease, an appropriately qualified archaeologist consulted with and if appropriate the Heritage Council notified in accordance with Section 146 of the Heritage Act.

2.3.4 Acid Sulfate Soils

The site is classified as Class 5 Acid Sulfate Soils.

2.3.5 Contamination

Due to the Site's use as an established public open space for a significant number of years, it is highly unlikely that the land will be contaminated. A search of NSW Environmental Protection Authority's (EPA) Contaminated Lands Register for the City of Sydney Local Government Area has not identified any known contaminated land sites on, or in proximity to the Site.

3 Project Description and Justification

3.1 Proposal Overview

The proposed activity seeks to increase the existing seating capacity across Hyde Park including the installation of new seating, utilising a similar form and design as the existing seating. The proposed seating plan is in line with opportunities identified within the Hyde Park Plan of Management and Master Plan.

Specifically, the identified seating opportunities include:

- New seating around the Pool of Reflection, which is proposed to accommodate three (3) additional seater chairs along its eastern and western edge;
- Additional seats dispersed throughout Hyde Park North; and
- Additional seats dispersed through Hyde Park South.

The proposed works involve minor subsurface excavation works required for the installation of new seating in Hyde Park. Due to their minor scale, as well as to minimise the impact, the required excavation works will be undertaken using hand tools.

The detailed landscape plans prepared by Place Design Group accompany this report as Appendix 2.

Figure 2 and

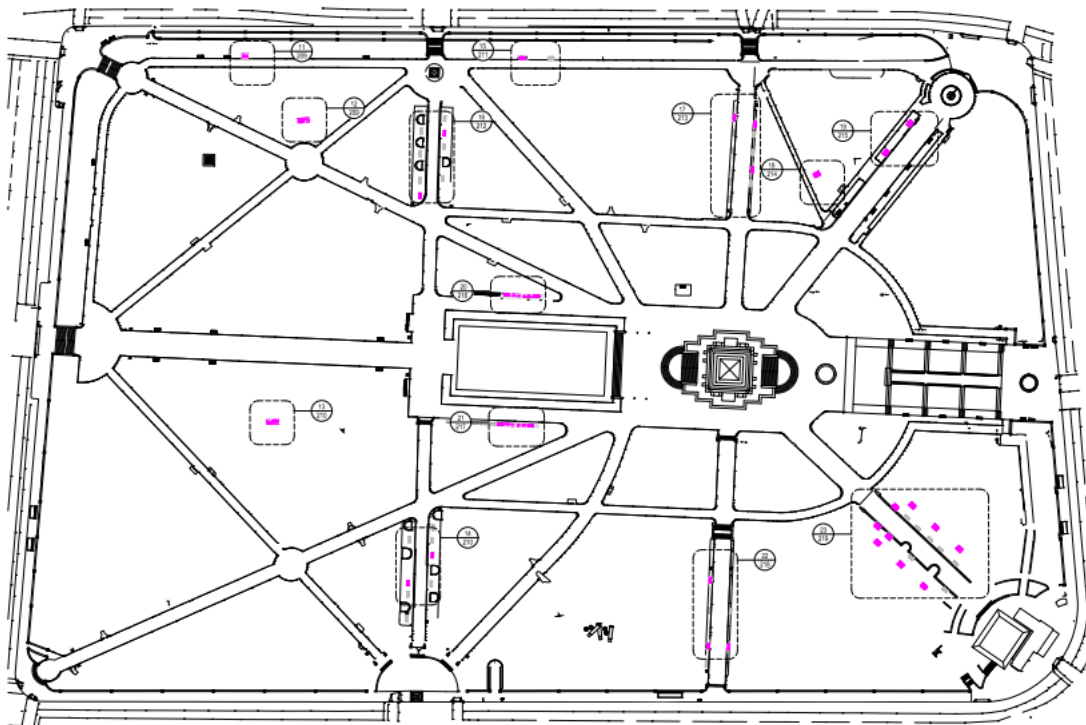


Figure 3 below provide an indicative layout of the proposed seating plan.

