

Attachment B

**Review of Environmental Factors –
Continued Operation and Use of the Moore
Park Road and Fitzroy Street Pop-Up
Cycleways**

Continued Operation and Use of the Moore Park Road & Fitzroy Street Pop-up Cycleways

Review of Environmental Factors

Part 5 of the
Environmental Planning & Assessment Act, 1979



April 2023





Continued Operation and Use of the Moore Park Road and Fitzroy Street Pop-up Cycleways

Review of Environmental Factors

April 2023

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“Walking and cycling are integral to our transport system and successful places. Over 1.1 billion trips a year in NSW are made on foot or by bicycle, including around 600 million trips associated with a public transport journey. Over a million people in NSW ride a bike at least once a week (13 percent of the population) and 2.6 million people ride a bike at least once a year.”

(Extract from <https://www.transport.nsw.gov.au/projects/programs/walking-and-cycling-program>)

Document Review:

Version	Date	Revision Description
1.0	22/12/2022	Draft Issued for Information/Review
2.0	06/02/2023	Issued for community consultation
3.0	05/04/2023	Issued for Final Review following community consultation
4.0	17/04/2023	Issued for Determination

Executive summary

The proposal

The City of Sydney is seeking to extend the operation and use of the existing pop-up cycleways along Moore Park Road, Paddington and Fitzroy Street, Surry Hills, that were constructed under the *Environmental Planning and Assessment (COVID-19 Development – Temporary Cycleways) Order 2020*.

The Moore Park Road pop-up cycleways extends from the intersection of Moore Park Road, Lang Road and Oxford Street to the intersection with Anzac Parade and Flinders Street. The Fitzroy Street pop-up cycleway extends from the intersection of South Dowling Street along the southern side of Fitzroy Street, terminating just before the intersection with Bourke Street where it merges onto the existing shared path.

The pop-up cycleways are two-way and have an overall length of approximately 1.48 km in length and have been constructed within the westbound road carriageway using a combination of Klemmfix18 barriers and concrete medians to separate the cycleway from the trafficable lane, together with line and paint markings and signage. A small section (approximately 350m) of existing shared path along Moore Park Road between Driver Avenue and ANZAC Parade/South Dowling Street connects the two pop-up cycleways. The two pop-up cycleways, with the existing shared path form a continuous route between the existing Bourke Street cycleway to the west with the Centennial Park cycleway along Oxford Street to the east.

The NSW Government funded the design and construction of a new permanent cycleway by the City of Sydney along Oxford Street between Taylor Square and Liverpool Street and along Liverpool Street between Oxford Street and Castlereagh Street. The NSW Government announced it will implement a new permanent cycleway along Oxford Street between Taylor Square and Centennial Park.

The retention and continued operation of the Moore Park Road and Fitzroy Street pop-up cycleways will maintain a safe and segregated connection for people riding between the eastern suburbs and the city until a permanent facility along Oxford Street between Centennial Park and the City Centre is constructed. The pop-up cycleways will be removed, once the permanent Oxford Street cycleway is constructed and open for use, or by 31 May 2026.

Need for the proposal

On 17 May 2021, the City resolved to extend the operation of the pop-up cycleways for a further two (2) years, expiring on 16 May 2023. However, as a safe alternate route is not in place, in order to extend the operation of the Moore Park Road and Fitzroy Street pop-up cycleways until the NSW Government completes construction of the Oxford Street Cycleway between Taylor Square and Centennial Park and is open for use, further approval under Part 5 of the *Environmental Planning and Assessment Act, 1979* is required.

"Future Transport 2056 has a Greater Sydney customer outcome of 'Walking or cycling is the most convenient option for short trips around centres and local areas, supported by a safe road environment and suitable pathways'.

In 2007, The Council of the City of Sydney released the City of Sydney Cycling Strategy and Action Plan and adopted its update in 2018 to 2030. This document outlines the City's Community Strategic Plan strategic direction of a City for Walking, Cycling and Public Transport by providing safe and connected bicycle routes that can be used by people of all ages and abilities.

As described above, The City of Sydney is seeking approval to continue the operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways beyond their current planning approval of May 2023, and until 31 May 2026 or until the permanent Oxford Street

Cycleway between Taylor Square and Centennial Park has been constructed by the NSW Government and is operational, whichever comes first.

Statutory and planning framework

Section 2.109 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (T&I SEPP) applies to the pop-up cycleways and allows The Council of the City of Sydney, as a public authority, to authorise a continuation of the operation and use of the pop-up cycleways without the need to obtain development consent.

Notwithstanding, the continued operation and use of the pop-up cycleways is an "activity" within the meaning of Section 5.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on the basis that subclause 5.1(2)(d) of the EP&A Act defines the *use of land* as an "activity". Section 5.5 of the EP&A Act states a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

As such, the proposal is being assessed under Part 5 of the EP&A Act and a Review of Environmental Factors (REF) has been prepared.

Community and stakeholder consultation

Prior to the installation of the pop-up cycleways by TfNSW, the City of Sydney notified the residents and occupants of all premises along the cycleway alignment of the proposed pop-up cycleways and provided an opportunity to provide feedback.

The City of Sydney collected and monitored feedback related to the impacts of the pop-up cycleways on street users and the broader community for the period 24 August 2020 to 16 November 2020.

In addition, the City conducted a phone survey of 600 people, with 200 city residents and 400 in surrounding Local Government Areas, found the level of support for making more space for people to ride was high, with 71 per cent of City residents in support, and 68 per cent of residents of surrounding Local Government Areas.

There was also local community support for the pop-up cycleways, as measured by the sentiment in comments submitted to Sydney Your Say. Comments related to broader, structural issues including the consultation process, the role of each cycleway in the broader network roll out and addressing issues discovered immediately following the cycleway implementation. Each pop-up cycleway also had local issues that shaped community sentiment. For example, on Moore Park Road, concern over local access and parking were prominent.

To inform the REFs prepared for the two (2) year extension, community consultation was carried out between 12 March and 9 April 2021. A total of 2250 letters for Moore Park Road and 3900 letters for Fitzroy Street were sent to affected residents and businesses.

The City received a total of 172 submissions in response to both the Moore Park Road and Fitzroy Street pop-up cycleways, including 144 survey responses to the *sydneyoursay.com.au* site and 28 email submissions. Of these submissions, 55 responses were in support, 43 opposed and 74 gave qualified responses and suggestions.

Further community consultation was undertaken between 27 February and 28 March 2023 with respect to the proposal to further extend the approval and operation of the pop-up cycleways, including exhibition of the draft REF. The City consulted local residents and businesses in surrounding streets. There were 450 letters sent advising that the REF was on exhibition. The details of the proposal were available on the Sydney Your Say website with feedback able to be provided by mail or email. The website was visited 366 times. A total of

35 submissions were received, 12 support the retention of the pop up cycle for up to three years and 23 oppose it. There are submissions from BIKEast, UTS and Venues NSW.

Key concerns raised include:

- a. The cycleways are perceived as unsafe
- b. The cycleways are perceived as underused
- c. The cycleways have reduced parking
- d. The cycleways have restricted emergency services access
- e. The on road bike lanes that were on the road previously were sufficient

Environmental impacts

The main environmental impacts arising from the continued operation and use of the pop-up cycleways include:

- Traffic, parking and access impacts;
- Accessibility and safety issues;
- Visual amenity impacts; and
- Community concerns.

Justification and conclusion

The creation of a comprehensive, co-ordinated and practical bike network across the local government area, and connecting to cycleways in adjoining local government areas, will benefit current and future cyclists and the wider community. Benefits include improvements to environmental and health conditions, reductions in traffic congestion and enhanced motorist, cyclist and pedestrian safety.

