

**REVIEW OF ENVIRONMENTAL
FACTORS**

Loftus Street, Reiby Place and Custom House Lane -
Sydney NSW
Pedestrian Upgrades and Public Domain Works

Department: City of Sydney – City Design

Date: 07 October 2022

Council Project Officer: Gunjit Kaur

Signature:

A handwritten signature in black ink, appearing to read 'G. Kaur', is written over a light grey rectangular background.

TABLE OF CONTENTS

REVIEW OF ENVIRONMENTAL	1
FACTORS	1
1. Introduction	4
1.1 Overview	4
1.2 Environmental Assessment and Approvals Process	4
2. Site Analysis	5
2.1 Site Location and Context	5
2.2 Land Ownership and Proponent	6
2.3 Existing Environment	7
2.4 Existing Zoning	10
3. Project Description	11
3.1 Project overview	11
3.2 Needs for the activity	11
3.3 Alternatives	11
3.4 DO Nothing scenario	11
3.5 Detailed description of project	12
3.6 Construction Activities	15
3.7 determining authorities AND REFERRALS	17
4. Legislative and Planning Framework	18
4.1 Commonwealth legislation	18
4.2 Planning and State Legislation	19
4.3 Strategic Plans	41
4.4 Relevant Policies	41
5. Consultation	43
6. Environmental Assessment and Mitigation Measures	43
6.1 Air and water Quality	43
6.2 Soils	44
6.3 Noise and Vibration	44
6.4 Flora, Fauna and trees	45
6.5 Natural Hazards	45
6.6 Sea Level Rise	45
6.7 Spoil and Waste Management	45
6.8 Chemical and Hazardous Substance Management	46
6.9 Transport and Access	46

6.10	Aboriginal and Non-Indigenous Heritage	48
6.11	Visual Impacts	49
6.12	Socio-Economic Impact.....	49
6.13	Future Land Use.....	50
6.14	Ecologically Sustainable Development and Sustainability.....	50
6.15	Other Environmental Impacts	51
6.16	Cumulative Environmental Impacts	51
7.	Environmental Factors Considered.....	51
7.1	Consideration of Clause 171 of EP&a Regulations 2021	51
7.2	Consideration Of National Environmental Significance.....	51
8.	Summary of Mitigation Measures.....	52
9.	Conclusion and Determination.....	57
10.	Certification	58
	Appendices	59

1. INTRODUCTION

1.1 OVERVIEW

The City of Sydney (CoS) seeks to conduct public domain and pedestrian upgrade works within the road reserves across Loftus Street, Reiby Place, Custom House Lane - Sydney NSW.

The works seek to revitalise and upgrade the public spaces through the prioritisation of pedestrian movements whilst maintaining appropriate vehicle access through a 'shared pedestrian/vehicle' traffic arrangement.

The works will result in additional public spaces being prioritised for pedestrians through increasing the size of the pedestrian footpaths, creation of a shared zone and provision of footpath continuations. The works will also encompass demolition, tree removal, earthworks, public embellishment works including new trees, benches, smartpoles and lighting. The development works are primarily along Loftus Street but extend towards Reiby Place and Custom House Lane.

As a result of the works the northern end of Loftus Street (north of Reiby Place) will be prioritised to pedestrians, with a shared zone for special service and delivery vehicles. The vehicle lanes along Reiby Place and Custom House Lane will be narrowed and the pedestrian area widened.

The project is consistent with Council's strategic vision for the locality outlined in the City North Public Domain Plan 2015 and implements the City's Sustainable Sydney 2030-2050 Continuing the Vision Project Idea: City Space Improvement Program. This Plan highlights ideas for improving streets and open spaces which can be used as guidelines for future development. The proposed works will implement targets set by the plan with regards to improving pedestrian links and providing for a more walkable CBD.

1.2 ENVIRONMENTAL ASSESSMENT AND APPROVALS PROCESS

The *Environmental Planning and Assessment Act 1979* (EPAA) is the primary legislation in NSW which governs development / activity approvals.

A person is not permitted to carry out development unless the works are identified as Exempt or obtained development consent / activity approval through one of alternate pathways from the relevant consent / approval authority.

For the subject works, the relevant approval pathway for the proposal is through Part 5 Infrastructure and environmental impact assessment of the EPAA. The proposed works are consistent with the definition of 'activity' as prescribed in Section 5.1 (Part 5 – Infrastructure and Environmental Impact Assessment) of the EPAA. Before endorsing the activity, the determining authority, which in this case is City of Sydney (CoS), must examine and take into account to the fullest extent possible, all matters affecting or likely to affect the environment by reason of that activity, in accordance with Section 5.5(1) of the EPAA.

This assessment is made under Clause 2.109(1) and 2.109(3)(c) of State Environmental Planning Policy (Transport and Infrastructure) 2021 (*Transport and Infrastructure SEPP*) as the development is for the purpose of a road or road infrastructure facilities carried out by or on behalf of a public authority. Such development may be carried out without consent by or on behalf of a public authority.

Accordingly, as the proposal is identified as development permitted without consent for the purposes of 'road' works the proposal does not require the lodgement, assessment or determination or a Development Application or CDC pursuant to Part 4 of the EPAA.

This report undertakes the required environmental assessment considering the Guidelines for Division 5.1 Assessments dated June 2022 published by the Department of Planning and Environment.

Extensive consultation has occurred with all major stakeholders. This is detailed in the Engagement report - Loftus Street, Customs House Lane & Reiby Place dated March 2022.

2. SITE ANALYSIS

2.1 SITE LOCATION AND CONTEXT

The site is described as the existing road reserves within Loftus Street, Reiby Place and Custom House Lane - Sydney NSW. An aerial view and location plan is provided at Figure 1.

The road reserves are in the heart of the northern portion of Sydney CBD, in close proximity to Circular Quay, Macquarie Place Park and The Rocks.

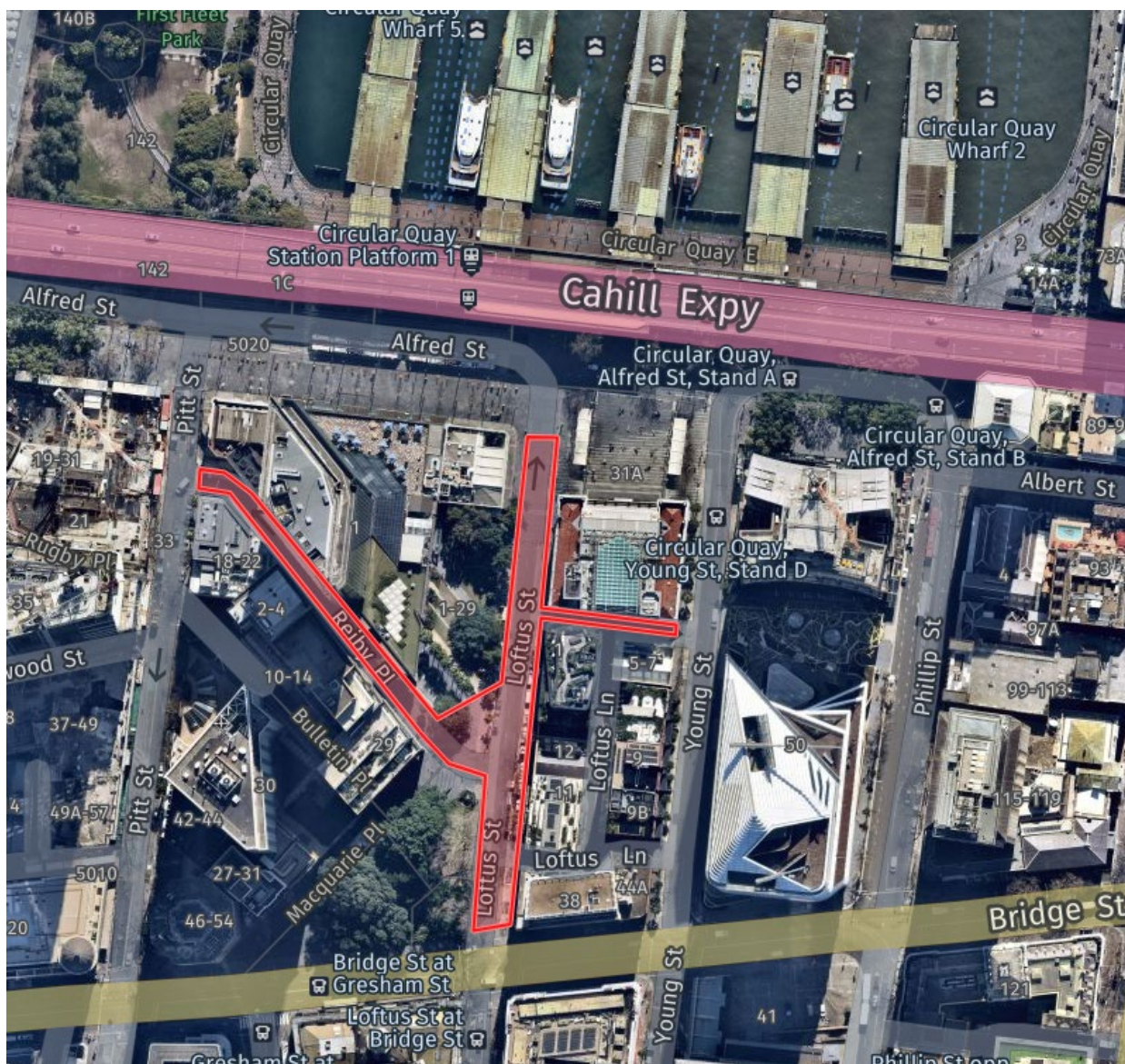


Figure 1: Aerial view of site (highlighted in red) and locality (Source: Nearmap)

2.2 LAND OWNERSHIP AND PROPONENT

CoS is the owner of the subject land. CoS is also the proponent.

A portion of the site being Macquarie Place Park is Crown Land and currently managed by CoS given a plan of management is in place in accordance with the requirements of the Local Government Act 1993.

2.3 EXISTING ENVIRONMENT

The site consists of road corridors, some of which have been partially restricted from full vehicular access such as the northern end of Loftus Street due to partial implementation of the City North Public Domain Plan 2015.

Much of its area retains the appearance of typical road surfaces, incorporating bitumen paving, concrete kerb and guttering, intermittent landscaping and some public amenities such as public seats and the like.

Loftus Street includes a dual lane single direction road originally leading to Alfred Street, however, currently leads onto Custom House Lane due to a permanent road closure along its northern end. Loftus Street is currently two ways between Customs House Lane and the location of the current closure. Reiby Place consists of a single lane single direction road connecting to Pitt Street located west. Custom House Lane consists of a single lane single direction road connecting to Young Street located east.

Immediately beside the bitumen and kerb is the existing paved pedestrian footpath. Adjacent to the footpath are a range of predominantly commercial buildings, although there are also several mixed-use developments. Their form and age of public and private improvements within and adjoining the corridor vary significantly.



Figure 2: Loftus Street looking north (Source GYDE Consulting September 2022)



Figure 3: Loftus Street looking south (Source GYDE Consulting September 2022)



Figure 4: Reiby Place looking west (Source GYDE Consulting September 2022)



Figure 5: Reiby Place and Macquarie Place looking west (Source GYDE Consulting September 2022)



Figure 6: Custom House Lane looking east (Source GYDE Consulting September 2022)



Figure 7: Loftus Street terminus looking north (Source GYDE Consulting September 2022)

2.4 EXISTING ZONING

The site is zoned B8 – Metropolitan Centre and RE1 – Public Recreation according to the *Sydney Local Environmental Plan 2012* ('SLEP 2012'). The site borders three RE1 zones: two being adjacent and west of Loftus Street and one being the Alfred Street corridor adjacent to Circular Quay. Refer to figure 11 for the zoning map.

3. PROJECT DESCRIPTION

3.1 PROJECT OVERVIEW

The works will result in additional public space being prioritised for pedestrians through increasing the size of the pedestrian footpaths, creation of a shared zone and provision of footpath continuations. The works will also encompass demolition, tree removal, earthworks, public embellishment works including new trees, benches, smartpoles and lighting. The development works are primarily along Loftus Street but extend into Reiby Place and Custom House Lane.

In general, vehicular movement will remain as existing except for changes to road dimensions, and retractable bollards that will allow vehicle access to Loftus Street north of Reiby Place.

3.2 NEEDS FOR THE ACTIVITY

Infrastructure Approval SSI-6042 by the Minister of Planning allowed for the construction and operation of the CBD and South-East Light Rail (CSELR). This approval implemented full or partial restrictions to vehicles for roads within the locality including George Street, Alfred Street and the surrounds. In addition, the City North Public Domain Plan 2015 and Sustainable Sydney 2030-2050 Continuing the Vision, Council's community vision for Sydney highlights the strategic direction of reducing vehicles in the CBD area, improving pedestrian movement, and increasing public spaces which will result in a greener and more liveable city.

The works are to facilitate the implementation of the City North Public Domain Plan 2015 by incorporating the design parameter and concepts highlighted in the plan.

3.3 ALTERNATIVES

There are no viable alternatives that can replace the intended scope of works. The project aims to improve pedestrianisation and increase public spaces within the CBD. The associated road closures and intersection changes are consistent with the City North Public Domain Plan (CNPDP) 2015 which is already being implemented as seen across Alfred Street and portions of George Street.

3.4 DO NOTHING SCENARIO

A 'do nothing' scenario in this case will mean that Loftus Street and the surrounds will still be car-centric locations which will not align with the CNPDP. The current public open spaces will remain as existing, and no additional embellishments will occur in the subject locality.