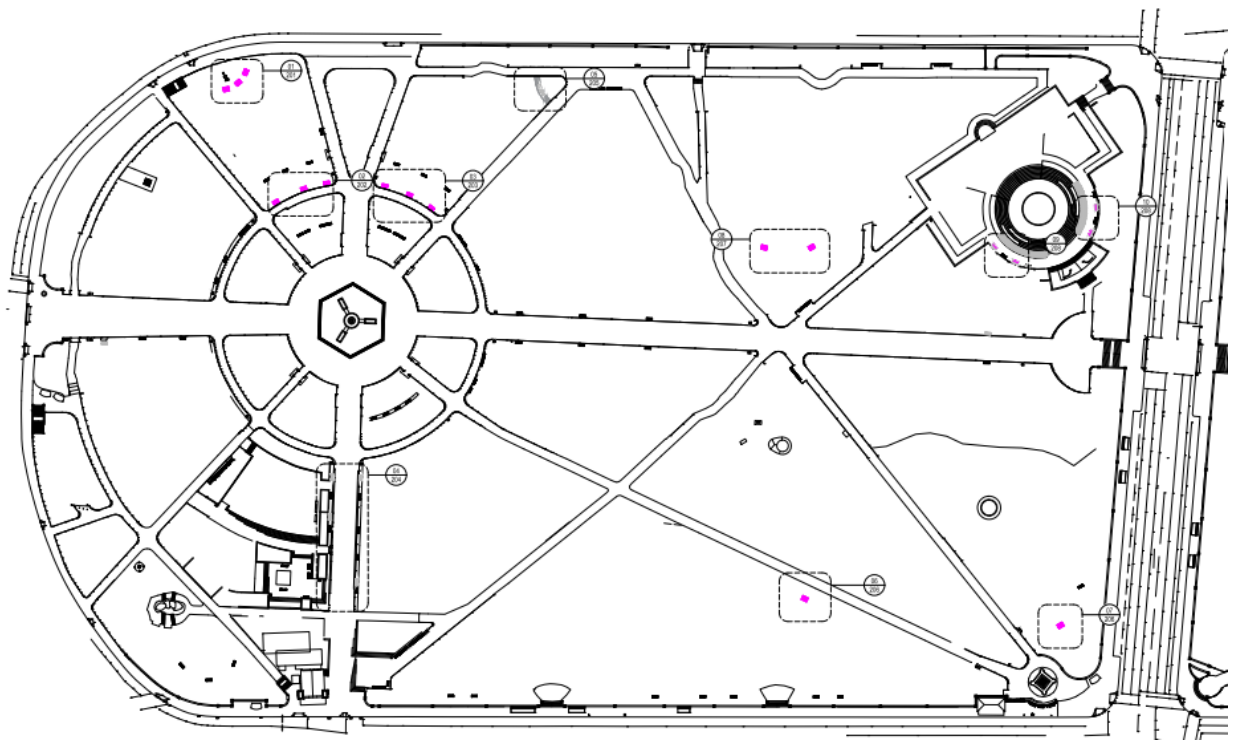


Figure 2. Hyde Park North, Seating Upgrade Plan
Source: Place Design Group, 2024

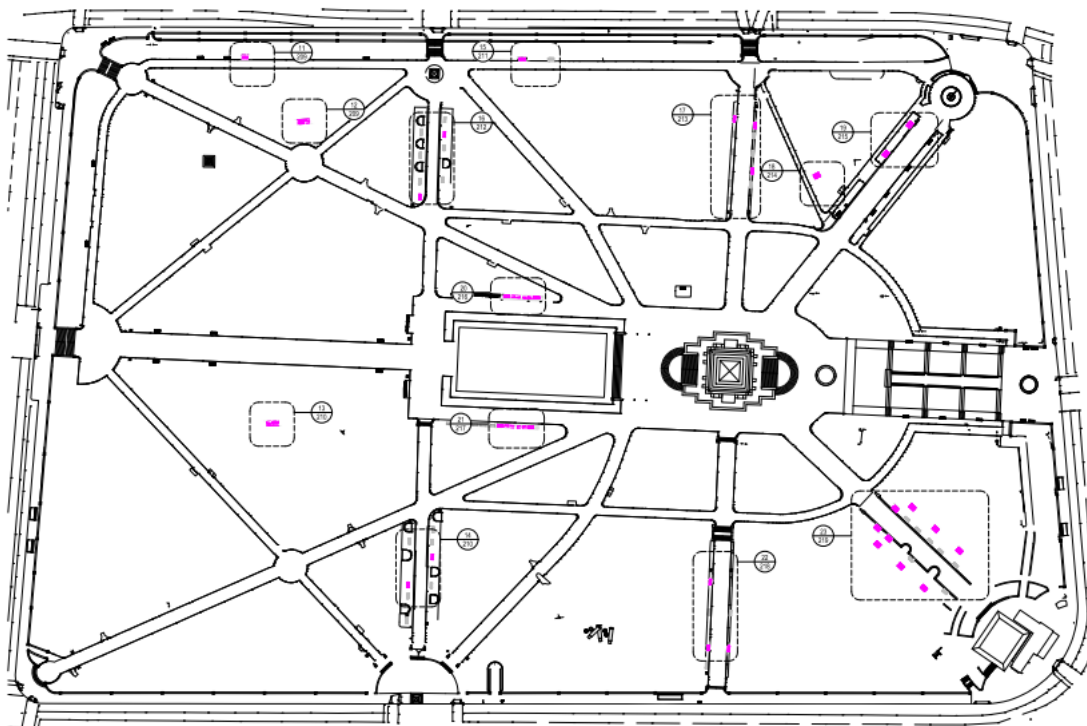


Figure 3. Hyde Park South, Seating Upgrade Plan
Source: Place Design Group, 2024

An extract of the proposed seating design is provided in Figure 4 below

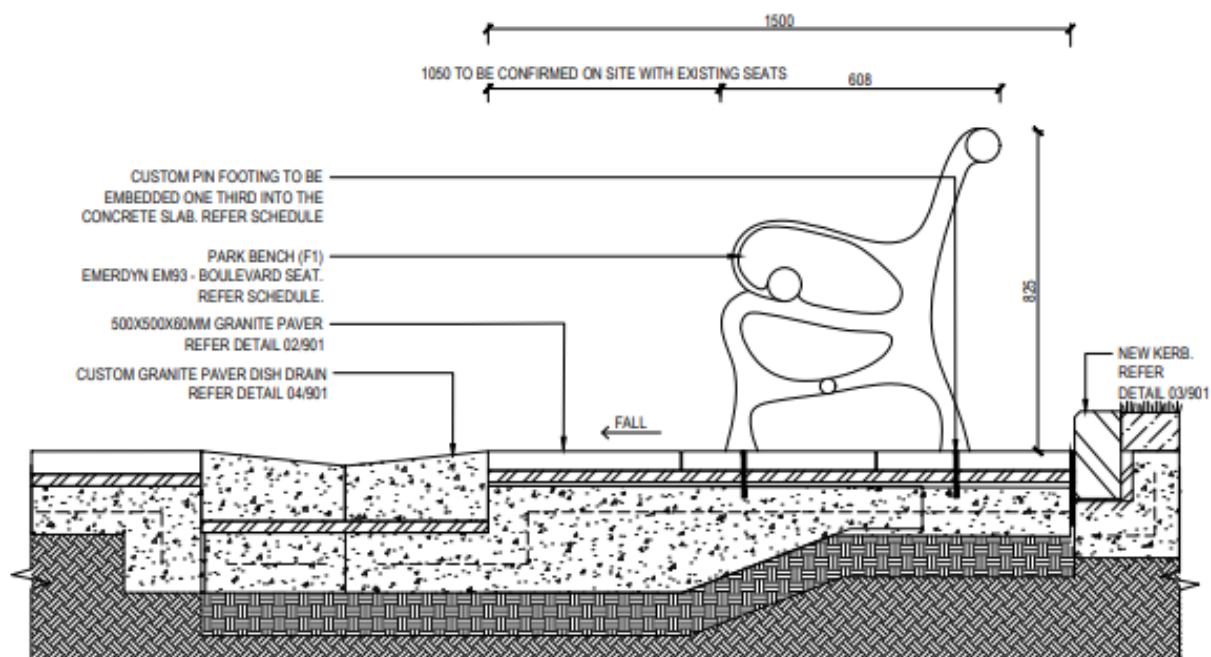


Figure 4. Proposed Seating
Source, Place Design Group, 2024

3.2 Need for the proposal

The proposed works are required in order to provide improved amenities throughout Hyde Park. The proposed new seating, alongside the existing seating in the grassed areas and around pathways, will provide areas for rest, relaxation and passive observation for the visitors.

The need for the proposed works is reflected in the Plan of Management which clearly identifies the need for additional facilities and amenities including park seating, while continuing to maintain the heritage protection zones across Hyde Park.

3.3 Project Alternatives

The following project alternatives were considered:

- **Do-nothing alternative** – the ‘do nothing’ option would not meet the objectives of the proposal as it would not address the deteriorating amenities across the Site, nor would it respond to the needs of visitors to the park.

The do-nothing approach is not considered to be a viable option for the Site and as such has not been considered further.

- **Alternative Design Option** – the original concept plans involved a greater number upgrades to existing amenities, however, following Council feedback this was reduced.

3.4 Timing and Staging

The intention is complete the works following approvals, with construction commencing Q4 of 2024 – Q1 of 2025. The proposed construction will be staggered to avoid closure of the entire park at one time and limit disruption to visitors.

4 Relevant Legislation and Planning Framework

This section of the REF provides an overview of the relevant assessment frameworks and applicable environmental planning instruments that apply to the project and subject site.

The proposed activity is subject to statutory planning controls. The proposed activity requires an environmental assessment be undertaken under Part 5 of the EP&A Act 1979. The duty to assess environmental impact requires all relevant planning matters to be considered. Statutory planning controls determine the appropriate environmental assessment process.

4.1 Environmental Assessment Process

Statutory planning processes are prescribed under the EP&A Act 1979. This Act creates a statutory duty to assess the environmental impacts of proposed development.

There are different assessment processes depending on the category of development under the EP&A Act 1979. The categories of development are:

- State Significant Development (SSD);
- State Significant Infrastructure (SSI);
- Development permitted with consent (Part 4);
- Development permitted without consent (Part 5);
- Complying development (low impact development under Part 4);
- Exempt development (minor development no assessment required); and
- Prohibited (cannot be approved under current regulations).

For each proposed development, the assessment process is established through the provisions of environmental planning instruments. Environmental planning instruments include State Environmental Planning Policies (SEPPs), Regional Environmental Plans (REPs) and Local Environmental Plans (LEPs).

Are the proposed works a State Significant Development?

The proposed works are not State Significant Development as they do not meet the criteria of Chapter 2, Part 2.2 and 2.3 and Schedules 1 and/or 2 of the *State Environmental Planning Policy (Planning Systems) 2021* (Planning Systems SEPP).

Are the proposed works State Significant Infrastructure?

The proposed works are not State Significant Infrastructure as Council are the proponent and determining authority, through the environmental assessment undertaken in this REF and associated specialist assessments, has formed the opinion that the project would not require the preparation of an Environmental Impact Statement under Part 5 of the EP&A Act (Schedule 3 of Planning Systems SEPP).

Are the proposed works permitted with consent?

The proposed work is being undertaken by a public authority under the provisions of Chapter 2, Division 12, Section 2.73(2)(c)(ii) and (3)(a)(ii) of the T&I SEPP as development permitted without consent. This is addressed further throughout the relevant sections below.

Therefore, development consent under Part 4 of the EP&A Act 1979 is not required.

Are the proposed works permitted without consent?

Yes. The T&I SEPP provides for a range of developments to be permitted without consent. The purpose of this SEPP is to facilitate delivery of infrastructure. Under the SEPP the proposed site works fall under Chapter 2, Division 12, Section 2.73. These are discussed below:

SEPP (Transport and Infrastructure) 2021

The proposed works are being undertaken by or on behalf of City of Sydney Council (a public authority) under the provisions of Chapter 2, Division 12, Section 2.73(2)(c)(ii) and (3)(a)(ii) of the T&I SEPP as development permitted without consent. These are provided below.

(2) Development for any purpose may be carried out without consent—

(a) on Trust lands within the meaning of the Centennial Park and Moore Park Trust Act 1983, by or on behalf of the Centennial Park and Moore Park Trust, or

(b) on trust lands within the meaning of the Parramatta Park Trust Act 2001, by or on behalf of the Parramatta Park Trust, or

(c) on Crown managed land, by or on behalf of—

(i) the Secretary, or

(ii) a Crown land manager of the land (or an administrator of the manager),
or

(iii) the Ministerial Corporation, or

(iv) the Minister administering the Crown Land Management Act 2016,

if the development is for the purposes of implementing a plan of management adopted for the land under the Act referred to above in relation to the land or in accordance with the Local Government Act 1993 in relation to Crown managed land managed by a council.

(3) Any of the following development may be carried out by or on behalf of a public authority without consent on land owned or controlled by the public authority—

(a) development for any of the following purposes—

(i) roads, pedestrian pathways, cycleways, single storey car parks, ticketing facilities, viewing platforms and pedestrian bridges,

(ii) recreation areas and recreation facilities (outdoor), but not including grandstands,

(iii) visitor information centres, information boards and other information facilities,

(iv) lighting, if light spill and artificial sky glow is minimised in accordance with the Lighting for Roads and Public Spaces Standard,

(v) landscaping, including landscape structures or features (such as art work) and irrigation systems,

(vi) amenities for people using the reserve, including toilets and change rooms,

(vii) food preparation and related facilities for people using the reserve,

(viii) maintenance depots,

(ix) portable lifeguard towers,

(b) environmental management works,

(c) demolition of buildings (other than any building that is, or is part of, a State or local heritage item or is within a heritage conservation area).

The proposed activity aims to increase the existing seating capacity at Hyde Park and includes the installation of new seating, utilising a similar form and design as the existing seating, around the existing seating. In accordance with the standard instrument LEP, the broader

passive recreation area can be considered a 'recreation area'. The relevant definitions for each of these land uses is provided below:

recreation area means a place used for outdoor recreation that is normally open to the public, and includes—

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

The proposed works are located in Hyde Park, which is a Crown Reserve for which the City of Sydney is appointed as Crown Land Manager and charged with its care, control and management. Council appointed a Plan of Management for Hyde Park in 2006 which operates effectively as Council's primary strategic framework for the management of Hyde Park as a Crown Reserve.

Hyde Park is sited on a 'reserve' which was dedicated for 'public recreation' on 3 May 1878, administered by the Department of Lands under the *Crown Land Management Act 2016* (Crown Land Act). The responsibility for the management of the Crown Lands transferred from Trusts to Crown Land Managers with the introduction of the Crown Lands Act.; Council now manages Hyde Park in its capacity as a Crown Land Manager. The Crown Land Manager is charged with the care, control management of the 'reserve' and the City of Sydney is the appointed Reserve Trust Manager.

The land to which the Plan of Management and Masterplan applies comprises two parcels defined by D500450 with the area of management extending to the footpath kerb. The Masterplan is depicted in Figure 5 on the following page.

The proposed works are consistent with the management strategies outlined in the Hyde Park Plan of Management as the minor works will improve usability and support the continued operation of Hyde Park, and provide for areas for rest, relaxation and passive observation for the visitors, which is identified within the Plan.