Independent research indicates that the Inner City Regional Bicycle Network will provide access for 1.2 million people in 164 suburbs and across 11 local government areas and estimates that the bicycle network is likely to deliver a net economic benefit of \$506 million (in today's dollars over a 30 year period, and that every dollar spent on delivering the interconnected cycleway will generate an economic return of \$3.88 (AECOM, 2010).

These pop-up cycleways are consistent with the aims of *Sydney's Cycling Future* as they improve the safety of and facilities for cyclists across the City. The project is also aligned with the NSW Government's Principal Bike Network for inner Sydney and provide temporary alternate route in Sydney's bike network between the eastern suburbs and the city centre.

Contents

Executive summary	ii
1 Introduction.....	1
1.1 Proposal identification	1
1.2 Purpose of the report.....	2
1.3 Structure of the REF	3
2 Need for the proposal	4
2.1 Project Background.....	4
2.2 Strategic need for the proposal.....	5
2.3 Strategic context for the proposal.....	5
3 Description of the proposal.....	9
3.1 The proposal.....	9
4 Statutory and planning framework.....	20
4.1 Environmental Planning & Assessment Act 1979	20
4.2 Commonwealth legislation.....	23
4.3 State Legislation.....	24
4.4 Local Environmental Plans.....	28
4.5 Confirmation of statutory position	29
5 Stakeholder and community consultation.....	30
5.1 Consultation strategy & community involvement.....	30
5.2 ISEPP consultation	36
5.3 Government agency involvement.....	36
5.4 Ongoing or future consultation	36
6 Environmental assessment.....	37
6.1 Heritage (Built Environment).....	37
6.2 Aboriginal Cultural Heritage and Archaeology.....	39
6.3 Traffic, parking and access.....	39
6.4 Noise & vibration	42
6.5 Air quality.....	42
6.6 Water quality & Stormwater Drainage.....	43
6.7 Visual amenity.....	43
6.8 Waste management & minimisation.....	43
6.9 Community enquiries and complaints.....	44
6.10 Accessibility and safety	44
6.11 Social and economic.....	44
6.12 Summary of adverse effects.....	45
6.13 Summary of beneficial effects.....	45
6.14 Consideration of Clause 171(2) Factors.....	45
7 Environmental management.....	50
7.1 Environmental management plans	50
7.2 Summary of safeguards and management measures.....	50
8 Conclusion.....	51

8.1	Justification	51
8.2	Objects of the Environmental Planning & Assessment Act, 1979	51
8.3	Ecologically sustainable development	52
8.4	Conclusion	54
9	Conclusion and Certification	56
10	References	58

Appendices

<i>Appendix A</i>	Consideration of Matters of National environmental significance
<i>Appendix B</i>	Aboriginal and Historical Heritage Due Diligence Assessment
<i>Appendix C</i>	Community Engagement Report Summary
<i>Appendix D</i>	Submissions from Key Stakeholders

1 Introduction

1.1 Proposal identification

The City of Sydney is seeking to extend the operation and use of the existing pop-up cycleways along Moore Park Road, Paddington and Fitzroy Street, Surry Hills, that were constructed under the *Environmental Planning and Assessment (COVID-19 Development – Temporary Cycleways) Order 2020*.

The pop-up cycleways were installed by Transport for NSW (TfNSW) between 9 June 2020 and 8 August 2020 and form an important link between the eastern suburbs and the city centre, connecting existing major regional cycling routes from Randwick, Bondi Junction and Moore Park. The cycleways opened for use on 11 August 2020, with the responsibility for ongoing management was handed over to the City of Sydney.

The Moore Park Road pop-up cycleway extends from the intersection of Moore Park Road, Lang Road and Oxford Street and traverses the southern side of Moore Park Road (westbound) to the intersection with Anzac Parade and Flinders Street. The cycleway connection is approximately 1.3 km in length with a two-way separated cycleway constructed within the road carriageway using a combination of Klemmfix18 barriers and concrete medians to separate the cycleway from the trafficable lane, together with line and paint markings and signage. A small section located on the western extent (approximately 350m between Driver Avenue and South Dowling Street) is an existing shared path. At the signalised intersection of Moore Park Road and Driver Avenue, the existing pram ramp has been widened, and cycle lanterns have been added to the traffic signals. At the intersection of Moore Park Road and Lang Road the slip lane has been closed and kerb ramps widened to facilitate crossing the lane.

The Fitzroy Street pop-up cycleway is also two-way and extends for a distance of approximately 185m from the intersection of South Dowling Street along the southern side of Fitzroy Street, terminating just before the intersection with Bourke Street where it merges onto the existing shared path. Cyclists are then required to cross at the pedestrian crossing to access the Bourke Street Cycleway running along the western side of Bourke Street. This cycleway has also been constructed using Klemmfix18 barriers, concrete medians, line and paint markings and signage.

The two pop-up cycleways connect the existing Bourke Street cycleway to the west with the Centennial Park cycleway along Oxford Street to the east.

The NSW Government funded the design and construction of a new permanent cycleway by the City of Sydney along Oxford Street between Taylor Square and Liverpool Street and along Liverpool Street between Oxford Street and Castlereagh Street. The NSW Government announced it will implement a new permanent cycleway along Oxford Street between Taylor Square and Centennial Park.

The retention and continued operation of the Moore Park Road and Fitzroy Street pop-up cycleways will maintain a safe and separated connection for people riding between the eastern suburbs and the city until a permanent facility along Oxford Street between Centennial Park and the City Centre is constructed. The pop-up cycleways will be removed once the permanent Oxford Street cycleway is constructed and open for use, or by 31 May 2026, whichever occurs first.

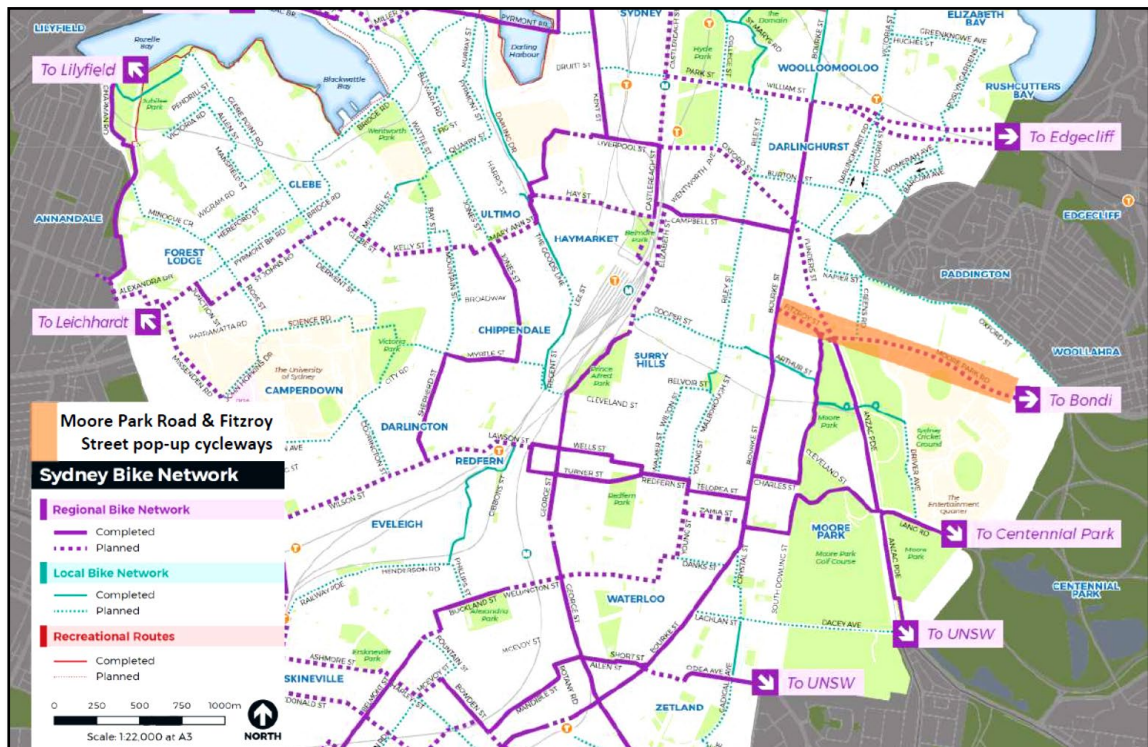
On 17 May 2021, the City resolved to extend the operation of the pop-up cycleways for a further two (2) years, expiring on 16 May 2023. However, a safe alternate route is not in place. In order to extend the operation of the Moore Park Road and Fitzroy Street pop-up

cycleways until the NSW Government completes construction of the Oxford Street cycleway between Taylor Square and Centennial Park and it is open for use, further approval under Part 5 of the *Environmental Planning and Assessment Act, 1979* is required.