Furthermore, there would be a loss of opportunity to better activate the subject area and connect it to Circular Quay. The area will not benefit from the additional trees proposed which have the benefit of improving the urban appearance. There could be a loss of economic and tourism potential given absence of interconnected pedestrian corridors.

3.5 DETAILED DESCRIPTION OF PROJECT

This assessment is made under Clause 2.109(1) and 2.109(3)(c) of State Environmental Planning Policy (Transport and Infrastructure) 2021 (*'Transport and Infrastructure SEPP'*) as the development is for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority without development consent.

Note:

Under the Standard Instrument, **road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

Under the *Roads Act 1993*, **road** includes—

- (a) the airspace above the surface of the road, and
- (b) the soil beneath the surface of the road, and
- (c) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road.

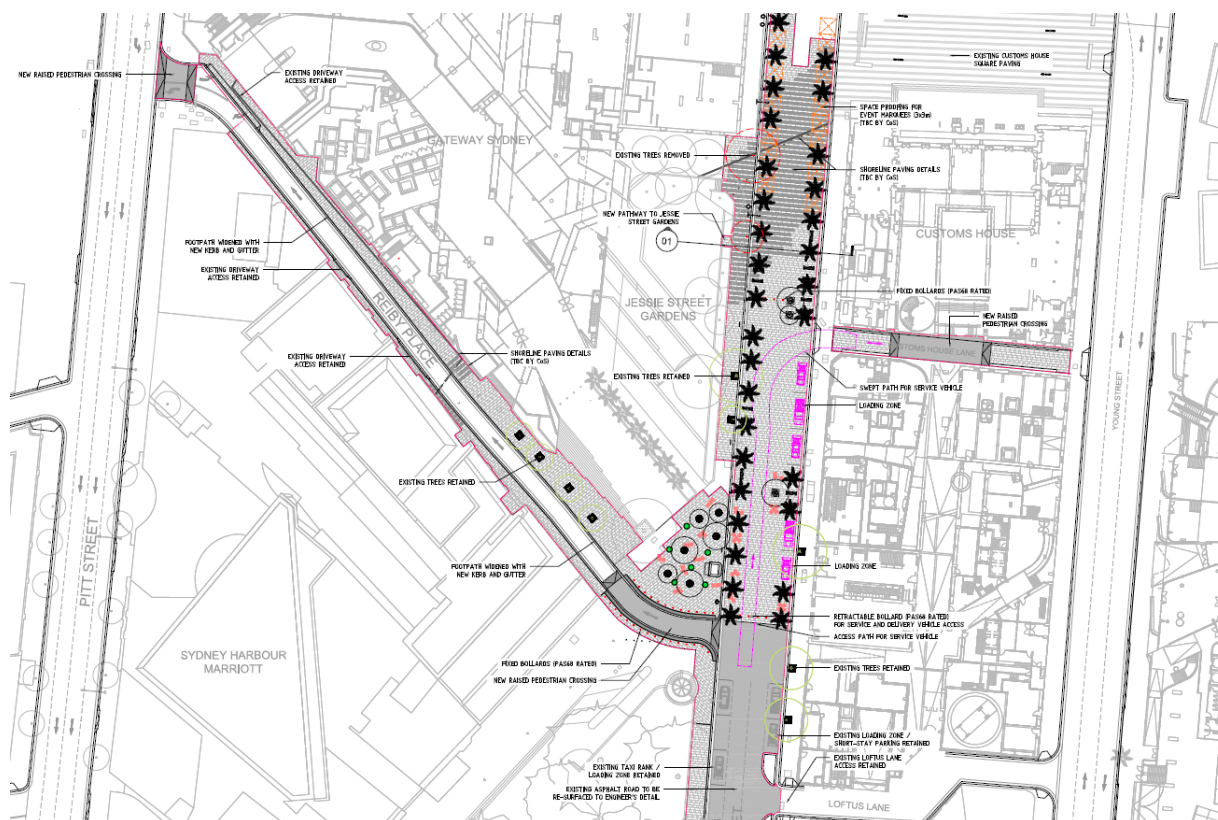


Figure 8: Extract of proposed works (Source: CoS)

Loftus Street

- Excavation to remove the road bitumen, kerb and gutter, concrete.
- Additional 5 loading bay zones along the eastern portion of Loftus Street (within newly paved pedestrianised area).
- Resurfacing of road (mill and re-sheet) with bitumen along the section south of Reiby Place. New levels are consistent with the existing road levels.
- Paving works along the western portion of Loftus Street adjacent to Macquarie Place Park.

- Tie in new pedestrian pavers along Loftus Street with existing pedestrian pavers adjacent to Bridge Street.
- Granite paving of section north of Reiby Place for timed shared zone. Embellishments to this area include:
 - Removal of 4 trees (*Casuarina cunninghamiana*) and planting of approximately several new trees along either side of Road.
 - Introduction of a row of bollards, some retractable and/or manually removeable, will be installed to regulate access.
 - Addition of benches, 2 smartpoles, and public amenity infrastructure.
 - Addition of fixed bollard and some manually removeable north of intersection with Custom House Lane.
 - Ancillary Infrastructure, paving, and utility works.
- Traffic changes include:
 - Loftus Street between Reiby Place and Custom House Lane: be converted to a one-way northbound 10 km/h Shared Zone with one travel lane and two loading lanes (This section of Loftus Street will only be open to vehicles between 12 midnight and 11 am to allow for service and delivery vehicles to access the area, from which they will need to exit via Customs House Lane).
 - Loftus Street between Bridge Street and Reiby Place: No change in traffic arrangements. This road section will consist of two northbound travel lanes and two parking lanes
 - Line marking and signage as required.

Note: The existing loading zone along east and west of Loftus Street (south of Reiby Place) will be retained). Parking and loading zone areas along western side of Loftus Street will be removed (north of Reiby Place). Loading zones along eastern side of road will be introduced.

Excavation Estimates

Street	Area	Approximate Depth	Context
Loftus Street	Roadway	Up to 1.5 m	Underground services
Loftus Street	Roadway	Up to 1 m	Tree pits
Loftus Street	Roadway	Up to 0.35 m	New pavements
Loftus Street	Footpath	Up to 0.2 m	New paved areas
Loftus Street	Footpath	Up to 3 m	Smartpole footings, assuming a deep pylon, not a pad, which could be shallower, 1 m
Loftus Street	Pits	Up to 1.5 m	Drainage
Loftus Street	Pits	Up to 1 m	Utilities

Reiby Place

- Excavation, to a depth of up to 400mm, to remove the road bitumen, kerb and gutter, concrete.
- Reducing width of road and increasing width of pedestrian footpath on northern side of the road.
- Mill and re-sheet of the road surface.

- Public embellishment works within public area adjacent to the Gateway Building directly west of Loftus Street.
- Raised footpath continuation along intersection with Loftus Street with fixed bollards on either side of carriageway.
- Raised footpath continuation along intersection with Pitt Street with fixed bollards on either side of carriageway.
- Traffic movement will remain as existing.

Excavation Estimates

Street	Area	Approximate Depth	Context
Reiby Place	Roadway	Up to 0.05 m	Mill and resheet
Reiby Place	Roadway	Up to 0.2 m	Footpath continuations and extension
Reiby Place	Roadway	Up to 1.5 m	Underground services
Reiby Place	Pits	Up to 1.5 m	Drainage
Reiby Place	Pits	Up to 1 m	Utilities

Note: Existing trees along the Reiby Place corridor will be retained.

Custom House Lane

- Raised pedestrian crossing along road median.
- Upgrading the road surface to granite pavers.
- Traffic changes include:
 - Operate as a one-way eastbound 10 km/h Shared Zone.
 - Open to vehicles between 12 midnight and 11 am to allow for service and delivery vehicles to leave Loftus Street towards Young Street.
Note: A mitigation strategy has been added in relation to updating the Traffic Management plan (TMP) to allow access to vehicles until 11am (in lieu of 10am as per TMP)

Excavation Estimates

Street	Area	Approximate Depth	Context
Customs House Lane	Roadway	Up to 0.35 m	New pavements
Customs House Lane	Footpath	Up to 0.2 m	New paved areas

The numbers described above are indicative only and subject to detailed design.

Relevant mitigation strategies have been highlighted in section 6 of this report.

3.6 CONSTRUCTION ACTIVITIES

Construction works required for the activity include (but are not limited to):

- Site establishment including compounds/lay down areas,
- Vegetation and topsoil stripping,
- Tree removal, including stump removal or grinding and mulching/chipping,
- Trench excavation,
- Dewatering of open trench (if necessary),
- Decommissioning and removal of existing services infrastructure,
- Removal of pavement and structures from Tree Protection Zones and non-destructive root exploration (hand-digging or Air Vac),
- Construction of electrical infrastructure,
- Construction of fencing and security infrastructure,
- Road construction including subsoil drainage, footpath formation and drainage,
- Signage and line marking to council's minimum standard,
- Construction of and changes to pathways and footpaths,
- Refurbishment of existing parking,
- Construction of and changes to roadside furniture and safety devices,
- Construction of and changes to stormwater infrastructure including, kerbs, gutters, drainage pipelines, stormwater pits,
- Construction of and changes to communications utilities including cabling and conduits,
- Construction of and changes to electrical utilities including cabling and conduits,
- New landscaping works,
- Removal of excess excavated material from site, and
- Restoration of the works area.

Plant and equipment likely to be used in the works (but are not limited to) include:

- Chainsaw and woodchippers,
- Excavators,
- Tipper trucks,
- Light vehicles,
- Flat-bed delivery trucks,
- Service vehicles,
- Mobile cranes,
- Rollers,

- Skid steers,
- Water carts,
- Jackhammers and generators,
- Pressure testing equipment,
- Compactor,
- Concrete agitators (or similar),
- Concrete pumps,
- Concrete saws,
- Air compressors,
- Mobile lighting, and
- Various hand tools and small machinery.

Other Construction Items	
Construction workforce	Up to 30 full time equivalents for the duration of the works. The appointed contractor will determine the number of workers.
Construction period	Construction works are planned to commence in the first half 2023. Construction works will take 14 - 24 weeks.
Construction hours	<p>Construction would generally occur during the standard working hours set out in the Draft Construction Noise Guideline (NSW EPA, 2020):</p> <ul style="list-style-type: none"> • Mondays to Fridays between 7am and 6pm • Saturdays between 8am and 1pm • No work would normally occur on Sundays or public holidays. <p>Construction may be required outside the recommended standard hours to install/construct public infrastructure. Night works may be required. This will not occur unless approval is granted by the relevant authority.</p>
Construction Environmental Management Plan	The appointed contractor will prepare a Construction Environmental Management Plan (CEMP) in consultation with relevant stakeholders and in accordance with relevant standards as part of the CEMP. The plan would provide information on traffic flow, vehicle moments, site access and parking arrangements during construction, and the measures to minimise the impacts on the relevant road network.
Public Utilities	Existing public utilities/services exist in the vicinity of the works. It will be the contractor's responsibility to locate all services prior to commencement of works.
Operation and Maintenance	The relevant infrastructure authority will be responsible for the ongoing maintenance and operational obligations, including fault rectification in accordance with the terms of their operating license.

3.7 DETERMINING AUTHORITIES AND REFERRALS

CoS is also the proponent and the determining authority of the development pursuant to section 5.1 of the Act.

The following referrals/consultations are required:

External Referrals		
Agency	Legislative Requirements	Response
TfNSW	<i>Section 76 of the Roads Act 1993</i>	Mitigation strategies in place requiring TfNSW approval prior to works commencing.
Crown Land Office	<i>Crown Land Management Act 2016</i>	Deemed landowners consent as per Crown Land Management Act 2016 authorising the CoS to undertake works where the activity is identified as permissible in a Plan of Management. A plan of management has been issued (CBD Civic Spaces Plan of Management dated March 2022) following community consultation.
NTScorp	<i>Native Title Act 1993</i>	Given the Crown Land portion of the site (Macquarie Place Park) is a facility for service to the public as per section 24KA of the <i>Native Title Act 1993</i> , maintenance of roads can be carried out pursuant to section 24KA (2). No referral is required in this case.
Local Aboriginal Community / Aboriginal Land Council	<i>Native Title Act 1993</i>	Mitigation strategies in place in case any heritage fabric or archaeological remain are uncovered during works.
Traffic Committee	<i>Transport Administration Act 1988</i>	Approval from Council's Local Pedestrian, Cycling and Traffic Calming Committee (Traffic Committee) in relation to the traffic changes and road closures.
Utility providers	Various	Detailed design and consultation occur with the relevant utility providers prior to works commencing.
Emergency Services	Various	Mitigation strategies in place requiring consultation with emergency services providers prior to works commencing.
Heritage Council of NSW	<i>Heritage Act 1977</i>	Documentary evidence to be obtained by CoS. The proposed works will be required to be referred to the Heritage Council of NSW given some works are within Macquarie square, which is identified as a state heritage item. Unless works are

		exempt under Heritage Act or special delegation in place for CoS, Heritage Act approval is required.
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Internal Referrals		
Team	Legislative Requirements	Reasons
Council's Traffic Team	<i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Austroads Guidelines Relevant Australian Standards	Consultation has occurred and Council's Traffic team have supported the proposal.
Council's Landscaping Team	<i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> <i>Sydney Development Control Plan 2012</i>	Consultation has occurred and Council's Landscaping team have supported the proposal.
Council's Heritage Team	<i>Heritage Act 1977</i> <i>Sydney Local Environmental Plan 2012</i>	Agreement to the works has been obtained from Council's Heritage team in relation to the works.