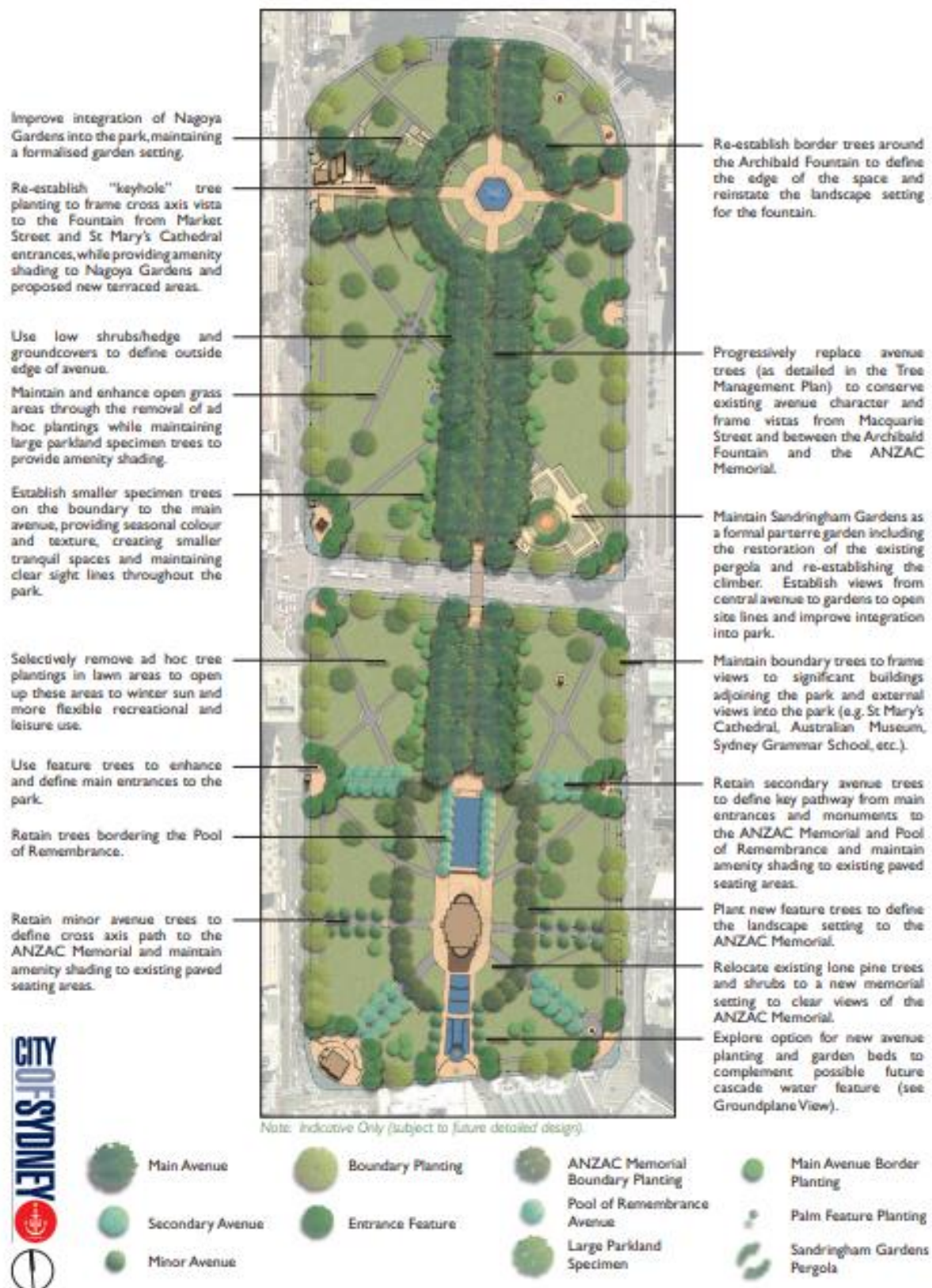


Figure 5. Masterplan of Hyde Park
Source: Hyde Park Plan of Management and Master Plan, 2006

Consultation

Chapter 2, Division 1 of the T&I SEPP sets out consultation requirements for Councils. Section 2.17 of Division 1 provides exceptions for consultation where Division 1 requires that notice be given to a Council or public authority, where the Council or public authority is carrying out the works.

Are the proposed works exempt or complying development?

No, the proposed works are neither exempt development nor complying development.

Are the proposed works prohibited development?

None of the proposed works are prohibited.

What environmental assessment process should apply?

As the works are permitted without consent under Chapter 2, Division 12, Section 2.73 of the T&I SEPP (as described above), environmental assessment is required under Part 5 of the EP&A Act 1979. City of Sydney is the both the proponent and determining authority for the proposed works and is responsible for environmental assessment.

4.2 Environmental Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is federal legislation which provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places, defined in the act as 'matters of National Environmental Significance' (NES).

A referral to the Australian Government is required under the EPBC Act for actions that have the potential to have a significant impact on matters of NES or the environment of Commonwealth land.

An EPBC protected matters search for the site was completed on 14th June 2024, and a copy of the results are included in Appendix 5, with the conclusions provided outlined below.

1. The Site is not a World Heritage Property, however the Site is in proximity to the Australian Convict Sites (Hyde Park Barracks).
2. Hyde Park is listed as an item on the Australian National Heritage List as 'Governor's Domain and Civic Precinct', item no. 106103. As the proposed works will have no more than minor impact and therefore referral to the Minister is not required.
3. There are no wetlands of international importance at the Site.
4. The Site is not located within the Great Barrier Reef Marine Park.
5. The Site is not located within Commonwealth Marine Areas or other Commonwealth land.
6. 6 listed threatened ecological communities have been recorded in the vicinity of the Site.
7. 92 listed threatened species have been recorded in vicinity of the Site.
8. 68 listed migratory species have been recorded in the vicinity of the Site.

The proposed activity comprises the provision for additional seating opportunities throughout Hyde Park and does not have the potential to have significant impact on matters of NES or the environment of Commonwealth. It is therefore considered that no referral is required.

In accordance with Part 3 of the EPBC Act, the following factors have been considered to determine that a referral is not required.

Table 2. Part 3 – Requirements for environmental approval

Factor	Impact Assessment
Any significant impact on a declared World Heritage Property	While a listed World Heritage Property is within proximity of the Site (the Australian Convict Sites [Hyde Park Barracks]), the identified listing sits outside the curtilage of Hyde Park and is unlikely to be affected, either directly or indirectly, as a result of the proposed works given their minor nature.
Any significant impact on a National Heritage place?	Hyde Park is listed as an item on the Australian National Heritage List as 'Governor's Domain and Civic Precinct', item no. 106103. As the proposed works will have no more than minor impacts and therefore referral to the Minister is not required.
Any significant impact on a wetland of international importance?	Nil
Any significant impact on Commonwealth listed threatened species or communities?	<p>An EPBC protected matters search for the Site was completed on 14 June 2024, which revealed the following Commonwealth listed threatened species or communities have been recorded in vicinity of the Site:</p> <ul style="list-style-type: none"> • 6 listed threatened ecological communities; • 92 listed threatened species; and • 68 listed migratory species. <p>The activity does not involve the removal of any vegetation. The activity will not impact any vegetation on or adjacent to the Site and is not expected to impact any habitats for threatened or migratory species.</p> <p>Therefore, a referral for assessment and approval under the EPBC Act is not required as the proposed activity does not have the potential to significantly affect any Commonwealth listed species, populations, endangered ecological communities, and migratory species.</p>
Any significant impact on Commonwealth listed migratory species?	As above, whilst migratory species have been recorded in vicinity of the site, the activity does not involve the removal of any vegetation and is confined to the structure of the existing building. Nil impact is expected.
Does the proposed activity involve a nuclear action?	Nil

Table 2. Part 3 – Requirements for environmental approval

Factor	Impact Assessment
Any significant impact on a Commonwealth marine area?	Nil
Any significant impact on the Great Barrier Reef Marine Park?	Nil
Any significant impact on a water resource in relation to coal seam gas development and large coal mining development?	Not applicable.

4.3 Biodiversity Conservation Act 2016

Part 7 of the *Biodiversity Conservation Act 2016* (BC Act) outlines the biodiversity assessment and approval requirements and section 7.8(2) of the BC Act states that an activity under Part 5 of the EP&A Act is to be regarded as an activity “likely to significantly affect the environment if it is likely to significantly affect threatened species”. In those circumstances, an Environmental Impact Statement (EIS) is required and must include or be accompanied by a Species Impact Statement (SIS) or a Biodiversity Development Assessment Report (BDAR).

In accordance with section 7.2(1) of the BC Act, an activity is likely to significantly affect threatened species if it is:

1. likely to “significantly affect threatened species or ecological communities, or their habitats” in accordance with section 7.3 of the BC Act; or
2. is carried out in a declared area of outstanding biodiversity value.

Significance is assessed under Section 7.3(1) of the BC Act. As detailed in Table 3 below, the proposed activity is not likely to significantly affect threatened species or ecological communities, or their habitats. Accordingly, an EIS is not required.

Table 3. Section 7.3 of the Biodiversity Conservation Act 2016

Factor	Impact Assessment	Satisfied
<i>(1) The following is to be taken into account for the purposes of determining whether a proposed development or activity is likely to significantly affect threatened species or ecological communities, or their habitats—</i>		
<i>(a) in the case of a threatened species, whether the proposed development or activity is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,</i>	Whilst commonwealth-listed threatened species have been identified having been recorded in the vicinity of the Site, the proposed works are limited to increasing the seating capacity across Hyde Park. It is considered that the proposed activity is unlikely to have a significant impact on the life cycle of any threatened species.	Yes

Table 3. Section 7.3 of the Biodiversity Conservation Act 2016

Factor	Impact Assessment	Satisfied
	The proposed works involve minor subsurface excavation works required for the installation of new seating in Hyde Park. However, the extent is considered minor and will directly impact identified threatened species. Additionally, no trees are proposed to be removed.	
<i>(b) in the case of an endangered ecological community or critically endangered ecological community, whether the proposed development or activity— (i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or (ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,</i>	As above, whilst Commonwealth-listed endangered ecological communities have been recorded in the vicinity of the site, the proposed works are minor and are not expected to have an adverse effect on the extent of the ecological communities or substantially/adversely modify the composition of the ecological community.	Yes
<i>(c) in relation to the habitat of a threatened species or ecological community— (i) the extent to which habitat is likely to be removed or modified as a result of the proposed development or activity, and (ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed development or activity, and (iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species or ecological community in the locality,</i>	Due to the nature of the works, being seating upgrade works, it is not anticipated that the activity proposed would have a significant impact on the habitats of any threatened species or ecological communities. It is noted that the proposed activity would not involve the removal of any vegetation and is proposed within an existing built environment.	Yes

Table 3. Section 7.3 of the Biodiversity Conservation Act 2016

Factor	Impact Assessment	Satisfied
<i>(d) whether the proposed development or activity is likely to have an adverse effect on any declared area of outstanding biodiversity value (either directly or indirectly),</i>	The Section 10.7 Planning Certificate (Appendix 6 of this REF) for the site confirms that the land is not identified within an area of outstanding biodiversity value under the BC Act.	N/A
<i>(e) whether the proposed development or activity is or is part of a key threatening process or is likely to increase the impact of a key threatening process.</i>	The proposed activity is not anticipated to increase the impact of a key threatening process. The proposed activity simply involves increasing the seating capacity across Hyde Park, improving the usability and functionality of the Site for visitors to Hyde Park.	Yes

The proposed works involve the installation of new seating to increase the seating capacity across Hyde Park. It is considered that the proposed works are unlikely to have a significant impact on the threatened entities assessed.