Although no construction work is necessary to continue the operation of the pop-up cycleways, maintenance works such as replacement of safety barriers, or re-painting / linemarking may be required.

Figure 1.1 shows the location of the Moore Park Road and Fitzroy Street pop-up cycleways.

Figure 1.1 – Moore Park Road & Fitzroy Street Pop-up Cycleways Location



Source: City of Sydney

1.2 Purpose of the report

This Review of Environmental Factors (REF) has been prepared by Andrew Robinson Planning Services Pty Ltd (ARPS) on behalf of The Council of the City of Sydney (the City).

The purpose of the REF is to describe the proposal, to document the likely impacts of the proposal on the environment, and to detail protective measures to be implemented in order to reduce or avoid potential environmental impacts.

The description of the proposed 'activity' and associated environmental impacts have been undertaken in context of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the *Environmental Planning and Assessment Regulation 2021* (EP&A Regs), applicable environmental planning instruments and other relevant environmental legislation including the Commonwealth's *Environment Protection and Biodiversity Conservation Act 2016* (EP&BC Act). In so doing, the REF goes to fulfilling the requirements of Section 5.5 of the EP&A Act, namely that the Council of the City of Sydney "examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity."

1.3 Structure of the REF

The REF is divided into the following sections:

- Introduction (Section 1) – introduces the proposal and purpose of the report;
- Need and options considered (Section 2) – provides a description of the need for the project and describes the alternatives considered prior to choosing the preferred option to further continue the operation and use of the pop-up cycleways until the permanent Oxford Street Cycleway between Taylor Square and Centennial Park is constructed and operational;
- Description of the proposal (Section 3) – provides a detailed description of the pop-up cycleways, including the traffic management measures that have been implemented in order to minimise the impacts of the continued operation and use of the pop-up cycleways;
- Statutory and planning framework (Section 4) – provides information on the statutory and planning policy requirements for the proposal;
- Stakeholder and community consultation (Section 5) – provides information on the stakeholder and community consultation undertaken in relation to the pop-up cycleways;
- Environmental assessment (Section 6) – describes the existing environment and the potential environmental impacts, including an assessment of the matters to be considered under Clause 171(2) of the *Environmental Planning and Assessment Regulation 2021*, and identifies the corresponding environmental impact minimisation and/or safeguards and management measures;
- Environmental management (Section 7) – summarises the proposed safeguards and environmental management measures to be implemented for the continued operation and use of the pop-up cycleways until the permanent Oxford Street cycleway is delivered;
- Conclusion (Section 8) – provides justification for the proposal and concluding remarks as to whether the adverse environmental impacts are balanced or outweighed by the beneficial effects of the proposal;
- Certification (Section 9) – certifies that the REF provides a true and fair review of the proposal in relation to its potential effects on the environment and provides the required Determination Statement;
- References (Section 10) – contains a list of the documents used in the preparation of the REF; and
- Appendices – contains an assessment of the potential environmental impacts to the matters of National environmental significance under the *Environment Protection and Biodiversity Conservation Act 1999*, as well as the Aboriginal and Historical Heritage Due Diligence Assessment prepared in association with the project, the Community Engagement Report and submissions from key stakeholders.

2 Need for the proposal

2.1 Project Background

TfNSW and the City of Sydney delivered seven (7) pop-up cycleways across the local government area (LGA) under the *Environmental Planning and Assessment (COVID-19 Development – Temporary Cycleways) Order 2020*, including the Moore Park Road and Fitzroy Street pop-up cycleways.

The prescribed period for approval for the pop-up cycleways under the Order ended on 31 March 2022. The Order required the pop-up cycleways to be removed no more than two (2) months after the expiry of the prescribed period, unless planning approval was given under Part 5 of the *Environmental Planning and Assessment Act, 1979*. The further approval for the cycleways relied on the relevant provisions under Division 17 of *State Environmental Planning Policy (Infrastructure) 2007* (repealed), which allowed for the use of the land for the cycleways without the need for development consent, subject to an environmental impact assessment.

Separate Reviews of Environmental Factors (REFs) for each pop-up cycleway were prepared by environmental planning consultants on behalf of the City of Sydney. The proposed continuation of the cycleways and the likely environmental impacts were described in the context of Clause 228 of the (former) *Environmental Planning and Assessment Regulation 2000*, fulfilling the requirements of Section 5.5 of the *Environmental Planning and Assessment Act, 1979* to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

The REFs for Moore Park Road and Fitzroy Street concluded that the environmental impacts associated with the continued operation of the pop-up cycleways were minor and could be appropriately managed and/or mitigated through the implementation of various environmental safeguards and mitigation measures nominated in each REF.

Following community exhibition of the draft REFs and having considered the findings of the REFs, at its meeting on 17 May 2021, the Council of the City of Sydney resolved that the CEO approve the continued operation of the pop-up cycleways for a further two (2) years, expiring in May 2023.

In order for the operation and use of the pop-up cycleways to continue beyond May 2023, and until such time as the Oxford Street Cycleway is delivered, further planning approval under Part 5 of the *Environmental Planning and Assessment Act, 1979* is required.

Since approval of the two (2) year extension, *State Environmental Planning Policy (Infrastructure) 2007* has been repealed and replaced by *State Environmental Planning Policy (Transport and Infrastructure) 2021*, which commenced on 1 March 2022. However, the provisions relating to road infrastructure facilities (which includes cycleways) were essentially transferred directly into the new instrument and remain relevant to the project. A discussion on the provisions of *State Environmental Planning Policy (Transport and Infrastructure) 2021* is provided in Section 4 of this REF.

In addition, the *Environmental Planning and Assessment Regulation 2000* was repealed and replaced by the *Environmental Planning and Assessment Regulation 2021*, commencing on 1 March 2022. Clause 228 of the former Regulation was replaced by Clause 171 of the current Regulation and the environmental factors to be taken into account by a determining authority when considering the likely impact of an activity on the environment (as set out in subclause 171(2)) have been expanded. A discussion on Clause 171 of the *Environmental Planning and Assessment Regulation 2021* is provided in Chapters 4 and 6 of this REF.

2.2 Strategic need for the proposal

Cycling and walking are integral to Sydney's transport future because they are the most accessible, equitable, sustainable and reliable forms of transport. Since 2007, the City of Sydney has invested in building a safe and connected bike network. This has resulted in the doubling of average cycling trips across Sydney.

In 2007, The Council of the City of Sydney released the City of Sydney Cycling Strategy and Action Plan and in 2018 adopted the updated Strategy and Action Plan 2018 to 2030. This document outlines the City's Community Strategic Plan strategic direction of a City for Walking, Cycling and Public Transport by providing safe and connected bicycle routes that can be used by people of all ages and abilities.

The *NSW State Plan* and the (now superseded) *City of Cities: Sydney Metropolitan Strategy*, both acknowledged that cycling has a significant role to play in the NSW Government's pursuit of a number of initiatives aimed at decreasing car dependence and improving the environment.