4. LEGISLATIVE AND PLANNING FRAMEWORK

4.1 COMMONWEALTH LEGISLATION

Disability Discrimination Act 1992 ('DDA Act')

The DDA act provides a legal framework for the prohibition of discrimination against people with disabilities in employment, education, publicly available premises, provision of goods and services, accommodation, clubs and associations, and other contexts.

All works must be consistent with the provision of the DDA Act. A relevant mitigation strategy has been included in that regard.

As a mitigation strategy, all construction works be in accordance with the relevant provisions of the Building Code of Australia, Australian Standards, and Austroads guidelines. In addition, all construction works be in accordance with the Sydney Streets Technical Specifications, Version: 2019.

Environment Protection Biodiversity Conservation Act 1999 ('EPBC Act')

The EPBC Act provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places, which are defined in the Act as matters of national environmental significance (NES).

The proposed activity has been assessed against this Act. The location of the site, relatively minor nature of the activity and the mitigation measures outlined in this report should avoid significant impact on the following:

- A declared World Heritage Property;
- A National Heritage place;
- A declared Ramsar wetland;
- Commonwealth listed migratory species;
- Commonwealth listed threatened species or endangered community;
- Commonwealth marine areas; or
- Commonwealth lands.

Although the Sydney Opera House is a world heritage item, the proposed works are more than 100m away from the Opera house and will not have adverse impacts upon its heritage significance.

Native Title Act 1993

The main objectives of the act are:

- (a) to provide for the recognition and protection of native title; and*
- (b) to establish ways in which future dealings affecting native title may proceed and to set standards for those dealings; and*
- (c) to establish a mechanism for determining claims to native title; and*
- (d) to provide for, or permit, the validation of past acts, and intermediate period acts, invalidated because of the existence of native title.*

Given the Crown Land portion of the site (Macquarie Place Park) is a facility for service to the public as per section 24KA of the Native Title Act 1993, maintenance of roads can be carried out pursuant to section 24KA (2).

4.2 PLANNING AND STATE LEGISLATION

Environmental Planning and Assessment Act 1979 ('EPAA)

As discussed in Section 1.2 above, the EPAA is the primarily legislation in NSW which governs development / activity approvals.

The legislation is broad and covers the mandatory steps for creating strategic planning documents, undertaking application assessments (including Planning Proposals, Review of Environmental Factors, Development Applications, Modification to Consent Applications, Review of Determinations and Building Information Certificates), certifying development works and regulatory framework of how to address public safety and non-compliance development at both State and Local levels.

Under the EPAA, development includes land use, land subdivision, and the erection or demolition of a building or structure. Whilst Activity includes land use, land subdivision, and the erection or demolition of a building or structure, the carrying out of work.

A person is not permitted to carry out development unless the works are identified as Exempt or obtained development consent / activity approval through one of alternate pathways from the relevant consent / approval authority.

For the subject works, the relevant approval pathway for the proposal is through Part 5 Infrastructure and environmental impact assessment of the Environmental Planning and Assessment Act 1979.

This assessment is triggered under Clause 2.109(1) and 2.109(3)(c) of State Environmental Planning Policy (Transport and Infrastructure) 2021 (*'Transport and Infrastructure SEPP'*) as the development is for the purpose of a road or road infrastructure facilities may be carried out by or on behalf of a public authority.

Note:

Under the Standard Instrument, **road** means a public road or a private road within the meaning of the *Roads Act 1993*, and includes a classified road.

Under the Roads Act 1993, **road** includes—

- (a) the airspace above the surface of the road, and
- (b) the soil beneath the surface of the road, and
- (c) any bridge, tunnel, causeway, road-ferry, ford or other work or structure forming part of the road.

Accordingly, as the proposal is identified as development permitted without consent for the purposes of 'road' works the proposal does not require the lodgement, assessment or determination or a Development Application or CDC pursuant to Part 4 of the EPAA.

The proposed works are consistent with the definition of 'activity' as prescribed in Section 5.1 (Part 5 – Infrastructure and Environmental Impact Assessment) of the EPAA. Before endorsing the activity, the determining authority, which in this case is CoS, must examine and take into account to the fullest extent possible, all matters affecting or likely to affect the environment by reason of that activity, in accordance with Section 5.5(1) of the EPAA.

Section 5.1 of the EPAA defines a *"determining authority"* as *"a Minister or public authority and, in relation to any activity, means the Minister or public authority by or on whose behalf the activity is or is to be carried out or any Minister or public authority whose approval is required in order to enable the activity to be carried out."*

CoS is a public authority and is therefore the determining authority and the proponent for the activity.

Prior to proceeding with the activity, Section 5.5(1) of the EPAA requires a determining authority to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment as a result of the activity. This report, in particular Section 6 below, provides the necessary assessment.

Section 5.5(3) of the EPAA also requires that the determining authority consider the effect of an activity on any *"wilderness area"* as defined by the *Wilderness Act 1987*. The subject site is not a *"wilderness area"* and is not in proximity to any such area. It

will, therefore, not have any impact on any “wilderness area”. The provisions of this section are, therefore, satisfied.

In addition to Part 5, the objects of the EPAA are also relevant. The objects, as provided by Section 1.3, are as follows:

- a. *“to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- b. *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c. *to promote the orderly and economic use and development of land,*
- d. *to promote the delivery and maintenance of affordable housing,*
- e. *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f. *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g. *to promote good design and amenity of the built environment,*
- h. *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i. *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- j. *to provide increased opportunity for community participation in environmental planning and assessment.”*

The activity is considered to be consistent with the relevant objects of the Act for the following reasons:

- It will improve the public accessibility along the corridor.
- Conditions for pedestrians will be improved.
- Streetscape appearance will be improved.
- Streetscape improvements are likely to improve trading conditions for nearby businesses given the general amenity is improved and there will be greater capacity for additional customers.

Environmental Planning & Assessment Regulation 2021 (‘EP&A Regulation’)

Section 170 - Planning Secretary guidelines about review of environmental factors—the Act, s 5.10(a)

Section 170 nominates that the Planning Secretary may issue guidelines that require to be considered when considering the likely impact of an activity, and that consideration need to be given to section 171.

The document has been prepared in light of ‘Guidelines for Division 5.1 assessments’ issued by the department of Planning and Environment dated June 2022.

Section 171 - Review of environmental factors—the Act, s 5.10(a)

Section 171 of the EP&A Regulation nominates those factors which must be taken into account when considering the impact of an activity on the environment. Those factors are listed and addressed below:

Matter to be addressed	Comment
(1) <i>When considering the likely impact of an activity on the environment, the determining authority must take into account the environmental factors specified in the environmental factors guidelines that apply to the activity.</i>	This REF has considered the <i>environmental factors specified in the Guidelines</i> .
(2) <i>If there are no environmental factors guidelines in force, the determining authority must take into account the following environmental factors—</i>	Consideration has been given to the Guidelines for Division 5.1 assessments published by the NSW Department of Planning and Environment dated June 2022.
(a) <i>The environmental impact on a community</i>	Subject to the implementation of the mitigation measures set out in Section 6 and 8, the proposed works will not result in any unacceptable environmental impacts on the community.
(b) <i>The transformation of a locality</i>	The proposal itself would not ‘transform’ the subject locality. It would, although, have beneficial streetscape and accessibility impacts. These are likely to create an environment that has the potential to benefit trading conditions for nearby businesses as well as pedestrians generally.
(c) <i>The environmental impact on the ecosystems of the locality</i>	As will be described in detail in Section 6 of this report, the proposal’s ecological impacts will be minimal given the extent of necessary excavation is minimal. The proposal may involve a sizeable amount of earthworks along the surface, however below ground excavation is limited. Similarly, the proposal proposes for the removal of four trees (<i>Casuarina cunninghamiana</i> -native) and the planting of several trees.
(d) <i>Reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality</i>	The proposal will improve the aesthetic, recreational and general environmental quality of the subject locality given it involves new paving, wider footpaths, and more public amenities. It is considered that the road surface does not have any notable scientific value and the proposal would not, therefore, unreasonably impact any such value.
(e) <i>The effect on a locality, place or building that has</i> <i>i. having aesthetic, anthropological, archaeological, architectural,</i>	The proposed streetscape improvements are likely to have positive effects on such values of adjoining development and the locality generally. The proposal is unlikely to adversely impact upon the heritage significance of Macquarie Place Park, Custom House Lane, and other heritage items in the locality. The works do not seek to alter the heritage fabric rather the area within the vicinity in order to improve the context and the area and allow for more pedestrian activity.

Matter to be addressed	Comment
<p><i>cultural, historical, scientific or social significance</i></p> <p>ii. <i>or other special value for present or future generations</i></p>	<p>There may be European and Aboriginal archaeological value within the land which is proposed to be developed to deliver proposed embellishments, however an AIHMS search did not located any Aboriginal sites within the subject site. Section 6 and 8 below discusses this matter further. In summary, mitigation measures can be implemented to avoid significant adverse archaeological impacts.</p> <p>It is noted that the presence of those heritage values cannot be determined until the road and pavement surfaces are removed. Therefore, unexpected finds strategies are proposed as a mitigation strategy.</p>
<p>(f) <i>The impact on the habitat of protected animals, within the meaning of the Biodiversity Conservation Act 2016,</i></p>	<p>The proposed works are unlikely to impact on the habitat of protected fauna under the <i>Biodiversity Conservation Act 2016</i>, given their central city location. The 4 trees proposed for removal are of moderate ecological value as per the pre-assessment Arborist Report prepared by Homewood Consulting Pty Ltd dated August 2015. It is noted that the proposal seeks to add several new trees.</p>
<p>(g) <i>The endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air</i></p>	<p>The site and locality are not known to cater for endangered species. Therefore, it is not expected to result in any significant impact. The 4 trees proposed for removal are of moderate ecological value as per the pre-assessment Arborist Report prepared by Homewood Consulting Pty Ltd dated August 2015. It is noted that the proposal seeks to add several new trees.</p>
<p>(h) <i>long-term effects on the environment</i></p>	<p>The long-term impacts are likely to be positive and the public domain will be significantly improved by the proposal. This has direct positive impacts for pedestrians and are likely to create an environment that has the potential to benefit trading conditions for nearby businesses.</p> <p>The proposal will result in some impacts upon traffic movement particularly vehicle movement however this will require to be considered by the Traffic Committee as a mitigation measure.</p>
<p>(i) <i>Degradation of the quality of the environment</i></p>	<p>Degradation is limited to the construction phase, such as noise, sedimentation, dust generation and the like. As discussed in detail at Section 6, however, adequate mitigation measures can be implemented for such possibilities. Overall, however, the proposal is likely to result in positive impacts to the social, cultural and economic environment.</p>
<p>(j) <i>Risk to the safety of the environment</i></p>	<p>As discussed immediately above, risks to the environment are principally limited to the construction phase. Relevant mitigation measures can be implemented, as discussed in Section 6 of this report.</p>
<p>(k) <i>Reduction in the range of beneficial uses of the environment</i></p>	<p>Vehicular access to most of the subject roads has already been restricted as part of City North Public Domain Plan and the construction of the Sydney Light Rail along George Street.</p> <p>The proposal will result in some impacts upon traffic movement particularly vehicle movement however this will require to be considered by the Traffic Committee as a mitigation measure.</p>

Matter to be addressed	Comment
	The proposal increases options for use of the environment given it will extend footpaths and improve the amenity generally with pedestrianisation.
<i>(l) Pollution of the environment</i>	Pollution is likely to be limited to during the construction phase from construction related machinery and potential noise, dust and water management. This is due to the temporary nature of the construction and having the ability to be mitigated such that they are not significant and, therefore, not unreasonable.
<i>(m) Environmental problems associated with the disposal of waste</i>	The proposal's construction phase is likely to result in some waste, such as removed bitumen, concrete and the like. Section 6 outlines how any associated impacts can be mitigated. In summary, mitigation measures revolve around recycling and/or reuse of such waste products.
<i>(n) Increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply</i>	New trees will require intermittent watering. The chosen tree species will require to satisfy the Adapting for Climate Change Strategy published by the City of Sydney. The proposal will increase demand for paving however, we are not aware of any related shortages in obtaining relevant resources.
<i>(o) The cumulative environmental effect with other existing or likely future activities</i>	The proposal is small in scale and operation. In this case, any cumulative environmental impacts would be negligible, manageable and broadly positive.
<i>(p) The impact on coastal processes and coastal hazards, including those under projected climate change conditions</i>	The vertical extent of excavation required for the proposal is limited and not in close proximity to any coastal areas. Excavation deeper than 1 m is generally in relation to tree or smartpole pits hence is localised. Therefore, it would not jeopardise coastal processes, exacerbate existing coastal hazards, including those associated with climate change.
<i>(q) Applicable local strategic planning statement, regional strategic plan or district strategic plan made under the Act, Division 3.1</i>	The proposal is consistent with strategic plans specific to the locality.
<i>(r) Other relevant environmental factors</i>	Additional environmental factors and their relevant mitigation strategies are discussed in section 6 of this REF.

Roads Act 1993*Section 3 – Objects of Act*

The objectives of the Roads Act 1993 are as follows:

- a. to set out the rights of members of the public to pass along public roads, and
- b. to set out the rights of persons who own land adjoining a public road to have access to the public road, and
- c. to establish the procedures for the opening and closing of a public road, and
- d. to provide for the classification of roads, and
- e. to provide for the declaration of TfNSW and other public authorities as roads authorities for both classified and unclassified roads, and
- f. to confer certain functions (in particular, the function of carrying out road work) on TfNSW and on other roads authorities, and
- g. to provide for the distribution of the functions conferred by this Act between TfNSW and other roads authorities, and
- h. to regulate the carrying out of various activities on public roads.