4.4 Environmental Planning and Assessment Act 1979

The EP&A Act is the primary piece of legislation regulating land use planning and development assessment in New South Wales (NSW) and outlines the planning approval pathway and environmental impact assessment requirements for the proposal. This proposal is subject to the environmental impact assessment and planning approval requirements of Part 5 of the EP&A Act.

Part 5 the EP&A Act specifies the environmental impact assessment for activities undertaken by public authorities, such as the City of Sydney Council, which do not require development consent under Part 4 of the EP&A Act. It also provides for the making of the environmental planning instruments, including the T&I SEPP, which defines the permissibility of the proposed development.

Under Division 5.1, clause 5.5 and 5.6 of the EP&A Act; Council as both the 'proponent' and 'determining authority', must examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of the proposal.

Under Part 5, the determining authority is required to fully consider the potential environmental impacts of the proposed activity possible. This REF has been prepared to fully consider the potential impacts of the proposed works. As assessed and concluded by this REF, the proposal is not likely to have any significant impacts on the environment, and an Environmental Impact Statement is not required.

4.5 Environmental Planning and Assessment Regulation 2021

Section 171 of the EP&A Regulation outlines the factors which must be considered when determining if an activity assessed under Part 5 of the EP&A Act would have a significant impact on the environment. Section 171(1) of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) requires the determining authority to take into account the environmental factors specified in the Division 5.1 Guidelines.

When considering the likely impact on an activity on the environment, the Division 5.1 Guidelines requires the proponent and determining authority to take into account the factors outlined in Table 1 in section 3 of the Division 5.1 Guidelines. These are listed in section 171(2) of the EP&A Regulation. These are addressed in Table 4 below.

Table 4. Division 5.1 Guidelines		
Consideration	Response	Compliance
<i>(2) If there are no environmental factors guidelines in force, the determining authority must take into account the following environmental factors—</i>		
<i>(a) the environmental impact on the community,</i>	The proposed activity relates to minor works for the upgrade to seating, increasing seating capacity throughout Hyde Park. There may be the potential for impacts on the environment during the construction period due to increased traffic, noise, and dust. These potential impacts would be minor, temporary, and managed through the mitigation measures outlined in Section 7 of this REF. Therefore, the proposal will not have any significant environmental impact on the community.	✓
<i>(b) the transformation of the locality,</i>	The proposed activity will not have a transformational impact on the locality. The proposal will provide a positive benefit to Hyde Park and the wider community through upgrades to existing infrastructure.	✓
<i>(c) the environmental impact on the ecosystems of the locality,</i>	The proposed activity will have negligible environmental impacts on any ecosystems as a result of the development. The proposal does not include any vegetation removal.	✓
<i>(d) reduction of the aesthetic, recreational, scientific or other environmental quality or value of the locality,</i>	There will be no reduction of the aesthetic, recreational, scientific, or environmental quality of the locality as a result of the proposed activity. The proposed activity has been designed to complement the surrounding locality.	✓
<i>(e) the effects on any locality, place or building that has—</i>	Due to the nature of the works, they will have a minor impact on the surrounding locality. As a result, there will be no reduction in the aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific, or social significance or other special value of the site for present or future generations.	✓

Table 4. Division 5.1 Guidelines

Consideration	Response	Compliance
<p>(i) aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance, or</p> <p>(ii) other special value for present or future generations,</p>		
<p>(f) the impact on the habitat of protected animals, within the meaning of the Biodiversity Conservation Act 2016,</p>	<p>The proposal is for minor works and are considered unlikely to impact on the habitat of protected animals.</p>	✓
<p>(g) the endangering of a species of animal, plant or other form of life, whether living on land, in water or in the air,</p>	<p>The proposal will not endanger any species of animal, plant, or other form of life, whether living on land, in water or in the air.</p>	✓
<p>(h) long-term effects on the environment,</p>	<p>The work will not result in any long-term impacts on the environment. Any potential impacts on amenities will occur during construction. These impacts will only be short term and can be mitigated by measures outlined in a Construction Environmental Management Plan (CEMP) to be prepared prior to commencing works. The proposed works once complete will continue the operation of the Site.</p>	✓
<p>(i) degradation of the quality of the environment,</p>	<p>The proposed works will not cause any degradation of the quality of the environment.</p>	✓
<p>(j) risk to the safety of the environment,</p>	<p>The proposal poses no risk to the environment's safety beyond the construction stage; A CEMP will be prepared prior to works commencing and would be approved by City of Sydney Council (as the determining authority).</p>	✓

Table 4. Division 5.1 Guidelines

Consideration	Response	Compliance
<i>(k) reduction in the range of beneficial uses of the environment,</i>	The proposal will not reduce the range of beneficial uses of the environment.	✓
<i>(l) pollution of the environment,</i>	The proposal is not expected to cause any significant pollution of the environment. Any pollution (such as noise and dust) will be limited to the construction phase of the proposal, the risk of which will be managed in accordance with the mitigation measures proposed in this REF.	✓
<i>(m) environmental problems associated with the disposal of waste,</i>	All waste generated by the proposal will be carefully removed, packaged, and transported from the site to an offsite waste facility in accordance with the relevant Australian Standards.	✓
<i>(n) increased demands on natural or other resources that are, or are likely to become, in short supply,</i>	The works will utilise the typical resources required for the nature of works. The works are not anticipated to result in an unmanageable demand of resources.	✓
<i>(o) the cumulative environmental effect with other existing or likely future activities,</i>	There will be negligible cumulative environmental impacts. All construction works associated with the proposal will be undertaken in accordance with the relevant measures to mitigate construction impacts provided in Section 7 of this REF.	✓
<i>(p) the impact on coastal processes and coastal hazards, including those under projected climate change conditions,</i>	The proposed works will not impact on coastal process and coastal hazards.	✓
<i>(q) applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1,</i>	Consideration has been given to City Plan 2036: Local Strategic Planning Statement (LSPS), City of Sydney as part of the preparation of this REF. The proposed works are not inconsistent with applicable local strategic planning statement, regional strategic plan or district strategic plan made under Division 3.1 of the Act.	✓

Table 4. Division 5.1 Guidelines		
Consideration	Response	Compliance
(r) other relevant environmental factors.	There are no other relevant environmental factors that the proposal will impact on.	✓

In accordance with section 171(4) of the EP&A Regulation, an REF must be published on the determining authority's website or the NSW Planning Portal only if:

- (a) the activity has a capital investment value of more than \$5 million, or
- (b) the activity requires an approval or permit as referred to in any of the following provisions before it may be carried out—
 - (i) Fisheries Management Act 1994, sections 144, 200, 205 or 219,
 - (ii) Heritage Act 1977, section 57,
 - (iii) National Parks and Wildlife Act 1974, section 90,
 - (iv) Protection of the Environment Operations Act 1997, sections 47–49 or 122, or
- (c) the determining authority considers that it is in the public interest to publish the review.

As the proposed activity will have a capital investment value of less than \$5 million and the proposed activity will not require an approval or permit in relation to any of the above Acts, this REF is not required to be published on City of Sydney Council website or the NSW Planning Portal. Notwithstanding, City of Sydney Council may consider it to be in the public interest to do so.

Section 171A of the EP&A Regulation requires additional matters to be taken into consideration when the activity is to be carried out in a “regulated catchment”, the “Sydney Water Drinking Catchment” or the “Sydney Harbour Catchment”.

The proposal is situated within an area identified as a “regulated catchment”, being the “Sydney Harbour Catchment” and consideration of Section 171A is therefore required. These matters have been considered below.

Pursuant to 171A, when considering the likely impact on the environment of an activity proposed to be carried out in a regulated catchment, a determining authority must take into account:

- (a) the matters a consent authority must consider under State Environmental Planning Policy (Biodiversity and Conservation) 2021, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1), and
- (b) the matters of which a consent authority must be satisfied under State Environmental Planning Policy (Biodiversity and Conservation) 2021, sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).

It is noted that as the Site is not identified in a special area under the Water NSW Act 2014 or in the Sydney Drinking Water Catchment, 171A(2) and (3) do not apply.

Table 5 below considers the matters contained under the Biodiversity and Conservation SEPP, being Sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1).

Table 5. Matters contained under BCSEPP, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1).

Consideration	Response	Compliance
6.6 Water quality and quantity		
<i>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—</i>		
<i>(a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,</i>	The proposal is likely to have a minor impact on the quality of water runoff from the site during the construction phase of the development. This will be managed using the principles for sediment and erosion control contained within “the blue book” as well as the relevant mitigation measures identified within the CEMP.	✓
<i>(b) whether the development will have an adverse impact on water flow in a natural waterbody,</i>	The proposal will not impact on water flow in a natural waterbody.	✓
<i>(c) whether the development will increase the amount of stormwater run-off from a site,</i>	The proposal will not directly impact the stormwater run off from the Site.	✓
<i>(d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,</i>	The scope of the works will not directly impact the stormwater run-off from the Site.	✓
<i>(e) the impact of the development on the level and quality of the water table,</i>	The proposal will not directly impact the level or quality of the water table.	✓
<i>(f) the cumulative environmental impact of the development on the regulated catchment,</i>	The proposal is not expected to contribute to the cumulative environmental impact on the Sydney Harbour Catchment.	✓
<i>(g) whether the development makes adequate provision to protect the quality and quantity of ground water.</i>	The proposal does not impact on ground water at the site.	✓
6.7 Aquatic ecology		

Table 5. Matters contained under BCSEPP, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1).