Walking and cycling are also key means to supplement the public transport network and reduce demand on the road system while physical distancing measures are necessary in response to pandemics. 'Future Transport 2056' identifies Transport for NSW's (TfNSW) vision to create a cycleway network connecting strategic centres and local centres, (known as the Principal Bicycle Network) over the next 20 years. Further, 'Future Transport 2056' has a Greater Sydney customer outcome of 'Walking or cycling is the most convenient option for short trips around centres and local areas, supported by a safe road environment and suitable pathways'.

As part of its Bike Network, the City of Sydney proposes to continue the operation of the existing two-way separated pop-up cycleways along Moore Park Road and Fitzroy Street beyond their current planning approval which expires in May 2023. The intent is that the pop-up cycleways will remain operational until a permanent cycleway along Oxford Street between Taylor Square and Centennial Park is delivered by the NSW Government. The pop-up cycleways will then be removed and the traffic lanes and parking lanes along both streets will be returned to its previous pre-Covid pandemic condition.

2.3 Strategic context for the proposal

For several years, the NSW Government has formally recognised the importance of cycling, together with walking, in the creation of sustainable neighbourhoods and cities. Furthermore, the government has purported the view that urban planning has a valuable role to play in improving cycleability and walkability, as it influences urban form, which sets the scene for cycleability and walkability for decades to come. The underlying foundation of this view is that improving practice in planning for cycling and walking will create more opportunities for people to live in places with easy cycling and walking access to urban services and public transport.

The following City of Sydney and NSW Government strategic plans and policies support the proposal:

City of Sydney Sustainable Sydney 2030-2050 Continuing the Vision

Sustainable Sydney 2030-2050 Continuing the Vision is a vision for a green, global and connected city.

The Moore Park Road and Fitzroy Street pop-up cycleways are aligned with Sustainable Sydney 2030-2050 Continuing the Vision Strategic Direction 5 - A City for Walking, Cycling and Public Transport. The 2050 outcome is *"The city is greener and calmer, with more space*

for people on the streets – including footpaths and cycleways. More people choose to walk, ride and use public transport. All vehicles in the city are zero emissions”.

5.4 More people ride more, because it is an attractive, convenient and safe option for everyday transport, Sydney by 2050

- *A network of separated cycleways provides direct and safe access for people riding throughout the city*
- *The cycleway network is connected to desirable destinations and is shaded, legible and comfortable to use*
- *Children can safely use the cycle network to get to school and other activities*

The detailed actions to achieve the objectives of this strategic direction are provided in the City of Sydney Cycling Strategy and Action Plan 2018-2030.

City of Sydney Cycling Strategy and Action Plan 2018-2030

The City of Sydney has made a commitment to complete the regional and local bike routes included in the City of Sydney Cycling Strategy and Action Plan, including a connection between the Eastern Suburbs and the CBD. (CoS Cycling Strategy and Action Plan – for a more sustainable Sydney 2018-2030).

The City of Sydney Cycling Strategy and Action Plan 2018-2030 was developed as a second generation plan to support the Inner Sydney Regional Bike Plan that proposed a radial and cross-regional cycling network in excess of 284 kilometres stretching from Kogarah to Chatswood and from Rhodes to Watsons Bay developed in collaboration with fourteen Regional Inner Sydney Councils. A key objective for the cycling network proposed under the Plan was to provide greater connectivity and separation from traffic to improve safety for cyclists between key destinations and along key arterial routes within Inner Sydney.

The pop-up cycleways form part of the Regional and Local Bike Network identified in the City’s Cycling Strategy and Action Plan 2018-2030 and were installed in locations identified as a strategic priority. This included locations where existing cycleways were discontinuous, where there was demand for cycling infrastructure, where there was a recognised route to key employment areas or where there was a recognised hot spot of congestion requiring more transport choices including access to recreation.

The pop-up cycleways provide safe connections in important travel corridors and usage has steadily increased over time. The cycleways contribute to the objective of implementing priority cycleway connections to improve safety, accessibility, connectivity and amenity across the local government area to encourage more people to cycle.

The Moore Park Road and Fitzroy Street pop-up cycleways provide a safe connection between the eastern suburbs and the city (via the connection with the Bourke Street cycleway in Surry Hills) until the permanent cycleway along Oxford Street is delivered. Once completed, the Oxford Street Cycleway, together with the Liverpool Street Cycleway (between College Street and Castlereagh Street) will provide the preferred most direct route to the City Centre. Completion of this connection partly contributes to the achievement of Priority 1 – Connecting the Network. The provision of a safe alternate route in the form of the separated pop-up cycleways is consistent with the intent of the strategy to provide greater connectivity and physical separation from moving vehicles and from people walking.

City of Sydney Local Strategic Planning Statement

The Local Strategic Planning Statement is the Cities 20-year land use vision that links state and local strategies with our planning controls to guide development. The Local Strategic Planning statement sets out the Cities infrastructure vision and goals.

Action 11.2 says that City staff will:

“Work with the NSW Government to plan for the transition of streets to ‘people first’ places, applying the NSW Government’s Movement and Place framework so streets are healthier, quieter, cleaner and greener with increased footpath capacity throughout the city, particularly:

...

b) In Central Sydney

and...

d) On multi-modal corridors with the priority to investigate Oxford Street, William Street, King Street/City Road, Botany Road and Parramatta Road/Broadway and their respective side streets”

The NSW Government strategies described below are broadly supportive of the need for the proposal.

A Metropolis of 3 Cities

The Greater Sydney Commission’s A Metropolis of Three Cities sets the strategic direction for growth in Sydney to 2056. It aims to create a 30-minute city, where people live within 30 minutes of jobs, education and health services.

The plan includes directions and indicators that support cycling, including designing places for people; a well-connected city that is more accessible and walkable; walking and cycling paths; and an efficient city with reduced transport-related greenhouse gas emissions.

State Infrastructure Strategy

Infrastructure NSW’s (INSW) State Infrastructure Strategy makes the following recommendation:

Recommendation 51: “Develop a 10-year rolling program that prioritises active transport at high volume and high-profile locations in the Sydney CBD and other strategic centres, in partnership with local government”.

The continued operation and use of these pop-up cycleways until a safe and permanent alternative has been constructed along Oxford Street will contribute to the fulfillment of INSW Recommendation 51.

Future Transport 2056

Future Transport 2056 identifies TfNSW’s vision to create a cycleway network connecting strategic centres and local centres (known as the Principal Bicycle Network and also known as the NSW Government Co-designed Bicycle Network Blueprint over the next 20 years).

Future Transport 2056 has a Greater Sydney customer outcome of ‘Walking or cycling is the most convenient option for short trips around centres and local areas, supported by a safe

road environment and suitable pathways' and the Principal Bicycle Network includes a cycleway on Oxford Street.

Sydney's Cycling Future

Sydney's Cycling Future (TfNSW 2013) follows on from the NSW Government's Transport Master Plan and outlined how improvements to Sydney's cycle network would be made through the planning of new transport and infrastructure projects. The route of the two pop-up cycleways was identified as a strategic bicycle corridor for Connecting Inner Sydney. Further, the report notes that feedback received during the community engagement associated with the Master Plan indicates that 75% of customers felt quite, or very, safe and comfortable using separated cycleways (off road and on road).

3 Description of the proposal

3.1 The proposal

The City of Sydney is seeking approval for a continuation of the operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways originally constructed in 2020 under the *Environmental Planning and Assessment (COVID-19 Development – Temporary Cycleways) Order 2020*. It is intended that the pop-up cycleways remain in place until the permanent cycleway along Oxford Street between Taylor Square and Centennial Park, completing the link between the eastern suburbs and the City Centre is delivered by the NSW Government.