Vehicular access limitations to most of the roads which relate to the proposed activity were approved as part of the CSELR EIS and Infrastructure Approval SSI-6042. As a result, there are limited objectives of the Roads Act 1993 which apply to this proposed activity. However, some traffic changes will occur (refer to Traffic Management Plan dated August 2022) as summaries below:

Road Section	Changes
Loftus Street between Reiby Place and Custom House Lane	<ul style="list-style-type: none"> - To be converted to a one-way northbound 10 km/h Shared Zone with one travel lane and parking bays. - This section of Loftus Street will only be open between 12 midnight and 11 am to allow for service and delivery vehicles to access the area, from which they will need to exit via Customs House Lane (to Young Street). <p>Traffic Management plan (TMP) will require to be updated to allow access to vehicles until 11am (in lieu of 10am as per TMP). Mitigation strategy in place.</p> <ul style="list-style-type: none"> - A row of bollards, some retractable and/or manually removeable, will be installed to regulate access.
Loftus Street between Bridge Street and Reiby Place	<ul style="list-style-type: none"> - No change in traffic arrangements. This road section will consist of two northbound travel lanes and two parking lanes.
Reiby Place between Loftus Street and Pitt Street	<ul style="list-style-type: none"> - No change in traffic arrangements. This road section will consist of one westbound travel lane.
Customs House Lane	<ul style="list-style-type: none"> - To operate as a one-way eastbound 10 km/h Shared Zone

	<ul style="list-style-type: none"> - Open to vehicles between 12 midnight and 11 am to allow for service and delivery vehicles to leave Loftus Street towards Young Street.
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Some changes are also proposed to the loading arrangements with the removal of some loading back along the western side of Loftus Street north of Reiby Place. However, the proposal does introduce 5 new loading bays on Loftus Street north of Reiby Place.

The proposed activity is consistent with the relevant objectives given it provides additional differentiation for those areas which are currently not accessible by pedestrians and/or vehicles, or not intended to be accessible due to CoS' imminent actions. Furthermore, implementation of the City North Public Domain Plan 2015 has already resulted in road changes within the locality.

Part 4 – Closing of Public Roads

This part outlines the approval pathway for the closure of public roads. The assessment includes a mitigation strategy in relation to road closures, traffic redirection or the like requiring that the works be approved by Council's Local Pedestrian, Cycling and Traffic Calming Committee (Traffic Committee).

Works will not commence until such a time when the Traffic Committee approves the road works.

Section 71 – Powers of Roads Authority with Respect to Road Work

Section 71, Part 6 of the Roads Act 1993 provides that a "roads authority" may carry out road work on any public road. CoS is a "roads authority" as prescribed in Section 7 of the Roads Act 1993. Therefore, CoS may carry out the proposed activity.

Section 75 – Public authorities to notify TfNSW of proposal to carry out road work on classified roads

This section requires approval by TfNSW for road works within a classified road, before such works are carried out. No part of the subject roads is identified as a classified road. In this instance no further action is required.

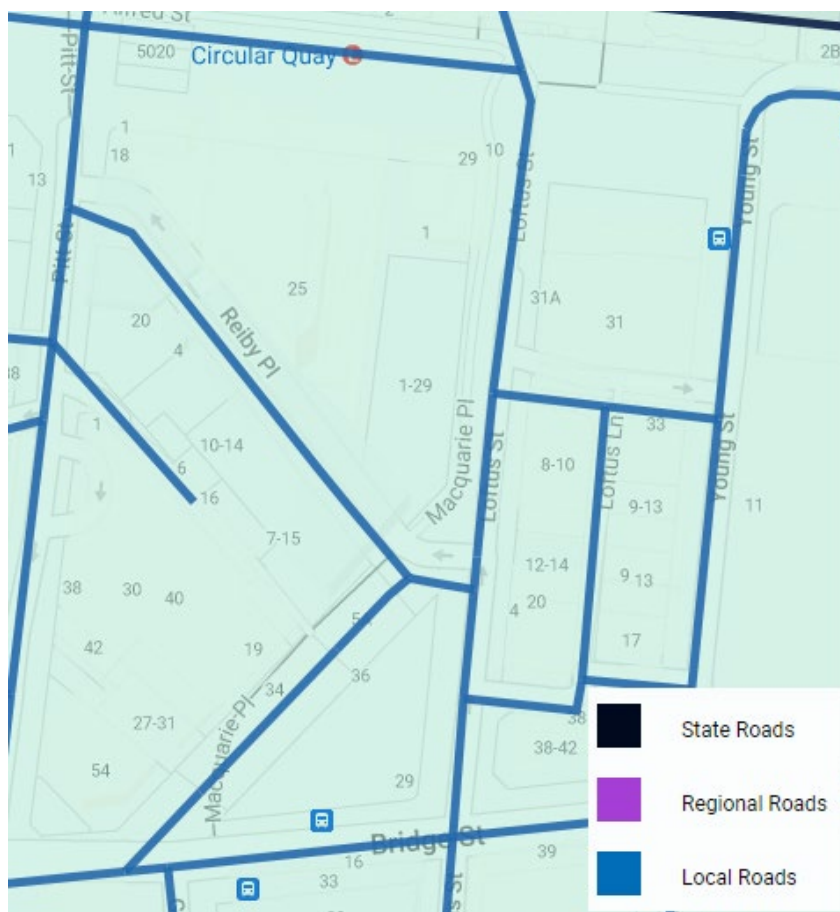


Figure 9: Road classification map showing local roads within area of site (Source: Transport for NSW)

Section 76 – Roads authorities to notify TfNSW of proposal to carry out major road work

This section requires a roads authority to seek approval from the TfNSW for any works within a public road with a value of \$2 million. Approval from TfNSW is required.

Documentary evidence to be obtained by CoS.

Section 85 – Location of Conduits for Utility Services

This section requires the roads authority to consult with utility providers in relation to any road works which involve installation of conduits for utility services. The proposed activity includes works within the vicinity of utilities. Consultation has occurred with the relevant utility providers. A mitigation strategy has been added requiring that detailed design and consultation occur with the relevant utility providers prior to works commencing.

Section 88 – Tree Felling

This section provides that a roads authority may, despite any other Act or law to the contrary, remove or lop any tree or other vegetation that is on or overhanging a public road if, in its opinion, it is necessary to do so for the purpose of carrying out road work or removing a traffic hazard.

The concept plans propose for the removal of 4 trees and planting of several new trees along either side of Loftus Street. Relevant mitigation strategies have been included in relation to the tree removal, and tree replacements and planting.

Section 138 – Works and structures

In summary, this section provides that works cannot be undertaken to any public road without the consent of the appropriate “roads authority”. In the case of a local road, the consent of the Council is required.

No concurrence from TfNSW is required in this case as the roads are not classified roads. No further action is required in this case given the proponent and the road authority is Council.

Section 144A to 144E – Light Rail Systems

These sections state that a roads authority must not obstruct the operation of any light rail system, unless it has the prior approval of the TfNSW Secretary. A mitigation measure will be included stating that the Secretary’s approval is required if the proposed activity necessitates obstruction to the nearby light rail system.

Contaminated Land Management Act 1997 (‘CLM Act’)

The subject land is not generally recognised as contaminated land. It has been exposed to by-products from motor vehicles given its previous use as an operational road. There may also be contamination beneath the road surface which cannot be confirmed at this stage. In this case, the CLM Act is a relevant consideration.

The mitigation measures outlined in Section 6 of this report ensure the obligations of the CLM Act are addressed. A Phase 2 contamination assessment shall be undertaken to determine the likelihood of contaminated material throughout the construction site. Treatment of contaminated material, if any, should also be undertaken in accordance with the Phase 2 assessment.

Heritage Act 1977

Portions of the site are identified as heritage items mainly Macquarie Place (I1856) being a state significant heritage item, and Customs House Lane (I1731).

Given the works are within a portion of a state heritage item, a mitigation stagey has been added requiring the application be referred for approval by the Heritage Council of NSW.

The application was referred to Council’s Heritage team and the proposal was supported in principle.

Arguably, the proposal results in beneficial impacts given a wider footpath will allow improved viewing angles to heritage items whilst additional street trees will similarly complement heritage items and the streetscape generally.

Any potential adverse impacts would be limited to artefacts which may be discovered during excavation. These can be managed with mitigation measures.

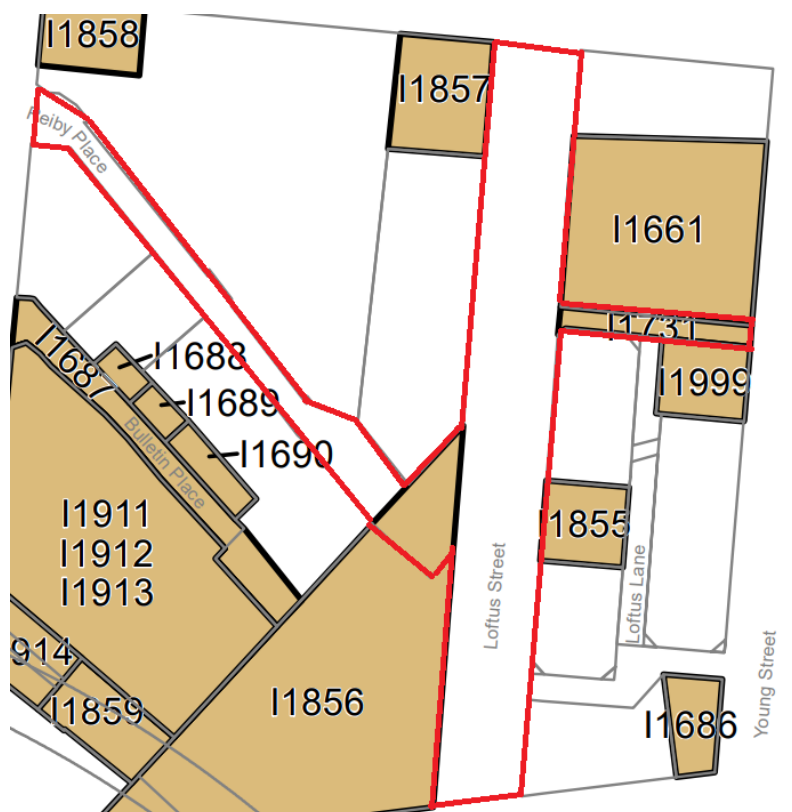


Figure 10: Heritage map with site shown in red

Rural Fires Act 1997

This legislation is not applicable as the subject site is not bushfire prone.

Wilderness Act 1987

This legislation is not applicable as the subject site is not identified as “wilderness area” according to the Wilderness Act 1987 or the National Parks and Wildlife Act 1974.

Mining Act 1992

The works are not in relation to mining. In this case, this legislation is not applicable.

National Parks and Wildlife Act 1974

The works are not within a national park or likely to impact upon wildlife. In this case, this legislation is not applicable.

Petroleum (Onshore) Act 1991

The works are not in relation to petroleum mining. In this case, this legislation is not applicable.

Water Management Act 2000

The works are not likely to result in adverse impacts to the ground water quality. A mitigation strategy has been recommended, requiring that a geotechnical report be prepared. Should groundwater be encountered, it will be required that contact be made with Water NSW for relevant action.

Protection of the Environment Operations Act 1997 ('POEO Act')

The proposal does not trigger the need for licensing as outlined in the POEO Act and it is, therefore, not applicable in this instance.

Fisheries Management Act 1994

This legislation is not applicable as the proposal does not involve aquaculture, dredging or reclamation work, relate to public water land or an aquaculture lease or works that would create an obstruction of a water body.

Mine Subsidence Act 1997

The subject site is not within a mine subsidence area. In this case, this legislation is not applicable.

Local Government Act 1993

In accordance with Division 2, Chapter 6 the application is accompanied by a Civic Spaces Plan of Management and addresses the requirements of Section 36 of the Local Government Act 1993.

State Environmental Planning Policy (Transport and Infrastructure) 2021

This SEPP contains planning provisions:

- for infrastructure in NSW, such as hospitals, roads, railways, emergency services, water supply and electricity delivery.
- for child-care centres, schools, TAFEs and Universities.
- planning controls and reserves land for the protection of three corridors (North South Rail Line, South-west Rail Link extension and Western Sydney Freight Line).
- the land use planning and assessment framework for appropriate development at Port Kembla, Port Botany and Port of Newcastle.

Chapter 2 Infrastructure

Clause 2.1 – Aim of Chapter

The aims of the Chapter 2 Infrastructure require consideration. According to Clause 2.1 of the policy, the aims are as follows:

- (a) *“improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*

- (b) *providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) *allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) *identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) *identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) *providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) *providing opportunities for infrastructure to demonstrate good design outcomes.”*

It is considered that the proposal satisfies the relevant objectives of the policy for the following reasons:

- It utilises a nominated approval mechanism.
- The nominated approval mechanism will allow for the timely delivery of important infrastructure.
- This assessment addresses the relevant matters for consideration.
- As will be demonstrated below, relevant consultation has been undertaken.
- The proposal will deliver good design outcomes in that the streetscape will be greatly improved, particularly with the refinishing of residual roadway, new paving, and improved pedestrianisation.

Clauses 2.10 – 2.27 Consultation

These clauses of Chapter 2 outline various forms of consultation which must be undertaken. The individual clauses are addressed in the table below.