Consideration	Response	Compliance
<i>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the following—</i>		
<i>(a) whether the development will have a direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation,</i>	The proposal is not expected to generate or influence the amount or quality of stormwater runoff at the site and is therefore not considered to impact on terrestrial, aquatic or migratory animals or vegetation directly, indirectly or cumulatively.	✓
<i>(b) whether the development involves the clearing of riparian vegetation and, if so, whether the development will require— (i) a controlled activity approval under the Water Management Act 2000, or (ii) a permit under the Fisheries Management Act 1994,</i>	The proposal does not involve clearing.	✓
<i>(c) whether the development will minimise or avoid— (i) the erosion of land abutting a natural waterbody, or (ii) the sedimentation of a natural waterbody,</i>	The proposal is likely to have a minor impact on the quality of water runoff from the site during the construction phase of the development. This will be managed using the principles for sediment and erosion control contained within “the blue book” as well as the relevant mitigation measures identified within the CEMP.	✓
<i>(d) whether the development will have an adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area,</i>	The proposal is not located within proximity of any coastal wetlands and littoral rainforests.	✓

Table 5. Matters contained under BCSEPP, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1).

Consideration	Response	Compliance
<i>(e) whether the development includes adequate safeguards and rehabilitation measures to protect aquatic ecology,</i>	The only envisaged impact on aquatic ecology would be during the construction phase of the development. This will be managed using the principles for sediment and erosion control contained within "the blue book" as well as the relevant mitigation measures identified within the CEMP.	✓
<i>(f) if the development site adjoins a natural waterbody—whether additional measures are required to ensure a neutral or beneficial effect on the water quality of the waterbody. Example— Additional measures may include the incorporation of a vegetated buffer between the waterbody and the site.</i>	The proposal does not adjoin a natural waterbody.	✓
6.8 Flooding		
<i>(1) In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the likely impact of the development on periodic flooding that benefits wetlands and other riverine ecosystems.</i>	The site is not impacted by flooding.	✓
6.9 Recreation and public access		
<i>(a) the likely impact of the development on recreational land uses in the regulated catchment, and</i>	The proposal does not impact on the public access to and from natural waterbodies for recreational purposes.	✓

Table 5. Matters contained under BCSEPP, sections 6.6(1), 6.7(1), 6.8(1) and 6.9(1).

Consideration	Response	Compliance
(b) whether the development will maintain or improve public access to and around foreshores without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation.		✓

Table 6 below considers the matters contained under the Biodiversity and Conservation SEPP, Sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).

Table 6. Matters contained under BCSEPP, sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).

Consideration	Response	Compliance
6.6 Water quality and quantity		
<i>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied the development ensures</i>		
<i>(a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and</i>	The proposal is likely to have a minor impact on the quality of water runoff from the site during the construction phase of the development. This can be managed using the principles for sediment and erosion control contained within “the blue book” as well as the relevant mitigation measures identified within the CEMP.	✓
<i>(b) the impact on water flow in a natural waterbody will be minimised.</i>	The proposal will not impact on water flow in a natural waterbody.	✓
6.7 Aquatic ecology		
<i>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</i>		

Table 6. Matters contained under BCSEPP, sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).

Consideration	Response	Compliance
<i>(a) the direct, indirect or cumulative adverse impact on terrestrial, aquatic or migratory animals or vegetation will be kept to the minimum necessary for the carrying out of the development,</i>	The proposal is not expected to generate or influence the amount or quality of stormwater runoff at the site and it therefore not considered to impact on terrestrial, aquatic or migratory animals or vegetation directly, indirectly or cumulatively.	✓
<i>(b) the development will not have a direct, indirect or cumulative adverse impact on aquatic reserves,</i>	The proposal is not expected to impact on aquatic reserves directly, indirectly or cumulatively.	✓
<i>(c) if a controlled activity approval under the Water Management Act 2000 or a permit under the Fisheries Management Act 1994 is required in relation to the clearing of riparian vegetation—the approval or permit has been obtained,</i>	The proposal does not involve clearing.	✓
<i>(d) the erosion of land abutting a natural waterbody or the sedimentation of a natural waterbody will be minimised,</i>	The proposal is likely to have a minor impact on the quality of water runoff from the site during the construction phase of the development. This will be managed using the principles for sediment and erosion control contained within “the blue book” as well as the relevant mitigation measures identified within the CEMP.	✓
<i>(e) the adverse impact on wetlands that are not in the coastal wetlands and littoral rainforests area will be minimised.</i>	The proposal is not located within proximity of any coastal wetlands and littoral rainforests.	✓
6.8 Flooding		
<i>(2) Development consent must not be granted to development on flood liable land in a regulated catchment unless the consent authority is satisfied the development will not—</i>		

Table 6. Matters contained under BCSEPP, sections 6.6(2), 6.7(2), 6.8(2) and 6.9(2).

Consideration	Response	Compliance
<i>(a) if there is a flood, result in a release of pollutants that may have an adverse impact on the water quality of a natural waterbody, or</i>	This proposed activity will not impact flooding across the Site.	✓
<i>(b) have an adverse impact on the natural recession of floodwaters into wetlands and other riverine ecosystems.</i>		✓
6.9 Recreation and public access		
<i>(2) Development consent must not be granted to development on land in a regulated catchment unless the consent authority is satisfied of the following—</i>		
<i>(a) the development will maintain or improve public access to and from natural waterbodies for recreational purposes, including fishing, swimming and boating, without adverse impact on natural waterbodies, watercourses, wetlands or riparian vegetation,</i>	The proposal will not impact on public access to and from natural waterbodies for recreational purposes.	✓
<i>(b) new or existing points of public access between natural waterbodies and the site of the development will be stable and safe,</i>		✓
<i>(c) if land forming part of the foreshore of a natural waterbody will be made available for public access as a result of the development but is not in public ownership—public access to and use of the land will be safeguarded.</i>		✓

Additionally, when considering the likely impact on the environment of an activity proposed to be carried out in the Sydney Harbour Catchment, the determining authority must, in addition to the matters referred to above, take into account the matters a consent authority must consider under the Biodiversity and Conservation SEPP, Section 6.28(1). However, if the proposal is not within a Foreshores or Waterways Area, Section 6.28(1) is not applicable.

As the Site is not within a nominated Foreshores or Waterway Area, Section 6.28(1) is not applicable to the proposed activity.

4.6 Other NSW Legislation

Table 7 details the legislation, the purpose of the legislation and its relevance to the proposal.

Table 7. Other NSW Legislation		
Legislation	Purpose of Legislation	Relevance to the Proposal
<i>Contaminated Land Management Act 1997</i>	The provisions of the Contaminated Land Act require that the nature and extent of any potential contamination be investigated and demonstrated.	<p>The proposal consists of the installation of new seating, increasing the seating capacity across Hyde Park.</p> <p>The proposed works involve minor subsurface excavation works required for the installation of new seating in Hyde Park. However the extent of the works is consider minor and unlikely to expose contamination.</p> <p>A search of NSW Environmental Protection Authority's (EPA) Contaminated Lands Register for the City of Sydney LGA has not identified any known contaminated land sites on, or in proximity to the Site.</p>
Heritage Act 1977	The Heritage Act is administered by the Heritage Office within the Office of Environment & Heritage and protection and restoration and enhancement of State heritage items.	Pursuant to section 57 of the Heritage Act, approval under section 60 of the Heritage Act is required for works and activities that will have, or have the potential to have, a moderate or greater impact on the significance of a State Heritage Register listed item.

Table 7. Other NSW Legislation

Legislation	Purpose of Legislation	Relevance to the Proposal
		<p>The State Heritage Register (SHR) form of Hyde Park identifies site-specific exemptions relating to installation, relocation, removal and maintenance of park furniture and fixtures to ensure that any new works relating to park furniture are consistent with the Hyde Park Plan of Management and Masterplan and will not materially affect the heritage significance of the Park as a whole or the building or area in which they are to be undertaken.</p> <p>The proposed works including the installation of new seating around Hyde Park can be undertaken using the site specific exemptions under the <i>Heritage Act 1977</i> as the works do not include any removal or impact on the significant fabric. The works could be self-assessed by a suitably qualified heritage consultant and would require completion of a <i>Standard Exemption Record Keeping Form</i>, briefly assessing the impacts of the proposed works.</p> <p>The accompanying Statement of Heritage Impact (SOHI) has been prepared as part of the required assessments as part of the Standard Exemption approval pathway under Section 57(2) of the <i>Heritage Act 1977</i> and will accompany the <i>Standard Exemption Record Keeping Form</i>.</p> <p>Overall, the proposed works will not require approval from the Heritage Council or NSW nor a separate exemption application from the City of Sydney under Clause 5.10(3) of SLEP 2012.</p>