Installed by TfNSW in 2020, the pop-up cycleways have been in operation for nearly two and a half years and usage monitoring has indicated increased use by people riding. During February 2021, the trip counter on the Moore Park Road cycleway installed by TfNSW recorded an average of 1,915 trips per week. This increased to 2,165 trips during the first week of March 2021. More recent trip count data indicates that in the first week of December 2022, 3,218 trips were recorded. The current weekday trip average recorded at the counter on Moore Park Road near Oatley Road is 500 trips per day Monday to Friday and 360 trips on Saturdays and Sundays. This data suggests that usage has increased over time and supports the continued operation of these pop-up cycleways.

A description of the existing pop-up cycleways is provided below:

Moore Park Road Pop-up Cycleway

A two-way cycleway separated from traffic by a combination of Klemmfix 18 barriers and concrete medians, line and paint markings and signage, running along the southern kerbside lane of Moore Park Road between Oxford Street/Lang Road and Driver Avenue.

- Start: Junction of Oxford Street, Lang Road and Moore Park Road, Paddington
- Finish: Junction of Moore Park Road and Driver Avenue, Paddington
- Length: 1.0km (approx.)

The pop-up cycleway has been installed within the kerbside west bound lane of Moore Park Road. At the intersection of Moore Park Road and Lang Road the existing slip lane has been closed and kerb ramps widened to facilitate crossing of the lane. East of Driver Avenue an existing shared path connects to a short section of separated cycleway at the intersection of South Dowling Street to facilitate safe crossing and connection to the Fitzroy Street pop-up cycleway.

Prior to installation of the cycleway the existing parking and loading arrangements for this lane included:

- 77 x unrestricted parking spaces;
- 23 x 1P (8.00am-10.00pm) 'permit holders excepted' parking spaces;
- 2 x loading zones; and
- 1 x accessible parking space.

However, this parking provision is subject to clearway restrictions between Poate Road and ANZAC Parade during special events at Moore Park.

Fitzroy Street Pop-up Cycleway

A two-way cycleway separated from traffic by a combination of Klemmfix 18 barriers and concrete medians, line and paint markings and signage, running along the west bound kerbside lane (formerly a bus lane) of Fitzroy Street between just east of South Dowling Street and Bourke Street.

- Start: Just east of South Dowling Street, Surry Hills
- Finish: Junction of Fitzroy Street and Bourke Street, Surry Hills
- Length: 185 metres (approx)

Prior to installation of the cycleway this lane operated as a bus lane Monday to Friday between 6am and 10am and between 3pm and 7pm. A bus stop was located midway between South Dowling Street and Bourke Street, opposite Hutchinson Street. Outside the bus lane restrictions, the lane operated as an additional westbound trafficable lane. The footpaths on both sides of the road were designated shared paths.

The bus stop on the southern side of Fitzroy Street, at the intersection of Hutchinson Street (approximately halfway between South Dowling Street and Bourke Street) was initially retained and a bus platform was installed across the cycleway to allow passengers to safely board and alight from buses. Bus marshals were engaged to facilitate awareness and passenger access. However, following several weeks of operation the bus operator requested that the bus stop be temporarily closed. Decisions regarding the bus stop is the jurisdiction of the NSW Government.

As a separate road safety measure Transport for NSW reduced the speed limit along the length of both pop-up cycleways from 50km/h to 40km/h. Decisions regarding the posted speed limit is the jurisdiction of the NSW Government.

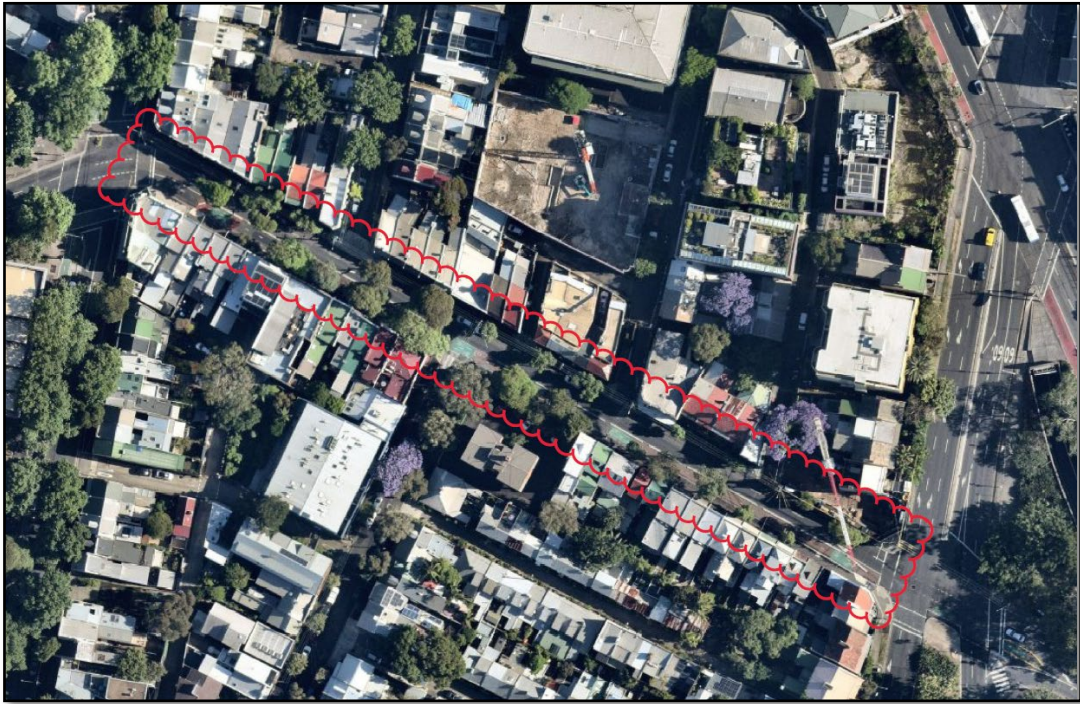
An aerial view of the route of the pop-up cycleways is provided in *Figures 3.1 and 3.2* below:

Figure 3.1: Aerial view of the route of the Moore Park Road pop-up cycleway between Lang Road and Driver Avenue



Source: nearmap.com

Figure 3.2: Aerial view of the route of the Fitzroy Street pop-up cycleway



Source: nearmap.com

The photographs below provide a series of views of the existing pop-up cycleways.



Photograph 1: View of the eastern end of the cycleway near Cook Road.



Photograph 2: View looking west along Moore Park Road towards Poate Road.



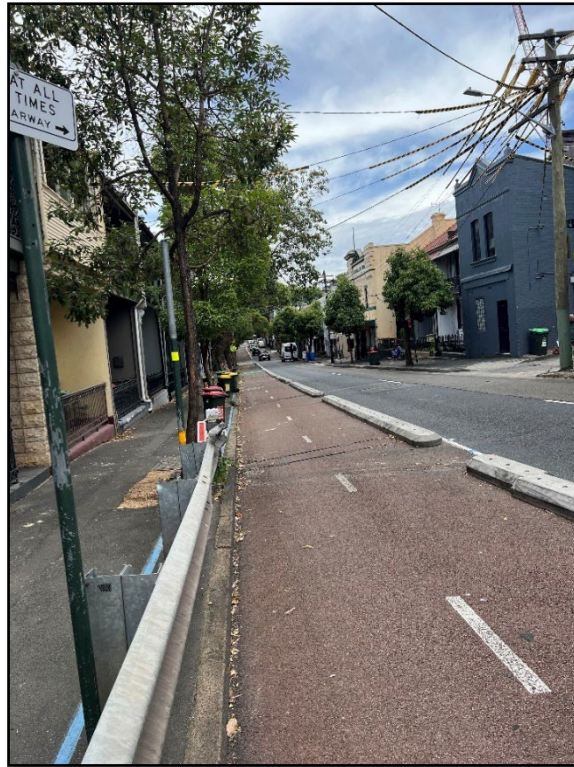
Photograph 3: View looking west opposite Oatley Road, where the cycleway becomes a shared path for a short distance across this intersection.



Photograph 4: View looking across South Dowling Street to the start of the Fitzroy Street cycleway.