The REF will require to be placed on public exhibition given the cost of works exceed \$5 million. In addition, prior to commencement of works consultation will require to be made with the relevant utility providers in addition to TfNSW.

Council and its representatives undertook general community consultation with all adjoining buildings. This is detailed in the Engagement report - Loftus Street, Customs House Lane & Reiby Place dated March 2022.

Matter to be addressed	Comment
<i>Clause 2.10 Consultation with councils - development with impacts on council-related infrastructure or services</i>	The proposal will not have substantial impact on key utilities or access to public spaces. Nevertheless, relevant CoS internal departments were consulted on these matters during the project’s design development phase.
<i>Clause 2.11 Consultation with councils - development</i>	Portions of the site are identified as heritage items mainly Macquarie Place (I1856) being a state significant heritage item, and Customs House Lane (I1731).

Matter to be addressed	Comment
<i>with impacts on local heritage</i>	<p>Given the works are within a portion of a state heritage item, a mitigation strategy has been added requiring the application be referred for approval by the Heritage Council of NSW.</p> <p>The application was referred to Council's Heritage team and the proposal was supported in principle.</p> <p>Any potential adverse impacts would be limited to artefacts which may be discovered during excavation. These can be managed with mitigation measures.</p>
<p><i>Clause 2.12</i> <i>Consultation with councils - development with impacts on flood liable land</i></p>	<p>The site is not identified as land within a flood planning area by the SLEP 2012. Nevertheless, Council internal Departments were consulted during the proposal's design development phase.</p>
<p><i>Clause 2.13</i> <i>Consultation with State Emergency Service - development with impacts on flood liable land</i></p>	<p>The site is not identified as land within a flood planning area by the SLEP 2012. Consultation for the purposes of this clause therefore is not considered necessary.</p>
<p><i>Clause 2.14</i> <i>Consultation with councils - development with impacts on certain land within the coastal zone</i></p>	<p>The site is not within a coastal environmental /use area.</p>
<p><i>Clause 2.15</i> <i>Consultation with public authorities other than councils</i></p>	<p>The proposed development is not specified development under this clause of the Transport and Infrastructure SEPP as it is not known to comprise any of the following:</p> <ul style="list-style-type: none"> • Development adjacent to land reserved under the <i>National Parks and Wildlife Act 1974 (NPW Act)</i> or land to be acquired under Part 11 of that Act. • Development on land in Zone C1 National Parks and Nature Reserves under the SLEP 2012 or in a land use zone that is equivalent to that zone. • Development comprising a fixed or floating structure in or over navigable waters. • Development that may increase the amount of artificial light in the night sky and is on land within the dark sky region (i.e. within 200 kilometres of the Siding Spring Observatory) as identified on the dark sky region map. • Development on defence communications facility buffer land within the meaning of clause 5.15 of the Standard Instrument. • Development on land in a mine subsidence district within the meaning of the now repealed <i>Mine Subsidence Compensation Act 1961</i>.
<p><i>2.16 Consideration of Planning for Bush Fire Protection</i></p>	<p>No Consultation with the Rural Fire Service is necessary as the site is not affected by bushfire.</p>

Matter to be addressed	Comment
<i>Clause 2.17 Exceptions</i>	Not applicable as the nominated exemptions do not apply to the subject site or the proposal.

Clause 2.69 – Public authority precincts

No portions of the site are within a Sydney Harbour Foreshore Site as per SEPP (Precincts—Eastern Harbour City) 2021.

Clause 2.109 – Development permitted without consent - general

As discussed above, the proposal is for alterations to an existing road as referenced in Clause 2.109 of the *Transport and Infrastructure SEPP 2021*. The proposal is, therefore, development permitted without consent. As such, the proposal does not require assessment and determination according to Part 4 of the EPAA.

Clause 2.119 – Development with frontage to classified road

Site does not include frontage to a classified road. In this case consideration of the particulars of this clause is not required.

State Environmental Planning Policy (Exempt and Complying Development) 2008

This SEPP contains planning provisions which identify development which does not require approval (Exempt) or a reduced approval pathway (Complying Development). In particular:

Exempt Development

Exempt Development is a minor or small-scale development that is considered to have a minimal environmental impact. Subject to the works being correctly described and the works meeting a predefined set of standards, the development works can be carried out without the need to undertake community consultations, undertake any assessment, or obtain consent.

Complying Development

Complying Development is generally larger in scale from Exempt works but has a minor enough impact not to need development consent. Providing that it complies with the minimum standards contained or listed in a relevant plan, a Complying Development Certificate is required to carry out the proposal. Complying Development Certificates have the same value as a development consent, but they certify that the development proposal complies with all the pre-set standards as set under an Environmental Planning Instrument and the National Construction Code. These requirements are generally enacted through a State Environmental Planning Policy and therefore prevail over any Council application and assessment requirement. Private sector Accredited Certifiers primarily issue Complying Development Certificates. Through this process, there is no community consultation. Applications

are mandatorily required to be approved if they comply and are determined within 20 days of lodgement. Complying development codes apply to d

There are no identifiable provisions enabling the proposed development works to be considered as Exempt or Complying Development.

State Environmental Planning Policy (Industry and Employment) 2021

This SEPP contains planning provisions:

- applying to employment land in western Sydney.
- for advertising and signage in NSW.

The relevance of the SEPP to the development site relates primarily to the provision of any future onsite signage.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

This SEPP contains planning provisions for:

- planning rules and controls for the clearing of native vegetation in NSW on land zoned for urban and environmental purposes that is not linked to a development application.
- the land use planning and assessment framework for koala habitat.
- provisions which establish a consistent and co-ordinated approach to environmental planning and assessment along the River Murray.
- provisions seeking to protect and preserve bushland within public open space zones and reservations.
- provisions which aim to prohibit canal estate development.
- provisions to support the water quality objectives for the Sydney drinking water catchment.
- provisions to protect the environment of the Hawkesbury-Nepean River system.
- provisions to manage and improve environmental outcomes for Sydney Harbour and its tributaries.
- provisions to manage and promote integrated catchment management policies along the Georges River and its tributaries.
- provisions which seek to protect, conserve and manage the World Heritage listed Willandra Lakes property.

The relevance of the SEPP to the development site relates primarily to the provision of water catchment areas associated with the Georges River, tree or vegetation removal, ecological system impacts on riverbeds.

Chapter 2 Vegetation in non-rural areas

Chapter 2 applies to the CoS Local Government Area (LGA). Its aims, as prescribed by clause 2.1, are as follows:

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

The proposal does not propose to the removal of any trees or significant vegetation.

Chapter 10 Sydney Harbour Catchment

Chapter 10 aims to improve the health of the harbour, its foreshore, and its tributaries. A key objective is to maximise accessibility to the harbour and its foreshore for the general public. For the purposes of Chapter 10, access is generally considered in terms of physical as well as visual access

The proposal is consistent with Chapter 10- Sydney Harbour Catchment’s environmental matters, as prescribed by Clause 10.18- 10.24.

State Environmental Planning Policy (Resilience and Hazards) 2021

This SEPP contains planning provisions:

- for land use planning within the coastal zone, in a manner consistent with the objects of the Coastal Management Act 2016 to manage hazardous and offensive development.
- which provides a state-wide planning framework for the remediation of contaminated land and to minimise the risk of harm.

Chapter 2 Coastal management

The aims of this chapter as listed in clause 2.1 are:

- (a) *managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) *establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) *mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The site is not within a costal environmental /use. The works are a considerable distance from the waterway, and a mitigation measure in relation to the use of sediment control fencing during construction will mitigate any construction materials to spill towards the nominated coastal areas and waterways.

Chapter 4 Remediation of Land

The object of Chapter 4 is to provide a State-wide planning approach for the remediation of contaminated land.

The proposal is likely to involve the removal of the existing road surface and disturbance of the existing road base. Such waste could escape the subject site in the form of erosion and sedimentation, some of which may be contaminated. There is also

likely to be various 'off cuts' from construction materials such as pavers, concrete and the like.

In addition to the mitigation measures listed in 6.1 below, a Phase 2 contamination assessment shall be undertaken to determine the likelihood of contaminated material throughout the construction site. Treatment of contaminated material, if any, should also be undertaken in accordance with the Phase 2 assessment.

General construction waste shall be managed in accordance with the *Waste Avoidance and Resource Recovery Act 2001*. This legislation generally seeks to avoid waste generation or divert any waste to recycling.

State Environmental Planning Policy (Planning Systems) 2021

This SEPP contains planning provisions that:

- identifies State or regionally significant development, State significant Infrastructure, and critical State significant infrastructure.
- provides for consideration of development delivery plans by local Aboriginal land councils in planning assessment.
- allows the Planning Secretary to elect to be the concurrence authority for certain development that requires concurrence under nominated State environmental planning policies.

The works are not classified as regional or state significant.

State Environmental Planning Policy (Housing) 2021

This SEPP contains planning provisions for:

- affordable housing in NSW.
- diverse housing in NSW.

The works do not relate to the provision of this SEPP; hence the legislation is not applicable.

Sydney Local Environmental Plan 2012 (SLEP 2012)

Clause 1.2(2) – Aims of Plan

The particular aims of the SLEP 2012 are as follows:

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

(a) to reinforce the role of the City of Sydney as the primary centre for Metropolitan Sydney,

(b) to support the City of Sydney as an important location for business, educational and cultural activities and tourism,

- (c) to promote ecologically sustainable development,*
- (d) to encourage the economic growth of the City of Sydney by—*
 - (i) providing for development at densities that permit employment to increase, and*
 - (ii) retaining and enhancing land used for employment purposes that are significant for the Sydney region,*
- (e) to encourage the growth and diversity of the residential population of the City of Sydney by providing for a range of appropriately located housing, including affordable housing,*
- (f) to enable a range of services and infrastructure that meets the needs of residents, workers and visitors,*
- (g) to ensure that the pattern of land use and density in the City of Sydney reflects the existing and future capacity of the transport network and facilitates walking, cycling and the use of public transport,*
- (h) to enhance the amenity and quality of life of local communities,*
- (i) to provide for a range of existing and future mixed-use centres and to promote the economic strength of those centres,*
- (j) to achieve a high-quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities,*
- (k) to conserve the environmental heritage of the City of Sydney,*
- (l) to protect, and to enhance the enjoyment of, the natural environment of the City of Sydney, its harbour setting and its recreation areas.*

The proposal satisfies the relevant objectives of the SLEP 2012 for the following reasons:

- The streetscape enhancements are likely to create an environment that has the potential to benefit trading conditions for nearby businesses as well as pedestrians generally.
- The proposal will improve infrastructure for pedestrians, including accessibility to public transport.
- The proposal will not result in any significant impacts on any known heritage values. Mitigation measures are proposed to avoid unreasonable impacts to any unforeseen heritage value.

Clause 2.3 – Zone Objectives and Land Use Table

As shown in the land use zoning maps at Figure 8, the subject site is within zone B8 – Metropolitan Centre, with small section oven lands zoned RE1- Public Recreation (works adjacent to Jesse Street Gardens, and Macquarie Place Park).



Figure 11: Zoning map with site shown in red (Source: Sydney LEP 2012)

The proposal's consistency with the objectives of each zone is discussed below.

Zone B8 – Metropolitan Centre

- *To recognise and provide for the pre-eminent role of business, office, retail, entertainment and tourist premises in Australia's participation in the global economy.*
- *To provide opportunities for an intensity of land uses commensurate with Sydney's global status.*
- *To permit a diversity of compatible land uses characteristic of Sydney's global status and that serve the workforce, visitors and wider community.*
- *To encourage the use of alternatives to private motor vehicles, such as public transport, walking or cycling.*
- *To promote uses with active street frontages within podiums that contribute to the character of the street.*
- *To promote the efficient and orderly development of land in a compact urban centre.*
- *To promote a diversity of commercial opportunities varying in size, type and function, including new cultural, social and community facilities.*
- *To recognise the important role that Central Sydney's public spaces, streets and their amenity play in a global city.*
- *To promote the primary role of the zone as a centre for employment and permit residential and serviced apartment accommodation where they complement employment generating uses.*

The proposal satisfies the relevant objectives of the B8 zone for the following reasons:

- The streetscape enhancement assists with reinforcing the pre-eminent role of business, office, retail and tourist land uses/activities within the City of Sydney LGA.
- The workforce, visitors and the wider community will be assisted by an improved and wider footpath.
- The proposed wider footpath will improve accessibility to public transport, and the City North Public Domain Plan in particular.

Zone RE1 – Public Recreation

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To provide links between open space areas.*
- *To retain and promote access by members of the public to areas in the public domain including recreation facilities and waterways and other natural features.*
- *To protect sun access to publicly accessible land.*

The proposal satisfies the relevant objectives of the RE1 zone for the following reasons:

- The improved, and in particular wider footpath, will encourage walking, cycling and provide improved pedestrian access to public space.
- A wider footpath and improved streetscape enhances links to existing open space areas.

Clause 5.10 – Heritage Conservation

The objectives of this clause are as follows—

- (a) to conserve the environmental heritage of the City of Sydney,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Portions of the site are identified as heritage items mainly Macquarie Place (I1856) being a state significant heritage item, and Customs House Lane (I1731).

Given the works are within a portion of a state heritage item, a mitigation stagey has been added requiring the application be referred for approval by the Heritage Council of NSW.

The application was referred to Council's Heritage team and the proposal was supported in principle.

Any potential adverse impacts would be limited to artefacts which may be discovered during excavation. These can be managed with mitigation measures.