Table 7. Other NSW Legislation

Legislation	Purpose of Legislation	Relevance to the Proposal
Roads Act 1993	Objects of the Act are to, among other things, confer certain functions (in particular, the function of carrying out road work) on RMS and on other roads authorities, and to provide for the distribution of the functions conferred by this Act between RMS and other roads authorities.	Consent is not required under Section 138 of the <i>Roads Act 1993</i> .
Protection of the Environment Operations Act 1997	The Act seeks to protect, restore and enhance the environmental quality of NSW and reduce risks to human health and the environment.	An Environmental Protection Licence (EPL) is not required for the activity.
National Parks and Wildlife Act 1974	<p>The NSW Office of Environment and Heritage, Department of Climate Change, Energy, the Environment and Water (DCCEEW) is primarily responsible for regulating the management of Aboriginal cultural heritage in New South Wales under the <i>National Parks and Wildlife Act 1974</i> (NPW Act). The NPW Act is accompanied by the <i>National Parks and Wildlife Regulation 2019</i> (the Regulation), the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DCCEEW 2010), the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DCCEEW 2010a) and guides such as the Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in New South Wales (OEH 2011).</p> <p>Where works will disturb Aboriginal objects, an Aboriginal Heritage Impact Permit (AHIP) is required.</p>	<p>An AHIMS search has been undertaken and is provided within Appendix 5. The AHIMS search identifies five (5) Aboriginal sites within proximity to Hyde Park.</p> <p>The Archaeological and Palaeoenvironmental Assessment of the Sediments of Hyde Park prepared by Professor Stephen Gale in February 2022 noted:</p> <p><i>Overall, it is thought that the potential of the park to retain evidence of Aboriginal archaeology is low, although it is believed that the northwest quadrant may retain and preserve an undisturbed pre-contact soil landscape beneath a thin cover of landfill. However, nine core samples in this area determined no evidence 'of Aboriginal archaeological potential at depths of up to 700 mm beneath the ground surface.'</i></p>

Table 7. Other NSW Legislation

Legislation	Purpose of Legislation	Relevance to the Proposal
		<p>Given the proposed works include upgrades to the existing seating, there is very low to nil potential for Aboriginal objects to be disturbed during construction work.</p> <p>In the unlikely event that Aboriginal archaeological material is uncovered during the course of any works undertaken within the project area, all work must cease, an appropriately qualified archaeologist consulted with and if appropriate the Heritage Council notified in accordance with Section 146 of the Heritage Act.</p>
Crown Lands Management Act 2016	<p>The <i>Crown Lands Management Act 2016</i> is administered by the NSW Department of Lands and controls the administration and management of Crown Land.</p> <p>The object of the Act is to ensure that Crown Land is managed for the benefit of the NSW community.</p>	<p>Council is responsible for the care and control of many parcels of community land and crown land reserved and Council is the trust manager for the land. The proposed works are located in Hyde Park which is a Crown Reserve of which City of Sydney is the appointed trust manager and charged with the care, control and management of the reserve.</p> <p>Hyde Park is sited on a 'reserve' dedicated for 'public recreation' on the 3rd May 1878, administered by the Department of Lands under the Crown Lands Act.</p>

4.7 State Environmental Planning Policies

4.7.1 State Environmental Planning Policy (Resilience and Hazards) 2021

The aim of Chapter 4 of the *State Environmental Planning Policy (Resilience and Hazards) 2021* (RHSEPP) is 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. Section 4.6(1) of the RHSEPP requires the consent authority to consider whether land is contaminated prior to consent of an application. Chapter 4 only applies to development applications under

Part 4 of the EP&A Act.

In any event, the proposed works do not change the current use of the site. The proposal consists of minor maintenance upgrades to the existing buildings. The Section 10.7 Planning Certificates (Certificate No. 2024304839 and 2024304838) (**Appendix 6** of this REF) obtained for the site confirms that the land is not identified as contaminated, or as having been remediated or being remediated.

Recommended mitigation measures and appropriate safeguards have been provided within Section 7 of this REF.

4.7.2 Statement Environmental Planning Policy (Transport and Infrastructure) 2021

Division 1 – Consultation

Division 1 of Part 2.2 of the T&I SEPP relates to requirements for consultation with Councils and other public authorities for certain types of development, prior to commencing that development. The works do not require any formal consultation with Council under Section 2.10, 2.11, 2.12, 2.13, 2.14 or with other public authorities under Section 2.15.

Further community information will be provided prior to works commencing through site signage, notification on Council's Hyde Park website and social media.

In accordance with Section 2.17, Sections 2.10-2.15 do not apply in this instance as they work is being undertaken by or on behalf of City of Sydney Council who is the public authority from whom an approval is required. The site is not identified as being bushfire prone land or a type of development listed in Section 2.16.

4.8 Sydney Local Environmental Plan 2012

Sydney Local Environmental Plan 2012 (SLEP 2012) is the primary local planning instrument applying to the Site.

The site is zoned RE1 Public Recreation which enables land to be used for public open space and recreational purposes.

The land subject to the proposed works is zoned RE1 Public Recreation SLEP 2012. However, the work is being undertaken by a public authority under the provisions of Chapter 2, Division 12, Section 2.73 (2)(c)(ii) and 3(a)(ii) of the T&I SEPP as development permitted with consent. Therefore, development consent under Part 4 of the EP&A Act is not required.

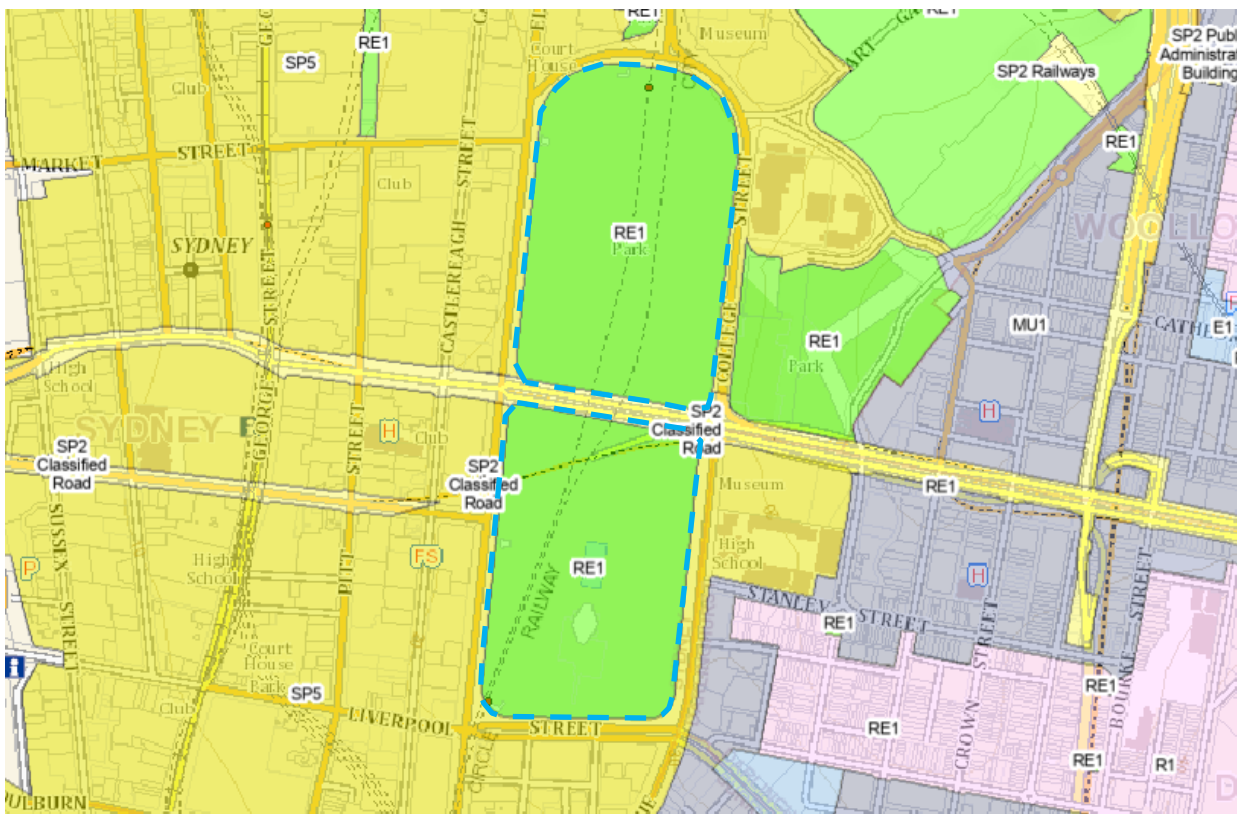


Figure 6. Zoning Map
Source. Planning Portal, 2024

Regardless of the zoning, Clause 5.12 is applicable and states:

5.12 Infrastructure development and use of existing buildings of the Crown

(1) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the carrying out of any development, by or on behalf of a public authority, that is permitted to be carried out with or without development consent, or that is exempt development, under State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2.

(2) This Plan does not restrict or prohibit, or enable the restriction or prohibition of, the use of existing buildings of the Crown by the Crown.

The work is being undertaken by a public authority under the provisions of Chapter 2, Division 12, Section 2.73(2)(c)(ii) and (3)(a)(ii) of the T&I SEPP as development permitted without consent.

For completeness **Table 8** below provides a summary of the key development standards under SLEP 2012.

Table 8. Sydney Local Environmental Plan 2012 Assessment Table	
Clause	Compliance
Land Use Zone – RE1 Public Recreation	Complies. The proposal is permissible under the T&I SEPP and is consistent with the objectives of the zone.
4.3 Height of Buildings	Not applicable. No maximum height of buildings is mapped for the site.