Photograph 5: View looking west along the Fitzroy Street cycleway near South Dowling Street.



Photograph 6: View looking west along the Fitzroy Street cycleway towards Hutchinson Street.

3.1.1 Consideration of Options

As described earlier, the Moore Park Road and Fitzroy Street pop-up cycleways were initially installed and intended as a temporary cycleway to facilitate physical distancing and safe cycling to support travel during the COVID-19 recovery. Seven (7) pop-up cycleways were installed across the City of Sydney LGA in locations where either:

- existing cycleways were discontinuous,
- where there was demand for cycling infrastructure,
- where there was a recognised route to key employment areas, or
- where there was a recognised hot spot of congestion requiring more transport choices including access to recreation.

However, based on the trend of increasing use recorded by the counter on the Moore Park Road cycleway, maintaining an alternate and dedicated cycling route that is physically separated from moving traffic between the eastern suburbs and the City until the permanent Oxford Street cycleway is delivered is considered an essential safety provision. The REFs prepared to inform the decision to grant a two (2) year extension to the operation of the cycleways until May 2023 the following options were considered:

- Option 1 – ‘Do-nothing’; or
- Option 2 – continued operation of the Moore Park Road and Fitzroy Street pop-up cycleways (preferred option).

Do-nothing Option

If further approval for the pop-up cycleways on Moore Park Road and Fitzroy Street was not sought, then they would have to be removed and the traffic and parking environment returned to its previous state at the lapse of *COVID-19 Development – Temporary Cycleways Order (2020)*.

The do-nothing option was not the preferred option as it would have removed a connected and safe cycling link that has encouraged an increase in cycling along the route between the City Centre and Eastern Suburbs as per the NSW Government's strategic objectives under the NSW State Plan and the (superseded) City of Cities: Sydney Metropolitan Strategy, both of which acknowledged the significant role that cycling plays in the NSW Government's pursuit of a number of initiatives aimed at decreasing car dependence and improving the environment. The do-nothing option would also reverse the positive impacts and benefits of the current cycleway and disrupt an established pattern of use.

A 'do nothing' option would therefore have both a short-term and long-term negative impact.

Continued Operation Option

Continued operation of the Moore Park Road and Fitzroy Street cycleways was considered the preferred option as it assists in providing a connected and safe east-west cycling link between the eastern suburbs and the City that would encourage cycling within the inner city region and, therefore directly meets the strategic objectives identified above.

Retention of the pop-up cycleway arrangements provides a greater alignment with the stated strategic direction of transport in Sydney and a consistent, stable adjustment for road network users across all transport modes towards those strategic goals.

Continued operation would also result in the positive impacts and benefits of the current cycleway operation being extended for a further period. This meant that the removal of parking spaces on the westbound kerb of Moore Park Road, west of Poate Road, the daytime restrictions of parking between Cook Road and Poate Road, and the loss of the bus lane and use of the bus stop on Fitzroy Street would continue. However, these impacts were considered to be outweighed by the overall positive impacts of the availability and use of the cycleways.

These options remain relevant to the current proposal to further extend the approved operation of the pop-up cycleways until the permanent Oxford Street Cycleway is delivered. For the reasons outlined above, it is considered that the 'Do nothing option' is still not the preferred option, as the benefits to the safety and encouragement for cycling as a viable mode of transport continue to outweigh the alternative, where people using these routes would be returned to the mixed traffic environment.

It is noted that several mitigation measures were put in place to address various traffic and parking impacts. In particular, to address the loss of overnight on-street parking at the eastern half of Moore Park Road (34 spaces designated as "1P 7pm-6am Permit Holders Excepted Area 13" on Moore Park Road just west of Cook Road) have been implemented, reducing this section of Moore Park Road to a single westbound lane overnight. The continuation of these temporary conditions until the permanent cycleway on Oxford Street is operational is considered appropriate. Likewise, the loss of the Fitzroy Street bus lane and bus stop for an additional period does not cause an unacceptable impact on access to public transport.

3.1.2 Decommissioning / Removal of the Pop-up Cycleways

Following the construction and commencement of operation of the permanent Oxford Street Cycleway, or by 31 May 2026 (whichever comes first) the pop-up cycleways on Moore Park Road and Fitzroy Street will be removed.

The following scope of works will be required in order to decommission the pop-up cycleways and return Moore Park Road and Fitzroy Street to their pre-COVID pandemic condition:

Moore Park Road/Lang Road left-turn slip lane reinstatement:

- Removal of barriers
- Reinstatement line making and signage
- Removal of the two (2) ramps for the bike lane crossing the left-turn slip lane next to Moore Park Road and reinstatement the kerbs and gutter (as shown in the photograph below).



Moore Park Road – between Cook Road and Poate Road (adjacent to overnight parking):

- Removal of precast kerbs
- Removal of concrete bike ramp, green surfacing and bike logos on the road pavement
- Patch asphalt
- Reinstatement kerb and gutter
- Reinstatement line making and signage
- Reinstatement parking lane

Moore Park Road - between Poate Road and Driver Avenue:

- Removal of precast kerbs
- Removal of concrete bike ramp, green surfacing and bike logos on the road pavement
- Patch asphalt
- Reinstatement kerb and gutter
- Reinstatement line making and signage
- Reinstatement parking lane

Fitzroy Street between South Dowling Street / ANZAC Parade and Bourke Street:

- Removal of precast kerbs/Klemmfix barriers
- Removal of concrete bike ramp, green surfacing and bike logos on the road pavement
- Patch asphalt
- Reinstatement kerb and gutter
- Reinstatement line making and signage

- Reinstate parking lane

3.1.3 Crime Prevention through Environmental Design

Crime Prevention through Environmental Design (CPTED) is an important inter-agency crime prevention program that reduces crime opportunity through effective planning, urban design and place management. The NSW Police Service program, known as Safer by Design is based on the principles of CPTED.

The Department of Planning & Environment (then PlanningNSW) released guidelines under (the former) Section 79C of the *Environmental Planning and Assessment Act 1979* which were prepared to assist Councils in identifying crime risk and minimise opportunities for crime through appropriate assessment of development proposals.

The Guidelines uses Crime Prevention through Environmental Design (CPTED) which is a crime prevention strategy and focuses on reducing the opportunities for crime through the planning, design and structure of the built environment.

Predatory offenders often make cost-benefit assessment of potential victims and locations before committing crime. CPTED aims to create the reality (or perception) that the costs of committing crime are greater than the likely benefits.

This is achieved through the creation of environmental and social conditions that:

- Maximise the risk to offenders through increasing the likelihood of detection and challenge;
- Maximise the effort require to commit an offence;
- Minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards).

Minimise the opportunity to facilitate inappropriate behaviour and excuse making opportunities (removing conditions that encourage/facilitate the rationalisation of inappropriate behaviour).

Part B of the Guidelines sets out four principles to be used in the assessment of development applications to minimise the opportunity for crime. Each of the strategies aim to create the perception or reality of 'capable guardianship'. The four (4) principles are discussed below:

Surveillance

People feel safe in public areas when they can see and interact with others, particularly people connected with that space, such as shopkeepers or adjoining residents. Criminals are often deterred from committing crime in places that are well supervised.

Providing effective surveillance along the cycleway route can assist in reducing the attractiveness of crime targets. Surveillance of an area can be achieved through both natural and technical means.

Passive surveillance, where people can see what others are doing, creates a sense of safety within an environment and provides opportunities for interaction between individuals. This, together with high levels of passive surveillance, greatly assist in deterring offenders from committing crime.

Adjacent land uses along the route of both cycleways are a mix of residential and non-residential and there are good opportunities for casual surveillance along the route from occupants of these adjacent land uses and by other road users.

Street and/or public domain lighting that satisfies the relevant Australian Standards is currently provided along the routes and provides a high degree of lighting for cyclists, and other road users.