5.21 – Flood planning

The objectives of this clause are as follows—

- (a) to minimise the flood risk to life and property associated with the use of land,
- (b) to allow development on land that is compatible with the flood function and behaviour on the land, taking into account projected changes as a result of climate change,
- (c) to avoid adverse or cumulative impacts on flood behaviour and the environment,
- (d) to enable the safe occupation and efficient evacuation of people in the event of a flood.

Based on Council maps and publicly available information, the site does not appear to be flood affected.

Clause 7.14 – Acid Sulfate Soils

The subject land is identified as being affected by Class 2 acid sulfate soils according to the SLEP 2012.



Figure 12: Acid Sulfate Soils Map (Source: Sydney LEP 2012)

As per Clause 7.14 (3), the proposal was accompanied by an Acid Sulfate Soils Management Plan.

The plan's recommendations require to be complied with as part of the mitigation strategies.

4.3 STRATEGIC PLANS

Greater Sydney Region Plan – A Metropolis of Three Cities

The Greater Sydney Region Plan – A Metropolis of Three Cities was released by the Greater Sydney Commission in 2018 and applies to the site. This document outlines the overarching plan for the future of the Sydney Metropolitan Area over the next 40 years (to 2056). The Plan contains numerous goals which include the provision of world-class service and transport, housing choice to accommodate varied needs and lifestyles, the creation of healthy and connected communities, and protection of the natural environment.

The proposed works are consistent with the objectives of the regional plan (Eastern Harbour City) given they assist in establishing a greener city with focus on active transport and liveability.

Community Strategic Plan 2022- Delivering Sustainable Sydney 2030–2050

The Community Strategic Plan presents a vision is for a sustainable future where in response to the climate change. The plan puts forward several strategic goals including a focus on public transport and walking/cycling. The proposed works align with the strategic goal given additional pedestrian areas will be created which will allow for more pedestrian infrastructure and in the long-term less vehicles in the CBD area.

City North Public Domain Plan 2015

The City North Public Domain Plan highlighted ideas for improving streets and open spaces which can be used as guidelines for future development. The proposed works currently implement targets set by the plan with regards to improving pedestrian links and providing for a more walkable CBD.

In accordance with Division 2, Chapter 6 the application is accompanied by a Civic Spaces Plan of Management and addresses the requirements of Section 36 of the Local Government Act 1993.

4.4 RELEVANT POLICIES

Sydney Development Control Plan 2012 (SDCP 2012)

The SDCP 2012 contains non-statutory planning controls generally intended to support the SLEP 2012. The proposal involves minimal built form and, in this case, the SDCP 2012 is of limited relevance. Regardless, the main controls which would apply to the proposal are identified and addressed below.

Section 2.1 – Locality Statements (Central Sydney)

For the purposes of the SDCP 2012, the subject land is located within both the Central Sydney and Surry Hills localities. The character-based objectives for the Central Sydney locality, as stated in Section 2.1, are as follows:

- a) *retain and enhance the unique character of each Special Character Area.*
- b) *ensure development has regard to the fabric and character of each area in scale, proportion, street alignment, materials and finishes and reinforce distinctive attributes and qualities of built form.*
- c) *conserve and protect heritage items and their settings.*
- d) *maintain a high level of daylight access to streets, lanes, parks and other public domain spaces.*
- e) *encourage active street frontages to the public domain.*
- f) *conserve, maintain and enhance existing views and vistas to buildings and places of historic and aesthetic significance.*

As the proposal includes minimal additional built form any impacts to existing and built form character of the locality will be negligible.

There may be potential to impact on below ground archaeological features once the proposal's necessary excavation commences. A mitigation strategy has been recommended with regards to unexpected archaeological finds.

Overall, adverse impacts to the character of the Central Sydney locality is not anticipated by the proposal. The proposal is likely to result in beneficial impacts given it will improve the streetscape appearance, particularly as a result of pedestrianisation. Further, the wider walkable public domain as a result of the proposal would improve opportunities for members of the public to visualise and experience the surrounding character.

Section 3.1 – Public Domain

It is evident that this section of the SDCP 2012 seeks to prioritise or at least improve public spaces, particularly for pedestrians. The proposal, given it seeks to increase footpath widths and improve the streetscape generally, will be consistent with this section's objectives.

Contaminated Land Development Control Plan 2004 (Contaminated Land DCP)

The objectives of the Contaminated Land DCP (i.e. Section 2.2) state:

- *Ensure that changes of land use will not increase the risk to health or the environment;*
- *Avoid inappropriate restrictions on land use; and*
- *Provide information to support decision making and to inform the community.*

It is considered that the matters relating to land contamination and remediation have been adequately addressed under Chapter 4 Remediation of Land of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Heritage Development Control Plan 2006 (Heritage DCP)

It is considered that the matters relating to land contamination and remediation have been adequately addressed under the Heritage Act 1977 section, and Clause 5.10 of the Sydney Local Environmental Plan 2012.

Section 2 – Vicinity Controls

The Heritage DCP contains the following objectives for development in the vicinity of heritage items, which is the case for this proposal. The objective of this section is as follows:

“...to ensure that development in the vicinity of heritage items is designed and sited to protect the heritage significance of the item.”

Given the proposal contains minimal built form and no buildings, it is not likely to result in any substantive impacts to the character of adjoining heritage items, and their surrounds. The proposal is likely to improve their character given it includes several streetscape enhancements such as wider footpaths, providing pedestrians with a wider viewing angle to interpret the subject heritage items.

5. CONSULTATION

Consultation for the purposes of the Infrastructure SEPP has been addressed at section 4.3 (page 24) of this report. A summary of all referrals can be found at page 12 of this report.

Extensive consultation has occurred with all major stakeholders. This is detailed in the Engagement report - Loftus Street, Customs House Lane & Reiby Place dated March 2022.

It is note that based on the findings of the engagement report the large majority of notified stakeholders expressed support for the project. Some issues were raised and have been highlighted below for mitigation.

6. ENVIRONMENTAL ASSESSMENT AND MITIGATION MEASURES

6.1 AIR AND WATER QUALITY

The proposal involves surface related excavation as well as a range of other construction related procedures, such as sawing of paving, concrete pouring, and construction related delivery vehicles, which are likely to generate dust, which may affect air and water quality without adequate mitigation measures. The machinery involved for these procedures is also likely to result in exhaust fumes.

All such impacts are temporary and can be managed in accordance with the preparation and implementation of a Construction Environmental Management Plan (CEMP). Some of the items the CEMP is required to include are:

- Ongoing management of soils and sediment in accordance with *Australian and New Zealand Environment and Conservation Council (ANZECC) (2000) Guidelines for Fresh and Marine Water Quality*.
- Ongoing management of soils and sediment in accordance with *Landcom's (2004) Managing Urban Stormwater: Soils and Construction*.
- Ongoing management of soils and sediment in accordance with Volume 2D of *Managing Urban Stormwater: Soils and Construction (DECC 2008)*.
- Undertaking servicing of machinery to avoid excessive exhaust fumes.
- Ongoing monitoring of the construction site and its immediate surrounds to address any potential non-compliances with mitigation measures.
- Compliance with relevant provision of Protection of the Environment Operations Act 1997.

6.2 SOILS

As indicated above, the proposal involves surface excavation which is likely to impact existing soils. However, as the proposal relates to generally minor works, with only localised excavation under 1m in depth. As such, the proposal's likely soil related impacts should be minor. Any impacts can be managed in accordance with the mitigation measures mentioned in Section 6.1 above as well as the undertaking of a pre-construction geotechnical assessment.

As discussed earlier in this assessment, natural hazards relevant to the site are limited to acid sulfate soils. The accompanying Acid Sulfate Management Plan required to be complied with.

A Phase 2 contamination assessment shall be undertaken to determine the likelihood of contaminated material throughout the construction site.

6.3 NOISE AND VIBRATION

The proposal's construction process will rely on mechanical equipment, including delivery vehicles, which will result in noise and vibration impacts. Commercial tenancies and dwellings in close proximity to the subject site may in particular be impacted. Such impacts will be temporary but can nevertheless be mitigated with the implementation of the Construction Noise and Vibration Management Plan (CNVMP). Such plan is the can include requirements for the installation of noise absorbing barriers for the full extent of the proposed works, as well as intermittent noise monitoring.

For the proposed works, construction hours should be limited to the following (as recommended by Draft Construction Noise Guideline prepared by Environment Protection Authority):

- Monday to Friday: 7.00am to 6.00pm. Some works will require to take place outside these hours due to some driveways requiring 24/7 access. Working outside standard hours will only be through the consultation with the relevant authorities and stakeholders.
- Saturday: 8:00am to 1:00pm.

- No works on Sundays or public holidays or as specified by any relevant legislation.
- Construction may be required outside the recommended standard hours to install/construct public infrastructure. Night works may be required. This will not occur unless approval is granted by the relevant authority.

6.4 FLORA, FAUNA AND TREES

The subject site is highly urbanised and does not contain any high volume of flora, fauna or native trees. For these reasons, the impact on flora, fauna and trees is minimal. This impact is considered acceptable given the replacement includes species of healthier variety, and the proposal involves planting of approximately 38 new street trees.

The area was not mapped within the Biodiversity Values Map. The works are unlikely to adversely impact upon any existing habitat areas within the adjoining parks given the parks are partially urbanized and it is not known that significant and /or endangered ecological communities dwell within the confines of the parks in the locality.

Mitigation measures, in this case, will be limited to the preparation of a detailed landscape plans which confirms, amongst other items, the exact number of replacement trees, exact number of new trees, their species, and measures relating to their ongoing management to ensure they become adequately established. Any landscape plan must be prepared by a suitably experienced landscape architect registered with the Australian Institute of Landscape Architects (AILA).

6.5 NATURAL HAZARDS

The proposal should adequately connect to the stormwater and drainage system in order to reduce impact of adverse runoff into adjoining area and to avoid backflow in major rain events. It is not anticipated that the proposal will have adverse impacts upon stormwater given the nature of the works.

It is noted that the site is not flood affected and is unlikely to exacerbate flooding impacts.

6.6 SEA LEVEL RISE

The subject site is not in the immediate vicinity of natural water bodies. Sea level rise is, therefore, not considered to be a likely impact. Similarly, the proposal is of a minor nature in relative terms and does not necessitate any significant long term carbon dioxide emissions. Therefore, the proposal itself is not likely to impact on sea levels.

6.7 SPOIL AND WASTE MANAGEMENT

The proposal is likely to involve the removal of the existing road surface and disturbance of the existing road base. Such waste could escape the subject site in the form of erosion and sedimentation, some of which may be contaminated. There is also likely to be various 'off cuts' from construction materials such as pavers, concrete and the like.

General construction waste shall be managed in accordance with the *Waste Avoidance and Resource Recovery Act 2001*. This legislation generally seeks to avoid waste generation or divert any waste to recycling.

6.8 CHEMICAL AND HAZARDOUS SUBSTANCE MANAGEMENT

As indicated above, there may be contamination within the existing road corridor. This shall be managed in accordance with the measures outlined in Section 6.1 and 6.8 of this report. In addition, contamination and hazardous materials should be managed in accordance with the following measures:

- National Environment Protection (Assessment of Site Contamination) Amendment Measure 2013 (No. 1) (NEPM) (National Environment Protection Council (NEPC, 2013)
- NSW Asbestos Blueprint 2017
- Waste Classification Guidelines (DECCW 2009).
- Protection of the Environment Operations Act 1997
- Waste Avoidance and Resource Recovery Act 2001
- Work Health and Safety Act 2011

6.9 TRANSPORT AND ACCESS

Disability Discrimination Act

The works must comply with the relevant provisions of the Disability Discrimination Act 1992.

Operational Transport and Access

Vehicular access to most of the roads in question was restricted as part of the City North Public Domain Plan. CoS has consulted with TfNSW in relation to the proposed works and no objections were raised by TfNSW in that regard.

Given the works include road closures, traffic redirection and the like, the application requires to be determined by Council's Local Pedestrian, Cycling and Traffic Calming Committee (Traffic Committee). The traffic Committee are likely to have specific mitigation methods to manage traffic impacts.

No works shall commence until such a time that the Traffic Committee has consented to the works.

Impacts to pedestrian flows and accessibility are mostly positive given footpaths will be widened to increase capacity and the streetscape will be improved with additional street trees and the like. No mitigation measures are required in relation to pedestrian accessibility.

In accordance with section 76 of the Roads Act, Council requires to seek approval from the TfNSW for any works within a public road with a value of \$2 million. Approval from TfNSW is thus required prior to works proceeding.

No works shall commence until such a time that approval is granted from TfNSW

Council's traffic engineering team was briefed and did not object to the application.

Utility Providers

CoS is to consult with the relevant utility providers prior to works commencing to ensure no assets will be disrupted by the proposed works.

Traffic Congestion Due to Traffic Changes

Due to changes in traffic conditions and the potential for additional pedestrians, additional traffic congestion could occur in the short-term given driving habits will not have been accustomed to the new road layout.

In order to mitigate this, appropriate signage and line marking will be made as required by law. The application will be required to receive approval from the traffic committee which has an overarching role in ensuring safety of road and pedestrian users, in addition to reducing traffic hazards and congestion.