Table 8. Sydney Local Environmental Plan 2012 Assessment Table

Clause	Compliance
4.4 Floor Space Ratio	<p>Not applicable.</p> <p>No maximum floor space ratio control is mapped for the site. Furthermore, the proposed works do not constitute gross floor area.</p>
5.10 Heritage Conservation	<p>Complies.</p> <p>The Site is identified as containing the following items of local heritage significance:</p> <p><i>'Hyde Park including north and south park reserves, Archibald Memorial Fountain, Anzac Memorial, Pool of Remembrance, stone perimeter walls and steps, St James Station, Museum Station, Dalley Statue, Oddfellows Memorial, Captain Cook Statue, Frazer Fountain, Fort Macquarie Cannon, Emden Gun, Thornton Obelisk, Sundial, former public toilets, Busby's Bore Fountain, Sandringham Gardens including memorial gates/pergola, Nagoya Gardens, Chess Board, F J Walker Fountain, John Baptist Fountain, Busby's Bore and archaeology', 110-120 Elizabeth Street, item no. I1654</i></p> <p><i>'St James Railway Station including interior', 108 Elizabeth Street, item no. I1740</i></p> <p><i>'Anzac War Memorial including Pool of Reflection, pavements, plantings, flagpoles, staircase, platform, interiors, lightwells, bas reliefs, statues, sculptures and movable heritage (artefacts and memorabilia)', 120 Elizabeth Street, item no. I1742</i></p> <p><i>'Museum Railway Station including interiors', Elizabeth Street, item no. I1743</i></p> <p>The proposal seeks to make upgrades to the seating across Hyde Park, increasing the seating capacity across the Site. The works are not expected to impact on the heritage items identified at the site.</p> <p>The proposed new seating within the Hyde Park site is generally acceptable from a heritage perspective and is consistent with the recommendations of the Hyde Park Plan of Management and Masterplan. The new works as indicated in the preliminary concept plan are minor works and do not include any impact on the significant fabric within Hyde Park as well as the setting of the Park. Refer to Appendix 2 for further assessment.</p>
7.14 Acid Sulfate Soils	<p>The Site is identified as Class 5 Acid Sulfate Soils.</p> <p>The proposed works involve minor subsurface excavation works required for the installation of new seating in Hyde Park. Notwithstanding, the proposed activity will not alter the water table and no further consideration is required.</p>

4.9 Sydney Development Control Plan 2012

The *Sydney Development Control Plan 2012* (SDCP 2012) is the primary development control plan that applies to the Site. Although the proposal is not subject to the requirements of the SDCP 2012, it is compliant with the intent and relevant numerical controls of SDCP 2012.

As identified in Section 2, SDCP 2012, the subject site is contained within the College Street/Hyde Park Special Character Area. The locality statement identifies the characteristics of Hyde Park as follows:

Hyde Park has two distinct edges: the north and east, flanking College Street and St James Road, comprise important institutional free-standing sandstone buildings and significant public open spaces including Queens Square, which is one of the earliest examples of formal urban design in Central Sydney. The west and south edges consist of commercial development of larger scale with strong street alignment, creating a greater sense of enclosure to Hyde Park.

Additionally, the locality statement recognises the 2006 Hyde Park Plan of Management and Masterplan as the principle guiding documents for Hyde Park.

The proposed activity is required in order to provide improved amenities throughout Hyde Park. The proposed new seating, alongside the existing seating in the grassed areas and around pathways, will provide areas for rest, relaxation and passive observation for the visitors.

Overall, the proposed activity aligns with the locality statement as well as the guiding principles of the Hyde Park Plan of Management and Masterplan and will maintain and enhance the role of the precinct as a major recreational open space for Sydney's workers and residents.

4.10 Plan of Management

Council is responsible for the care and control of many parcels of community land and crown land reserved and Council is the Crown Land Manager for the land.

The proposed seating is in line with the opportunities identified within the Hyde Park Plan of Management and Masterplan, prepared by Clouston Associates for the City of Sydney, dated October 2006. The proposed new seating, alongside the existing seating in the grassed areas and in and around the pathways will provide areas for rest, relaxation and passive observation for the visitors. The Plan of Management clearly identifies the need for additional facilities and amenities including park seating, while continuing to maintain the heritage protection zones across Hyde Park. The new seating will also respond to the community requirements raised during community consultation sessions and workshops. The comments included a need for appropriate seating in varied locations, specifically for lunchtime visitors.

Due to the minor scale and nature of the proposed works, it is also concluded that the proposal responds to recommendations of the "Hyde Park Plan of Management and Masterplan" prepared by Clouston Associates in 2006, and is in line with relevant policies of the "Heritage Review Study for Hyde Park Plan of Management - Conservation Policies and Implementation Guidelines" prepared by HBO + EMTB in 2006 aiming to improve the existing conditions and accommodate the needs of the community and users.

4.11 City Plan 2036: Local Strategic Planning Statement

The City of Sydney Local Strategic Planning Statement (LSPS) is City of Sydney Council's plan to guide land use planning towards 2036.

The planning statement sets 13 priorities and a series of actions to achieve the vision and guide future changes to our planning controls:

1. Movement for walkable neighbourhoods and a connected city
2. Align development and growth with supporting infrastructure
3. Supporting community wellbeing with social infrastructure
4. A creative and socially connected city
5. Creating great places
6. New homes for a diverse community
7. Growing a stronger, more competitive Central Sydney
8. Developing innovative and diverse business clusters in the city fringe
9. Protecting industrial and urban services in the southern enterprise area and evolving businesses in the Green Square-Mascot strategic centre
10. Protecting and enhancing the natural environment for a resilient city
11. Creating better buildings and places to reduce emissions and waste, and use water efficiently
12. Increasing resilience of people and infrastructure against natural and urban hazards
13. Open, accountable and collaborative planning.

The proposed development remains consistent with the intent of the LSPS in particular retaining the heritage significance of the Site, as the unique heritage character is a strong focus for local communities.

4.12 Summary of Statutory Approvals

The following table provides a summary of required approvals.

Table 9. Summary of Statutory Approvals		
Agency	Requirements	Reference
City of Sydney Council	Determination of proposed activity	Part 5, Division 5.1 of the EP&A Act 1979
	Consideration of Clause 228 factors to take into account concerning the impact on an activity on the environment.	Section 171 of the EP&A Regulation 2021.

5 Stakeholder and Community Consultation

5.1 Consultation requirements under the SEPP

Chapter 2, Part 2.2, Division 1 of the T&I SEPP relates to the requirements for consultation with Councils and other public authorities for certain types of development, prior to commencing that development. The works do not require any formal consultation with Council under Section 2.10 – 2.14 or with other public authorities under Section 2.15.

Further community information will be provided prior to works commencing through on-site signage, public notification on Council's website and social media.

Section 2.17 of the T&I SEPP identifies exceptions as to when Section 2.10 – 2.15 of the SEPP do not apply to public authorities and Councils. In accordance with Section 2.17, Section 2.10 – 2.15 do not apply in this instance as the City of Sydney Council is undertaking the proposed works and is the public authority from whom an approval is required.

5.2 General Community Consultation

It is recommended that public notification of the proposed works occurs at least 14 days prior to the commencement of the works through on-site signage, public notices, Council's Hyde Park website and social media. Council have also indicated they will provide notification letters to visitors to park directing people to the website.

Adjoining landowners are to be notified of the works by either Council or the Contractor at least 14 days prior to commencement of construction works as an adjoining landowner and tenants.

5.3 Aboriginal Community Consultation

Given that the proposed works upgrade works are located in Hyde Park, consultation with the Aboriginal Community was not considered necessary in this instance.

6 Environmental Assessment Consideration

It is a requirement under section 5.5 of the EP&A Act that all matters likely to affect the environment by reason of the activity be considered to the fullest extent possible.

To reduce any potential impacts created by the proposed works, where appropriate, mitigation measures will be implemented through the construction phase and ongoing operation of the project. These mitigation measures are provided in **Section 7** of the REF.

6.1 Heritage

A Heritage Impact Statement has been prepared by City Plan and accompanies this application as Appendix 2. The HIS was prepared to assess the potential impact of the proposed works may have on the known heritage values of Hyde Park.

The proposed installation of new seating within Hyde Park will result in a less than minor impact on the established heritage significance of the Park as a whole including the proposed seating within the ANZAC Memorial curtilage at either side of the Pool of Reflection, the individual heritage items within its boundaries, and those heritage items in its vicinity. Due to the minor scale and nature of the proposed works, it is also concluded that the proposal responds to recommendations of the "Hyde Park Plan of Management and Masterplan" prepared by Clouston Associates in 2006, and is in line with relevant policies of the "Heritage Review Study for Hyde Park Plan of Management - Conservation Policies and Implementation Guidelines" prepared by HBO + EMTB in 2006 aiming to improve the existing conditions and accommodate the needs of the community and users.

In addition to the above, the proposed works require minor subsurface excavation works to facilitate the installation of paving associated with the new seating. The subject site is not listed as being an archaeological site in accordance with SLEP 2012. It has also been assessed as having low Aboriginal archaeological potential in the 2022 report 'Archaeological and Paleoenvironmental Assessment of the Sediments of Hyde Park' prepared by Professor Stephen Gale, February 2022. As noted in the report:

Overall, it is thought that the potential of the park to retain evidence of Aboriginal archaeology is low, although it is believed that the northwest quadrant may retain and preserve an undisturbed pre-contact soil landscape beneath a thin cover of landfill. However, nine core samples in this area determined no evidence 'of Aboriginal archaeological potential at depths of up to 700 mm beneath the ground surface.'

Given the proposed works include upgrades to the existing seating, there is very low to nil potential for Aboriginal objects to be disturbed during construction work. Notwithstanding, if unexpected finds are uncovered during these works, the 'STOP WORK' management provisions should be followed, and a suitability qualified archaeologist should be consulted.

Due to the minor scale and nature of the proposed works, the proposal will have no physical or visual impact on the 'the architectural character and spatial qualities of the retained significant fabric of the significant buildings'.

The proposed seating has been granted Crown consent noting that the seating proposal works have not been contested by the Native Title Holders.

The HIS identifies there is an opportunity for a more complementary construction detailing for the pavers underneath the seating within the grassed portion of Hyde Park that will allow for maintaining the balance between the hardscape and softscape surfaces within the park.

Overall, the proposal will aid and enhance appreciation of the State level heritage values of Hyde Park and demonstrates compliance with the existing controls, guidelines and provisions regarding heritage conservation, and is therefore recommended for approval.

6.2 Urban Design

The proposed activity seeks to increase the existing seating capacity across Hyde Park including the installation of new seating. The proposed seating has been designed to reflect the existing seating within Hyde Park and will not detract from the character and heritage significance of the locality and in turn will maintain and enhance the role of the precinct as a major recreational open space for Sydney's workers and residents.

There are no long term visual impacts expected as the proposed seating upgrade will include work to improve the surrounding landscape with the proposed structures designed to align with the visual and aesthetic attributes of already established Hyde Park. The project will be of benefit to the local community and will enhance the experience of Hyde Park.