Access Control

By clearly defining areas accessible to the public and providing physical and symbolic barriers to attract and channel the movement of people, it will be difficult for offenders to reach victims and opportunity to commit crime will be minimised.

Access control treatments restrict, channel and encourage people into, out of and around the development.

Natural access controls includes the tactical use of design measures including building configuration; formal and informal pathways, landscaping, fencing and gardens. Although not considered necessary for the proposed cycleway, formal or organised access controls can include on-site guardians such as employed security guards.

The pop-up cycleways are clearly identifiable as formal cycling routes, with median separators and appropriate linemarkings and threshold / intersection treatments, and will effectively move cyclists along the route, minimising opportunities for interruption during travel, or deviation from the delineated route.

Safety / warning linemarkings and surface treatments, as well as intersection treatments such as the addition of 'bike lanterns' at signalised intersections along the route provide an appropriate degree of user safety and management between cyclists and motor vehicles.

Territorial Reinforcement

Defining what is public and private territory assists in determining the function of a space and the appropriate behaviour within a space. This definition enhances the informal security presence within and around a site or facility. Territorial reinforcement is achieved through the creation of a "sphere of influence" by utilizing physical designs such as pavement treatments, landscaping and signage that enable users of a public facility such as a cycleway to develop a sense of proprietorship over it.

Community ownership of public space sends positive signals to the community. Places that feel owned and cared for are likely to be used, enjoyed and revisited. People who have guardianship or ownership of areas are more likely to provide effective supervision and to intervene in crime than passing strangers and criminals rarely commit crime in areas where the risk of detection and challenge are high. Effective guardians are often ordinary people who are spatially 'connected' to a place and feel an association with, or responsibility for it.

In this regard, the pop-up cycleways are clearly defined as a public space that cyclists will take a sense of proprietorship over.

Space Management

Neglected and/or poorly maintained buildings and/or areas are often more susceptible to criminal activities such as vandalism.

Space management involves the formal supervision, control and care of a facility. All space,

even well planned and well-designed areas need to be effectively used and maintained to maximise community safety.

Places that are infrequently used are commonly abused. There is a high correlation between urban decay, fear of crime and avoidance behaviour.

Ongoing care and management of the pop-up cycleways will promote the message that both the community and cyclists / other users respect this environment. Through the appropriate maintenance and care over the cycleways and surrounds, including repairing vandalism as it occurs and retaining and improving when needed, cyclist facilities including lighting, will ensure that the cycleways are appropriately utilised and well cared for.

The City of Sydney is responsible for the ongoing management and maintenance of both pop-up cycleways.

4 Statutory and planning framework

4.1 Environmental Planning & Assessment Act 1979

The *Environmental Planning & Assessment Act, 1979* (EP&A Act) provides the statutory framework for planning and environmental assessment in NSW. It contains two parts that impose requirements for planning approval:

- Part 4 generally provides for the control of local ‘development’ that requires development consent from local council.
- Part 5 provides for the control of ‘activities’ that do not require development consent and are undertaken or approved by a determining authority.

The applicable approval process under the *Environmental Planning & Assessment Act, 1979* is generally determined by reference to the relevant environmental planning instruments and other statutory planning instruments and controls. These include *State Environmental Planning Policy (Transport and Infrastructure) 2021* (T&I SEPP), the *Environment Protection and Biodiversity Conservation Act 2016*, other relevant State Environmental Planning Policies (SEPPs) and local environmental plans (LEPs).

Development consent is required to carry out development and/or works unless they fall within Section 4.1 of the *Environmental Planning & Assessment Act, 1979*.

Section 4.1 of the *Environmental Planning & Assessment Act, 1979* states that if an environmental planning instrument provides that specified development may be carried out without the need for development consent, then a person may carry the development out, in accordance with the instrument, on land to which the provisions apply. Environmental assessment of the development may nevertheless be required under Part 5 of the Act.

Further, where an environmental planning instrument specifies that certain development may be carried out as exempt development (other than development on land that is critical habitat or part of a wilderness area) such development may be carried out without the need for development consent under Part 4 of the *Environmental Planning & Assessment Act, 1979* or for environmental impact assessment under Part 5 of the Act.

State Environmental Planning Policy (Transport & Infrastructure) 2021 is the environmental planning instrument under which the proposed ongoing use of the pop-up cycleways along Moore Park Road and Fitzroy Street may be carried out either as *exempt development*, or *development without consent*. Further discussion on the provisions of the T&I SEPP is provided at 4.2.1 below.

Notwithstanding, although the continued operation and use of the pop-up cycleways do not require development consent, they are considered to be an “activity” within the meaning of Section 5.1 of the *Environmental Planning and Assessment Act 1979* on the basis that as set out below, subclause 5.1(2)(d) of the *Environmental Planning & Assessment Act, 1979* defines the *use of land* as an “activity”.

Section 5.1 of the *Environmental Planning & Assessment Act, 1979* defines an “activity” as being:

- (a) the use of land, and
- (b) the subdivision of land, and

- (c) the erection of a building, and
- (d) the carrying out of a works, and
- (e) the demolition of a building or work, and
- (f) any other act, matter or thing referred to in Section 26 that is prescribed by the regulations for the purposes of this definition,

but does not include:

- (g) any act, matter or thing for which development consent under Part 4 is required or has been obtained, or
- (h) any act matter or thing that is prohibited under an environmental planning instrument, or
- (i) exempt development, or
- (j) development carried out in compliance with an order under Division 2A of Part 6, or
- (k) any development of a class or description that is prescribed by the regulations for the purposes of this definition.

The ongoing operation and use of the land for the Moore Park Road and Fitzroy Street pop-up cycleways is therefore an “activity” for the purposes of Part 5.

A determining authority is defined in Section 5.1 of the Act 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”.

The term ‘public authority’ is defined in Section 1.4 of the *Environmental Planning & Assessment Act, 1979* as follows:

- (a) a public or local authority constituted by or under an Act;
- (b) a government Department;
- (c) a statutory body representing the Crown;
- (d) a chief executive officer within the meaning of the *Public Sector Management Act 1988* (including a Director General);
- (e) a statutory State owned corporation (and its subsidiaries) within the meaning of the *State Owned Corporations Act 1989*;
- (f) a chief executive officer of a corporation or subsidiary referred to in paragraph (e); or
- (g) a person prescribed by the regulations for the purposes of this definition.

The Council of the City of Sydney is a public authority constituted under the *Local Government Act 1993*. Accordingly, the City of Sydney is deemed to be the determining authority for the proposal in accordance with Part 5 of the Act.

Section 5.5 of the *Environmental Planning & Assessment Act, 1979* states a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, 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 addition, the determining authority must also take into account the matters outlined in Clause 171 of the *Environmental Planning and Assessment Regulation 2021*, which provides as follows:

- (1) *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.*
- (2) *If there are no environmental factors guidelines in force, the determining authority must take into account the following environmental factors—*
- (a) the environmental impact on the community,*
 - (b) the transformation of the locality,*
 - (c) the environmental impact on the ecosystems of the locality,*
 - (d) reduction of the aesthetic, recreational, scientific or other environmental quality or value of the locality,*
 - (e) the effects on any locality, place or building that has—*
 - (i) aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance, or*
 - (ii) other special value for present or future generations,*
 - (f) the impact on the habitat of protected animals, within the meaning of the Biodiversity Conservation Act 2016,*
 - (g) the endangering of a species of animal, plant or other form of life, whether living on land, in water or in the air,*
 - (h) long-term effects on the environment,*
 - (i) degradation of the quality of the environment,*
 - (j) risk to the safety of the environment,*
 - (k) reduction in the range of beneficial uses of the environment,*
 - (l) pollution of the environment,*
 - (m) environmental problems associated with the disposal of waste,*
 - (n) increased demands on natural or other resources that are, or are likely to become, in short supply,*
 - (o) the cumulative environmental effect with other existing or likely future activities,*
 - (p) the impact on coastal processes and coastal hazards, including those under projected climate change conditions,*
 - (q) applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1,*
 - (r) other relevant environmental factors.*
- (3) *A determining authority must prepare a review of the environmental factors that demonstrates how the environmental factors specified in the environmental factors guidelines, or the environmental factors specified in subsection (2) if no guidelines are in force, were taken into account when considering the likely impact of an activity.*
- (4) *The review of environmental factors must be published on the determining authority's website or the NSW planning portal if—*
- (a) the activity has a capital investment value of more than \$5 million, or*
 - (b) the activity requires an approval or permit as referred to in any of the following provisions before it may be carried out—*
 - (i) Fisheries Management Act 1994, sections 144, 200, 205 or 219,*
 - (ii) Heritage Act 1977, section 57,*
 - (iii) National Parks and Wildlife Act 1974, section 90,*
 - (iv) Protection of the Environment Operations Act 1997, sections 47–49 or 122, or*

(c) the determining authority considers that it is in the public interest to publish the review.