Construction Transport and Accessibility

The proposal will necessitate a number of construction related vehicles, including machinery. This may increase traffic volumes and result in traffic delays. A Construction Network Management Plan should be implemented for the purposes of this application. Some noteworthy elements of the plan include:

- Creating temporary parking bays within the proposed construction zone for construction related vehicles, machinery or delivery of materials. Ample space exists within the proposed construction zone for such temporary bays. Such bays shall be identified prior to the construction of works.
- Install lighting for the duration of the project in accordance with relevant Australian Standards.
- Preparation and implementation of a Construction Traffic Management Plan incorporating but not limited to the following:
 - Encouraging the delivery of any large machinery, which would otherwise disrupt traffic further or pose a risk to pedestrians, outside of peak periods. Peak periods, if any, should be determined prior to the commencement of construction and following an observational analysis of traffic and pedestrian activity along the subject site.
 - Install temporary barriers between any currently publicly accessible areas and the relevant construction zone to avoid pedestrians and any vehicles entering the construction zone. The temporary barrier shall be a minimum height of 1.6m and maximise sight lines for vehicles as well as pedestrians, where possible.
 - Including pedestrian awareness as part of any induction program for any staff associated with the onsite works.

A public communications protocol shall also be established before and for the duration of the construction phase. The protocol should outline at least the following:

- Purpose of the project.
- When construction works are anticipated to commence, daily construction hours, and the approximate duration of the construction works.

- Any particular construction related processes which may generate amenity impacts which could be reasonably regarded as out of the ordinary.
- The means of communication, which should include at least onsite signage, notifications within local newspapers or other publications with local circulation, as well as social media, a project liaison officer from CoS for local business owners, and a contact phone number.
- Establishment of construction zone lighting in accordance with relevant Australian Standards.

During both the construction and operational phase, suitable materials shall be used to avoid pedestrian trips, slips and the like. Materials in accordance with the relevant Australian Standards shall be used. Such materials shall be maintained in accordance with the relevant standards and/or the manufacturer's requirements.

Parking for Loading / Deliveries

The proposal will remove loading zone areas along western side of Loftus (north of Reiby Place). This has been proposed to make way for additional pedestrian areas and public embellishments. The approach aligns with the CNPDP objectives which were to increase open spaces and pedestrianisation in the northern sector of the City.

Albeit the removal of some loading bays, five Loading zones along eastern side of road will be introduced to mitigate the loss of other loading bays. It is noted that the existing loading zone along east and west of Loftus Street (south of Reiby Place will be retained).

Access to loading zones within the newly pedestrianised area north of Reiby Place will be between 12 midnight and 10 am to allow for service and delivery vehicles to access the area.

6.10 ABORIGINAL AND NON-INDIGENOUS HERITAGE

Portions of the site are identified as heritage items mainly Macquarie Place (I1856) being a state significant heritage item, and Customs House Lane (I1731). In addition, several items of environmental heritage are in proximity to the subject site, but the physical separation is sufficient to avoid adverse impacts.

As the works are within a portion of a state heritage item (Macquarie Place - I1856), a mitigation stagey has been added requiring the application be referred for approval by the Heritage Council of NSW. Given the Crown Land portion of the site (Macquarie Place Park) is a facility for service to the public as per section 24KA of the Native Title Act 1993, maintenance of roads can be carried out pursuant to section 24KA (2).

Given the extended period of time Loftus Street has been in operation, and the extent of maintenance and/or reconstruction they would have been subject to, it is unlikely that any unforeseen aboriginal or non-indigenous material would be found as part of the proposal's construction, including excavation. In addition, given the extensive amount of underground utilities existing below the roadway as confirmed by the utility investigations undertaken, it is unlikely that significant heritage fabric will be uncovered due to the proposed earthworks.

Despite the above, mitigation measures are warranted given the likely significance of any potential aboriginal or non-indigenous material that might be found. These mitigation measures include:

- Reviewing the results of geotechnical testing for any evidence of aboriginal or non-indigenous material.
- Stopping work in the event any material or potential material is identified during the construction phase.
- Nominating potential for aboriginal or non-indigenous heritage as part of any site induction process.
- Engaging a qualified heritage specialist and/or archaeologist in the event any material or potential material is identified during the construction phase and seeking advice or approval under s90 of NSW National Parks and Wildlife Act 1974.

6.11 VISUAL IMPACTS

The following are the key elements of the proposal which are likely to have any visual impact:

- Replacement of existing road base with paving and associated kerb and gutter.
- Widening of public footpath area.
- Removal of 4 trees.
- Addition of approximately 30+ trees.
- Addition of various public amenities such as street seating, water fountains, bins and the like.
- Addition of 2 new Smartpoles (TM).

The proposal will result in mostly positive visual impacts given the streetscape will be substantially improved. To avoid the streetscape becoming 'over crowded' with the additional street trees, Smartpoles (TM) and the like, these elements are sufficiently spaced and will not result in any adverse impacts. In this case, mitigation impacts will be limited to the following:

- Regular observation, within 3 months of the installation of proposed vegetation to ensure it becomes adequately established.
- Regular observation, within 3 months of the installation of proposed public amenities, to ensure they operate satisfactorily.
- Regular observation, within 3 months of the installation of footpath amenities, to ensure they have been constructed satisfactorily.

6.12 SOCIO-ECONOMIC IMPACT

The proposal does not impact directly or indirectly on any existing administrative, professional, or community services such as medical facilities, schools, childcare centres or the like.

The proposal's construction phase has the potential to impact on adjoining businesses and the like as a result of noise, dust, vibration, transportation and accessibility impacts outlined earlier. These impacts are temporary and acceptable with mitigation

measures already discussed. Further, for the most part, the proposal works are substantially separated from places of business. They proposed works are not so close that access, for example, would be restricted to places of business. In fact, the existing footpaths will be maintained for the vast majority of the subject site, ensuring existing accessibility will be retained.

Upon completion of the proposed works, the streetscape will be substantially improved with new paving, additional trees, public amenities and a wider footpath. As such, not only will the general atmosphere be improved, but this is likely to improve trading conditions for nearby places of business. Overall, this will assist with the implementation of the City North Public Domain Plan.

In light of the above, specific amenity impacts such as noise, dust and the like, can be managed acceptably subject to previously outlined mitigation measures so as not to impact upon the economic performances of businesses in the vicinity.

In order to discourage anti-social behaviour, additional lighting has been provided to help improve safety at night and would also help activate the precinct. The proposal aims to improve pedestrian safety, access and amenity, and provide opportunities to activate the area in the evenings.

6.13 FUTURE LAND USE

There is no change to the use of the subject land, remaining part of the public road reserve. Given the proposal will improve the streetscape and increase footpaths widths, adverse impacts are not envisaged in relation to the future use of subject land itself. There may be safety risks associated with widening the footpath and the shared zone along Loftus Street which will likely see additional pedestrian activity. In order to mitigate this, relevant traffic signage and line marking shall be erected in the area to ensure safety to pedestrian and motorists alike.

In addition, a mitigation measure should be in place to allow emergency services unrestricted access to control the retractable bollard along Loftus Street.

6.14 ECOLOGICALLY SUSTAINABLE DEVELOPMENT AND SUSTAINABILITY

The proposal is likely to result in some waste materials as well as carbon dioxide emissions from construction related machinery in particular. Overall, however, the proposal contributes significantly towards ecologically sustainable development and sustainability generally, for the following reasons:

- There will be a substantial net increase in trees in the subject site.
- Wider footpaths and an improved streetscape generally, will increase opportunities for 'green transport', in particular, walking.
- General intention to reduce cars within the CBD area, with focus on rail transit options, walking and cycling.
- In relation to water management and irrigation, the chosen tree species will require to satisfy the *Adapting for Climate Change Strategy* published by the City of Sydney.

6.15 OTHER ENVIRONMENTAL IMPACTS

Given the addition of public lighting, there will be an increase in the demand for electricity. The matter will not require specific mitigation measures as there is no known shortage in electricity supply, however electricity supply procurement and the type of electrical assets erected shall be consistent with the aims of the *Adapting for Climate Change Strategy* published by the City of Sydney.

6.16 CUMULATIVE ENVIRONMENTAL IMPACTS

Vehicular access within the subject site in addition to traffic movement will change as a result of the proposal. To ensure the traffic matters are mitigated, the proposal will require to be presented to Council's Local Pedestrian, Cycling and Traffic Calming Committee (Traffic Committee) for support.

This aside, the proposal's overall impacts are considered to be beneficial and would outweigh the identified adverse impacts. This is largely because the proposal would result in significant streetscape upgrades, including new paving, trees and other public amenities. Similarly, the proposal will increase the pedestrian areas substantially. This increases accessible public space, increases the opportunity for pedestrians to view and interpret their surroundings (including heritage items), and increases opportunities for walking or 'green transport'.

All construction works will be in accordance to the relevant provisions of the Building Code of Australia, Australian Standards, and Austroads guidelines.

7. ENVIRONMENTAL FACTORS CONSIDERED

7.1 CONSIDERATION OF CLAUSE 171 OF EP&A REGULATIONS 2021

The matters for consideration under clause 171 of the Environmental Planning & Assessment Regulation 2021 have been addressed in detail on page 17 (section 4.3) of this report.

7.2 CONSIDERATION OF NATIONAL ENVIRONMENTAL SIGNIFICANCE

The nature of the Loftus Street locality was recently established with the gradual implementation of the City North Public Domain Plan. This proposal complements those elements. As such, the proposal itself does not have any consequences of national significance. If any, the consequences are positives as the proposal will improve the finishing around the Macquarie Place and Loftus Street locality as well as space for pedestrians.

8. SUMMARY OF MITIGATION MEASURES

This proposal deals with works related to the City North Public Domain Plan. The relevant mitigation strategies are summaries below:

Erosion & Sedimentation (before and during construction)

- Ongoing management of soils and sediment in accordance with *Australian and New Zealand Environment and Conservation Council (ANZECC) (2000) Guidelines for Fresh and Marine Water Quality*.
- Ongoing management of soils and sediment in accordance with *Landcom's (2004) Managing Urban Stormwater: Soils and Construction*.
- Ongoing management of soils and sediment in accordance with Volume 2D of *Managing Urban Stormwater: Soils and Construction (DECC 2008)*.
- Construction to be undertaken in accordance with the *Protection of the Environment Operations Act 1997*.

Notification and Consultation (before construction)

- Should the cost of works exceed \$5 million, the REF is to be published on the Council website and on the NSW Planning Portal in accordance with clause 171 (4) of the Environmental Planning and Assessment Regulation 2021.
- Formally consult key stakeholders and the wider community on the concept design, local access plan and Review of Environmental Factors.

Stakeholder Consultation (before and during construction)

- The City of Sydney and/or authorised contractors are required to inform stakeholders of timelines and project updates, to help them plan activities and mitigate disruption.

Contamination (before and during construction)

- Undertake and operate in accordance with a Phase 2 Environmental Assessment prepared by a qualified specialist.
- Construction to be undertaken in accordance with the *National Environment Protection (Assessment of Site Contamination) Amendment Measure 2013 (No. 1) (NEPM) (National Environment Protection Council (NEPC, 2013)*.
- Construction to be undertaken in accordance with the *Guidelines for the Assessment, Remediation and Management of Asbestos Contaminated Sites in Western Australia (Western Australia Department of Health 2009)*.

Landscaping (before construction)

- Prior to the commencement of any construction on the subject site, a landscape plan shall be prepared and endorsed by Council. The plan shall be prepared by a suitably experienced landscape architect registered with the Australian Institute of Landscape Architects (AILA). The plan shall detail the number of existing trees to be removed/replaced, the number of new trees, their species, as well as ongoing management requirements to ensure they become adequately established.

Whilst new and replacement trees are encouraged, the landscape plan should ensure the number of trees is not excessive and would not, for example, hinder any sensitive built form character.

Whilst the exact number of replacement trees and new trees may not be able to be quantified prior to commencement of works due to the presence of underground services, utilities and the like, the plan should aim to include approximately 30+ new trees. Any required amendments to the endorsed plan during the course of construction are to be endorsed by Council.

The chosen tree species will require to satisfy the Adapting for Climate Change Strategy published by the City of Sydney in relation to irrigation

Loading Zones & Further Road Closures (before construction)

- Approval shall be obtained in accordance with Section 75 and 138 of the Roads Act 1993 for any further necessary road closures.

Geotechnical Investigation (before construction)

- A geotechnical assessment shall be conducted to inform the two Smartpole footing design. Should groundwater be identified contact shall be made with WaterNSW for relevant action.

Pedestrian Safety (before and during construction)

- Install temporary barriers between any currently publicly accessible areas and the relevant construction zone to avoid pedestrians and any vehicles entering the construction zone. The temporary barrier shall be a minimum height of 1.6 m.
- Including pedestrian awareness as part of any induction program for any staff associated with the onsite works.
- During both the construction and operational phase, suitable materials shall be used to avoid pedestrian trips, slips and the like. Materials in accordance with the relevant Australian Standards shall be used. Such materials shall be maintained in accordance with the relevant standards and/or the manufacturer's requirements.
- A public communications protocol shall also be established before and for the duration of the construction phase. The protocol should outline at least the following:
 - Purpose of the project.
 - When construction works are anticipated to commence, daily construction hours, and the approximate duration of the construction works.
 - Any particular construction related processes which may generate amenity impacts which could be reasonably regarded as out of the ordinary.
 - The means of communication, which should include at least onsite signage, notifications within local newspapers or other publications with local circulation, as well as social media, a project liaison officer from CoS for local business owners, and a contact phone number.
 - Establishment of construction zone lighting in accordance with relevant Australian Standards.

Traffic Management Plan (before construction)

- The approved Traffic Management Plan dated August 2022 shall be updated to allow vehicles access to the new shared zone along Loftus Street between 12 midnight and 11 am (in lieu of 10 am).