6.3 Acoustic

The Site is located within an existing urban setting, accessed by the public, therefore there is the potential that visitors in the locality could be affected by the construction noise.

The construction works may have some minor noise impact on visitors within the locality. It is anticipated that these impacts will be able to be managed with the implementation of reasonable and feasible best practice work methods.

Recommended mitigation measures and work practices are incorporated into the mitigation measures set out within Section 7.

6.4 Other Environmental Impacts

No long-term environmental impacts are expected as part of the proposed seating upgrade. Short-term environmental impacts expected during the construction of the amenities will be controlled by measures identified in Section 7 of this REF. These short-term impacts will not significantly affect the efficient functioning of Hyde Park nor impact significantly upon the existing environment.

6.5 Cumulative Environmental Impacts

No significant cumulative environmental impacts are to be expected as part of the proposed seating upgrades.

7 Summary of Mitigation Measures

This section provides a summary of the site-specific environmental safeguards and management measures identified throughout this REF. These safeguards will be implemented to reduce potential environmental impacts throughout the construction and operation phase.

Table 10. Summary of Mitigation Measures		
Mitigation measure	Timing	Responsibility
Notification		
Public notification of the proposed works occurs at least two (2) weeks prior to the commencement of works through on-site signage, public notices, Council Website and social media.	Prior to construction	Council / Contractor
Adjoining landowners are notified of the works by either Council or the Contractor at least 14 days prior to commencement of construction works.	Prior to construction	Council / Contractor
Landowners Consent / Certification		
Prior to the commencement of any construction works, Council (or its nominated delegate) shall ensure the activity has obtained a Crown Certification in accordance with Section 6.28 of the EP&A Act.	Prior to construction	Council
Plans and Documents		
These works should occur generally in accordance with the plans provided as Appendix 2. This REF considers only those plans provided as Appendix 2. Should design changes occur or the works proceed with a revised plan set, an amendment to the REF document will be required prior to determination and works commencing.	Prior to construction	Council / Contractor
Building Code of Australia (BCA)		
All works are to be certified in accordance with the requirements of the current Building Code of Australia (BCA). Details are to be provided to demonstrate the proposed works comply with the relevant Australian Standards and requirements to satisfy BCA.	Prior to and during construction	Council / Contractor

Table 10. Summary of Mitigation Measures

Mitigation measure	Timing	Responsibility
European Heritage		
In the unlikely event that historical remains are unexpectedly discovered during proposed sub-surface works, work must cease, an appropriately qualified archaeologist consulted with and if appropriate the Heritage Council notified in accordance with Section 147 of the Heritage Act.	During Construction	Council / Contractor
Aboriginal Archaeology		
In the unlikely event that historical remains are unexpectedly discovered during proposed sub-surface works, works must cease, an appropriately qualified archaeologist consulted with and if appropriate the Heritage Council notified in accordance with Section 146 of the Heritage Act.	During Construction	Council / Contractor
Stormwater Management		
Best practice erosion and sedimentation control methods should be adopted, enforced and maintained throughout the construction phase where required.	During Construction	Council / Contractor
Ecology		
Should any threatened or endangered species be sighted during construction works, works shall cease, and the NSW Office of Environment and Heritage should be contacted for further instruction.	Prior to and during Construction	Council / Contractor
Noise & Vibration		
Adjoining residences are to be notified of the works by the contractor at least 14 days prior to commencement of construction works.	Prior to Construction	Council / Contractor
Construction works shall be undertaken in accordance with the Interim Construction Noise Guidelines prepared by the Department of Environment and Climate Change including but not limited to: <ul style="list-style-type: none"> Construction hours will be limited to Monday to Friday 7:00am to 6:00pm, Saturday 8:00am to 1:00pm with no work on Sunday or public holidays. 	During construction	Council / Contractor

Table 10. Summary of Mitigation Measures

Mitigation measure	Timing	Responsibility
Potential sensitive receivers surrounding the site should be notified at least 14 days prior to the commencement of any works which may have an adverse noise and vibration impact, providing them with details of the nature and duration of the project activities and contact details of a site representative.	Prior to and during construction	Council / Contractor
A register of noise complaints and actions taken is to be kept by the contractor responsible for the works.	Prior to and during construction	Council / Contractor
Traffic and Access		
Appropriate safety barriers and signs will need to be erected prior to the commencement of works to prevent any conflict with construction vehicle traffic and pedestrian traffic. Pedestrian access should be maintained during the works. Existing disability access where provided, must be retained.	Prior to and during construction	Council / Contractor
During construction works, appropriate traffic management measures should be implemented, including temporary speed restrictions, precautionary signage and traffic control.	Prior to and during construction	Council / Contractor
A Construction Environmental Management Plan (CEMP) will be prepared by the contractor prior to works commencing. The CEMP will include a Traffic Management Plan detailing access management measures. The Traffic Management Plan should consider pedestrian access.	Prior to and during construction	Council / Contractor
Waste Generation		
All waste generated during the course of the works will be reused or removed from the work areas as soon as practicable and disposed of in accordance with waste regulations.	During construction	Council / Contractor
Any fuel, lubricant or hydraulic fluid spillages will be collected using absorbent material and the contaminated material disposed of at a licensed waste facility.	During construction	Council / Contractor

Table 10. Summary of Mitigation Measures

Mitigation measure	Timing	Responsibility
All hazardous wastes on site will be removed and disposed in accordance with the state and national regulations and guidelines and best practice for the removal of these materials.	During construction	Council / Contractor
Socio-Economic		
Residents potentially affected by construction works are to be notified prior to the commencement of works, providing them with details of the nature and duration of the project activities and contact details of a site representative.	Prior to and during construction	Council / Contractor
The construction contractor should ensure that measures are in place to ensure that access to residences in the area are available during the construction phase.	During construction	Council / Contractor
A register of complaints and actions taken is to be kept by the contractor responsible for the works.	During construction	Council / Contractor
Utilities and Infrastructure		
A Dial Before You Dig must be undertaken prior to any works commencing in order to locate buried services. If works are to be undertaken below power lines refer to Ausgrid Network Standard NS209 Operating Cranes and Plant in Proximity to Power Line. If works are to be undertaken within the vicinity of Telstra pits refer to the Network Integrity Help Desk on 1800 653 935.	Prior to construction	Council / Contractor
All works shall be undertaken in accordance with the requirements of relevant utility providers, Australian Standards, statutory requirements, and industry best practice.	Prior to and during construction	Council / Contractor
Materials, Storage and Security		
All materials on-site or being delivered to the site must be always contained within the site. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances. All equipment, machinery and the worksite should be secured outside of working hours.	Prior to and during construction	Council / Contractor

Table 10. Summary of Mitigation Measures

Mitigation measure	Timing	Responsibility
Construction Environmental Management Plan		
Prior to the commencement of construction works on the site, a CEMP will be prepared by the contractor and shall include all mitigation and management measures identified.	Prior to construction	Council / Contractor
<p>The CEMP must be reviewed and approved by Council (as the determining authority) prior to the commencement of any on-site works and should include, but not be limited to:</p> <ul style="list-style-type: none"> • Contractor's roles and responsibilities; • Traffic Management Plan detailing vehicle access, loading and Pedestrian Management and Safety; • Hours of work; • Complaints management; • Environmental Management; • Reporting requirements and record-keeping; and • Procedures for emergency and incident management (including but not limited to workers and occupants of the campus being notified of the flood risk through site inductions and signage). <p>Should it be identified that the construction phase of the upgrades causes disruption to the operation of local roads, Council is to notify NSW SES where there are likely to be significant delays in the operation of the roads affected by the proposed works.</p>	Prior to construction	Council / Contractor
Risks & Hazards		
The CEMP would incorporate a pollution incident response management plan that defines appropriate procedures for notification of pollution incidents to the required authorities in accordance with Section 147 to 153 of the POEO Act and requires response actions to be implemented in order to address any risks such as incidents posed to the environment, property, or surrounding communities.	Prior to and during construction	Council / Contractor

8 Conclusion

The proposed upgrade works to increase seating capacity across Hyde Park, located at 110-120 Elizabeth Street, Sydney, is 'permitted without consent' under Chapter 2, Division 12, Section 2.73 of the T&I SEPP and therefore, Part 5, Division 5.1 of the EP&A Act applies.

In order to fulfil the duty to assess environmental impact of development permitted without consent under Part 5, Council must consider the matters specified in Section 171 of the EP&A Regulation, City of Sydney is required to determine, via Section 171, if an EIS is required. The REF has addressed Section 171 and the finding is that the works will not have a significant impact and consequently that no EIS is required.

The works are unlikely to have any adverse environmental effects (given the implementation of the mitigation measures outlined in Section 7.0 above). Overall the works are considered to be within the public benefit.

This REF has been prepared in accordance with Sections 5.5 and 5.7 of the EP&A Act and Section 171 of the EP&A Regulation. It provides a true and fair assessment of the proposed activity in relation to its likely effects on the environment. On the basis of the information available at the time of REF preparation it is concluded that:

- The REF has addressed Section 171 of the EP&A Regulation and the finding is that the proposed activity is not likely to have a significant impact on the environment. An Environmental Impact Statement is not required;
- The proposed activity is not likely to significantly affect threatened species, populations, ecological communities, or critical habitat. A Species Impact Statement (SIS) is not required; and
- The proposed activity is not likely to affect or being carried out on any Commonwealth land, or significantly affect any Matters of National Environmental Significance.

The works will have minimal adverse environmental effects and will improve the seating capacity across Hyde Park. The proposed new seating, alongside the existing seating in the grassed areas and in and around the pathways will provide areas for rest, relaxation and passive observation for the visitors. The need for the proposed works is reflected in the Plan of Management which clearly identifies the need for additional facilities and amenities including park seating, while continuing to maintain the heritage protection zones across Hyde Park. Overall the works are likely to result in net public benefit. Accordingly, the proposal represents a positive benefit, with minimal environmental impact.

The proposed works can be determined by City of Sydney Council under Part 5, Division 5.1 of the EP&A Act.



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