Transport and Access (before construction)

- A Construction Network Management Plan shall be prepared highlighting but not limited to the following:
- Creating temporary parking bays within the proposed construction zone for construction related vehicles, machinery or delivery of materials. Ample space exists within the proposed construction zone for such temporary bays. Such bays shall be identified prior to the construction of works.
- Install lighting for the duration of the project in accordance with relevant Australian Standards.
- Outline the construction conditions and temporary environmental protection measures to manage the impact of construction activities. The plans must be consistent with the environmental management measures documented in this report, and the conditions of any licences or permits issued by government authorities (if any).
- The plan is to identify the auditing and inspection requirements and determine the framework for the management of key environmental issues for construction.
- Preparation and implementation of a Construction Traffic Management Plan incorporating but not limited to the following:
- Encouraging the delivery of any large machinery, which would otherwise disrupt traffic further or pose a risk to pedestrians, outside of peak periods. Peak periods, if any, should be determined prior to the commencement of construction and following an observational analysis of traffic and pedestrian activity along the subject site.
- Install temporary barriers between any currently publicly accessible areas and the relevant construction zone to avoid pedestrians and any vehicles entering the construction zone. The temporary barrier shall be a minimum height of 1.6 m and maximise sight lines for vehicles as well as pedestrians, where possible.
- Including pedestrian awareness as part of any induction program for any staff associated with the onsite works.

Access for Persons with a Disability (before and during construction)

- The works must comply with the relevant provisions of the Disability Discrimination Act 1992.

Construction methodology (before and during construction)

- *All construction works be in accordance with the relevant provisions of the Building Code of Australia, Australian Standards, and Austroads guidelines.*
- *All construction works be in accordance with the Sydney Streets Technical Specifications, Version: 2019.*

Separate Approvals (before construction)

- Obtain referral response from Crown Land.
- Obtain referral response from Heritage Council of NSW (in relation to works within Macquarie Place).
- Ensure all emergency services consent to the proposed works (NSW Police, Fire and Rescue NSW, Ambulance NSW, State Emergency Services).
- Obtain TfNSW approval for proposed works in accordance with Section 75 and 76 of the Roads Act 1993.

- Consult relevant utility providers with regard to the installation of any utility conduits for the purposes of Section 85 of the Roads Act.
- Obtain approval for any further temporary road closures in accordance with Section 138 of the Roads Act 1993.
- The proposed works be approved by Council's Local Pedestrian, Cycling and Traffic Calming Committee (Traffic Committee).

Air Quality (during construction)

- Undertaking servicing of machinery to avoid excessive exhaust fumes.
- Ongoing monitoring of the construction site and its immediate surrounds to address any potential non-compliances with mitigation measures.

Monitoring and Auditing (during construction)

- Undertake and operate in accordance with a geotechnical assessment.

Acid Sulfate Soils (during construction)

- Undertake and operate in accordance with the accompanying acid sulfate management plan.

Waste Management & Avoidance (during construction)

- Construction and waste management to be in accordance with the *Waste Avoidance and Resource Recovery Act 2001*.
- Construction to be undertaken in accordance with the *Waste Classification Guidelines (DECCW 2009)*.
- Contamination and hazardous materials should be managed in accordance with the following measures:
 - National Environment Protection (Assessment of Site Contamination) Amendment Measure 2013 (No. 1) (NEPM) (National Environment Protection Council (NEPC, 2013)
 - NSW Asbestos Blueprint 2017
 - Waste Classification Guidelines (DECCW 2009).
 - Protection of the Environment Operations Act 1997
 - Waste Avoidance and Resource Recovery Act 2001
 - Work Health and Safety Act 2011

Parking & Deliveries (during construction)

- Install temporary parking bays within the proposed construction zone for construction related vehicles, machinery or delivery of materials prior to the commencement of construction works.
- The delivery of any large machinery is to generally occur outside of peak periods. Peak periods, if any, should be determined prior to the commencement of construction and following an observational analysis of traffic and pedestrian activity along the subject site.

Archaeology (during construction)

- Review the results of geotechnical testing for any evidence of aboriginal or non-indigenous material.

- Stop work in the event any aboriginal or non-indigenous material or potential material is identified during the construction phase. Advise City of Sydney's project director immediately after stopping work.
- Nominate potential for aboriginal or non-indigenous heritage as part of any site induction process.

Noise & Vibration (during construction)

- Develop and implement a Construction Noise and Vibration Management Plan for the duration of the construction process.
- Develop and implement a Construction Environmental Management Plan as detailed in section 8.1 of this report.
- The proposal shall comply with the recommendation of the submitted geotechnical report.
- Works shall comply with the submitted Construction Network Management Plan and Construction Traffic Management Plan.
- Hours of construction:
 - Monday to Friday: 7.00 am to 6.00 pm. Some works will require to take place outside these hours. Working outside standard hours will only occur following consultation with the relevant authorities and stakeholders.
 - Saturday: 8:00 am to 1:00 pm.
 - No works on Sundays or public holidays or as specified by any relevant legislation.
 - Construction may be required outside the recommended standard hours to install/construct public infrastructure. Night works may be required. This will not occur unless approval is granted by the relevant authority.

Inspection of works (after construction)

- Regular observation, within 3 months of the installation of proposed public amenities, to ensure they operate satisfactorily.
- Regular observation, within 3 months of the installation of footpath amenities, to ensure they have been constructed satisfactorily.

Traffic Management (after construction)

- The approved Traffic Management Plan shall be complied with in addition to any specific conditions set forth by the Traffic Committee.

Landscaping (after construction)

- Undertake regular monitoring of new landscaping and public amenities to ensure they become adequately established and operate effectively.

9. CONCLUSION AND DETERMINATION

This Review of Environmental Factors (REF) identifies the likely impacts of the proposal on the environment and details the mitigation measures to be implemented to minimise the potential impact to the environment.

The assessment has concluded that as the proposed works as described in this REF, including any proposed management measures and safeguards, will not result in significant impacts on the environment.

The proposed activity will not be carried out in a declared area of outstanding biodiversity value and is not likely to significantly affect threatened species, populations or ecological communities, or their habitats or impact biodiversity values. In turn, Species Impact Statement (SIS) and a Biodiversity Development Assessment Report (BDAR) are not required.

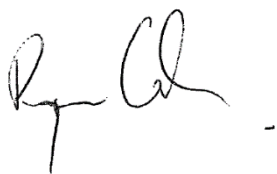
Following the above assessment, it is concluded that the proposed activity is not likely to have a significant impact on the environment, and an Environmental Impact Statement (EIS) is not required to be prepared.

It is recommended that the proposed activity proceed for the following reasons:

- The proposed development will not result in adverse impacts on the natural and built environments.
- The proposed development will not result in adverse impacts on the amenity of adjoining residents and businesses.
- The proposed development will increase pedestrianisation along the Loftus Street corridor which aligns with the strategic direction of the City North Public Domain Plan
- The project is in the public interest.

Prepared by: Ryan Cole (Associate Director)

Name of company: Gyde Consulting



Signature _____

Date 07 October 2022


10. CERTIFICATION

It is considered that the proposed development will not result in adverse impacts upon the environment and is in the public interest.

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 Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2021 and the Guidelines approved under clause 170 of the Environmental Planning and Assessment Regulation 2021, and the information it contains is neither false nor misleading

Determining officer (print name) Gunjit Kaur

Position Project Manager

Signature  _____

Date 07 October 2022

APPENDICES

A – Agency Approval Summary Schedule (guide)

APPENDIX A

Agency Approval Summary Schedule (guide)

Issue	Approval	Approval Body	Act	Section
Aboriginal Heritage	Consent to destroy, deface or damage or cause or permit the destruction or defacement of or damage to, a relic or Aboriginal place	Environment and Heritage - Department of Planning and Environment	National Park and Wildlife Act 1974	Sec. 90
Clearing	Approval required to carry out clearing of native vegetation (defined to include cutting down, thinning, removing, ringbarking, posing, uprooting or burning and includes severing or lopping branches.	Department of Planning and Environment	Local Land Services Act 2003, Council TPO	Part 5A Division 6
Crown Land	Permit to enclose wholly or in part any road or watercourse by which land is traversed or bounded.	Crown Land - Department of Planning and Environment	Crown Lands Act 1989	Sec. 61
Dangerous Goods	Complete a 'notification of dangerous goods on premises form' and lodge it with WorkCover if dangerous goods exceed the 'manifest quantity'. Licence for demolition or asbestos removal work.	Safework NSW	Work Health and Safety Regulation 2017	Part 1.1, 1.2, 7.1,9.1 Schedule 11 and Schedule12
Emissions to Air, Water, Land.	Environment protection licence to authorise carrying out of scheduled development work at any premises.	NSW Environment Protection Authority	Protection of the Environment Operations Act 1997	Sec.s 43(a), 47 and 55
	Environment protection licence to authorise carrying out of scheduled activities at any premises	Department of Planning and Environment		Sec.s 43(b), 48 and 55
	Environment protection licences to authorise the carrying out of scheduled activities not relating to premises.			Sec.s 43(c), 49 and 55
	Environment protection licences to control carrying out of non-scheduled activities for the purposes of regulating water pollution resulting from activity.			Sec.s 43(d), 55 and 122
Fisheries	Aquaculture permit.	Department of Primary Industries (Fisheries)	Fisheries Management Act 1994	Sec. 144
	Permit to carry out dredging or reclamation work.			Sec. 201
	Permit to cut, remove damage or destroy marine vegetation on public land or			Sec. 205

	<p>an aquaculture lease, or on the foreshore of any such land.</p> <p>Permit to:</p> <ul style="list-style-type: none"> • Set a net, netting or other material • Construct or alter a dam, floodgate, causeway or weir • Otherwise create an obstruction • Across or within a bay, inlet, river or creek, or across or around a flat. 				Sec. 219
Gas	<p>Operators of a natural gas network must hold a 'Reticulator's Authorisation'.</p> <p>Suppliers of natural gas by a distribution pipeline must hold a 'Supplier's Authorisation'</p> <p>A 'Distributors Licence' is required for the operators of natural gas networks that convey gases other than natural gases.</p> <p>Erection, installation, extension, alteration, maintenance and removal of gas works can be carried out by a network operator, particularly on public roads. This work is exempt from approvals under the LGA Act 1993 except in relation to buildings (Section 47 of the Gas Supply Act 1996).</p> <p>Note: Part 5 of the EPAA applies to permits required under Section 8(3) of the <i>Pipelines Act 1967</i> unless the pipeline has been licenced). The network operator can carry out the work following notice to Council and consideration of any submissions that are made. Certain works may also not require consent by virtue of the Model Provisions.</p>	Minister for Energy	Gas Supply Act 1996		Sec.s 5, 6, 7, 34, 35, 36 and 47
Heritage	Approval in respect of he doing or carrying out of any of the following referred to in s 57 (1) affecting an item on the Interim Heritage	Heritage Council of NSW	Heritage Act 1977		Sec. 58

	<p>Order or on the State Heritage Register:</p> <p>Demolish the building or work.</p> <p>Damage or despoil the place, precinct or land, or any part of the place precinct or land.</p> <p>Move, damage or destroy the relic or movable object.</p> <p>Excavate any land for the purpose of exposing or moving the relic.</p> <ul style="list-style-type: none"> • Carry out any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct. • Alter the building, work, relic or movable object. • Display any notice or advertisement on the place, building, work, relic moveable object or land, on in the precinct. • Damage or destroy any tree or other vegetation on or remove any tree or other vegetation from the place, precinct or land. 			
Threatened Species	Licence to harm or pick threatened species populations or ecological communities or damage habitat	Department of Planning and Environment	Biodiversity Conservation Act 2016	Division 3
Water	Work that affects a water course subject of a water sharing plan under the Water Management Act 2000 being:	Department of Planning and Environment	Water Management Act 2000	Sec. 89
	Water use approval (to use water for a particular purpose at a particular location)	Water NSW		Sec. 90
	Water management work approval (being water supply work approvals, drainage work approvals and flood work approvals) to carry out those activities at a specified location			Sec. 91
	Activity approval (being for a controlled activity or			

	aquifer interference approval) conferring on the holder a right to carry out a specified activity at a specified location			
Works Near/ On Water	Permit to cut, remove damage or destroy marine vegetation on public land or an aquaculture lease, or on the foreshore of any such land	Department of Primary Industries Department of Planning and Environment	Fisheries Management Act 1994	Sec. 205
	Permit to: <ul style="list-style-type: none"> • Set a net, netting or other material • Construct or alter a dam, floodgate, causeway or weir • Otherwise create an obstruction, across or within a bay, inlet, river or creek, or across or around a flat. 	Department of Primary Industries Department of Planning and Environment		Sec. 219
Works on Roads	Approval and concurrence from the RTA may be required to: <ul style="list-style-type: none"> • Erect a structure or carry out a work in, on or over a public road • Dig up or disturb the surface of a public road • Remove or interfere with a structure, work or tree on a public road • Dig Pump water into a public road from any land adjoining the road • Connect a road, whether public or private to a classified road 	Transport for NSW	Roads Act 1993	Sec. 138
Matters of National Environmental Significance	Approval to carry out work that is likely to have a significant effect on the following: <ul style="list-style-type: none"> • World heritage properties • National Heritage places • RAMSAR Wetlands • Listed threatened species and ecological communities • Listed migratory species 	Department of Agriculture, Fisheries and Forestry Department of Industry, Science and Resources	Environment Protections and Conservation of Biodiversity Act 1999	Div. 1 of Part 3

	<ul style="list-style-type: none">• Commonwealth marine areas• Nuclear actions			
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