(5) The review must be published under subsection (4)—

(a) before the activity commences, or

(b) if publishing the review before the activity commences is not practicable—as soon as practicable, and no later than 1 month, after the activity commences.

(6) Subsection (4) does not apply in relation to a review of an activity—

(a) that belongs to a class specified by the Planning Secretary in a notice published on the Department's website for the purposes of this section, or

(b) to which an approved code under Division 6 applies.

(7) If a provision of an approved code under Division 6 applies to a determining authority's exercise of functions under the Act, section 5.5, the provision of the approved code prevails to the extent of an inconsistency with a provision of this section.

(8) Subsection (4) applies on and from 1 July 2022.

The matters set out in subclause 171(2) are discussed in *Appendix A* of this REF.

Guidelines for Division 5.1 assessments was issued by the Department of Planning and Environment in June 2022 and explains what both proponents and determining authorities need to do to undertake a Division 5.1 assessment. This Review of Environmental Factors has been prepared in accordance with these guidelines to enable the City to assess the environmental impacts of the continued operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways and to determine whether this activity is likely to have a significant impact on the environment.

As described previously, Section 5.5 of Part 5 of the *Environmental Planning & Assessment Act, 1979* relates to the duty to consider environmental impact and subclause (1) states:

(1) For the purpose of attaining the objects of this Act relating to the protection and enhancement of the environment, a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

4.2 Commonwealth legislation

4.2.1 Environment Protection and Biodiversity Conservation Act 2016

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places.

Under the *Environment Protection and Biodiversity Conservation Act 2016* (EPBC Act) a referral is required to the Australian Government for proposed 'actions that have the potential to significantly impact on matters of National environmental significance or the environment of Commonwealth land. These matters are considered in *Appendix A* of the REF.

An assessment of the proposal's impact on matters of National environmental significance and the environment of Commonwealth land found that there is unlikely to be a significant impact on relevant matters of National environmental significance. Accordingly, the proposal does not require referral to the Minister for Climate Change, Energy, the Environment and Water.

4.2.2 Native Title Act, 1993

The Commonwealth Government enacted the *Native Title Act, 1993* in order to formally recognise and protect Native Title rights in Australia, following the decision of the High Court of Australia in *Mabo & Ors v Queensland (No. 2) (1992) 175 CLR 1* ("*Mabo*"). This Act is the legal recognition of Indigenous Australians' rights and interests in land and waters, according to their own traditional laws and customs.

Although there is a presumption of Native Title in any area where an Aboriginal community or group can establish a traditional or customary connection with that area, there are a number of ways that Native Title is taken to have been extinguished. For example, land that was designated as having freehold title prior to 1 January 1994 extinguishes Native Title, as does any commercial, agricultural, pastoral or residential lease. Further, land that has been utilised for the construction or establishment of public works also extinguishes any Native Title rights and interests for as long as they are used for that purpose.

A search of the Register of Native Title Claims on the National Native Title Tribunal website indicates that there have been no claims made in relation to the land on which the Moore Park Road and Fitzroy Street pop-up cycleways are located. Further, an AHIMS search carried out on 16 December 2022 identified two (2) recorded Aboriginal sites in the vicinity of the cycleways. However, neither site was proximate such that the cycleways would have any impact on their significance. No Aboriginal places have been declared along the route of the cycleways.

Further, the pop-up cycleways are situated in a highly modified urban area and Moore Park Road and Fitzroy Street have been used for the movement of vehicles and pedestrians for many years, such that the continued operation and use of the cycleways is unlikely to conflict with any of the provisions of the *Native Title Act, 1993*.

4.3 State Legislation

4.3.1 Roads Act, 1993

Section 138 (Works and Structures) of the *Roads Act 1993* requires the consent of the roads authority to be obtained prior to any works occurring within a road reserve. Although the City of Sydney is the local roads authority, the provisions of Section 138 apply to any employee of the roads authority as it applies to any other person.

Subsection 138(1) is reproduced below:

(1) A person must not—

- (a) erect a structure or carry out a work in, on or over a public road, or*
- (b) dig up or disturb the surface of a public road, or*
- (c) remove or interfere with a structure, work or tree on a public road, or*
- (d) pump water into a public road from any land adjoining the road, or*
- (e) connect a road (whether public or private) to a classified road,*

otherwise than with the consent of the appropriate roads authority.

The land on which Moore Park Road and Fitzroy Street are located is owned by the City of Sydney. Both roads are 7000 series Regional Roads (those regional roads that are not classified as Highway, Main Road, Secondary Road or Tourist Road under the Roads Act). As such, the City is the appropriate roads authority.

Notwithstanding, TfNSW constructed the pop-up cycleways on behalf of the City and Council has been in continual discussions with TfNSW throughout the operational phase of the cycleways with respect to various traffic and parking management issues.

As the continued operation and use of the pop-up cycleways does not comprise one of the actions listed above, the consent of the roads authority does not need to be obtained. However, the continued operation of the cycleways beyond their current approval of May 2023 will be subject to a Council resolution.

4.3.2 Heritage Act, 1977

The *Heritage Act 1977* is the primary piece of State legislation affording protection to items of cultural heritage in NSW. Under the Heritage Act, 'items of environmental heritage' include places, buildings, works, relics, moveable objects and precincts identified as significant based on historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic values. State significant items are listed on the SHR and are given protection under the Heritage Act against any activities that may damage an item or affect its heritage significance.

The carriageways of Moore Park Road and Fitzroy Street are not listed as heritage items. However, the pop-up cycleways are located within three (3) Heritage Conservation Areas listed under Sydney LEP 2012 and there are a number of State and local heritage items within the vicinity of the cycleways. No approvals under the *Heritage Act, 1977* are required and a further discussion on the potential impacts to the items of heritage significance and Heritage Conservation Areas is provided in Section 6 of this REF.

4.3.3 National Parks & Wildlife Act, 1974

The *National Parks and Wildlife Act, 1974* provides for the protection of Aboriginal places and objects. Section 90 of the Act states that approval to destroy, remove or deface an Aboriginal site must be obtained prior to the commencement of works. The approval mechanism is an Aboriginal Heritage Impact Permit (AHIP), which is obtained through the Department of Planning and Environment.

However, an Aboriginal and Historical Heritage Due Diligence Assessment prepared in 2017 to inform the previous REF for the Moore Park Road pop-up cycleway was undertaken and it remain relevant. This assessment found that the location of the pop-up cycleways has been highly disturbed and the potential for Aboriginal archaeology is low. In addition, as noted earlier in the REF, a search of the AHIMS data base carried out on 16 December 2022 identified two (2) recorded Aboriginal sites in the vicinity of the cycleways. However, neither site was proximitous such that the cycleways would have any impact on their significance. No Aboriginal places have been declared along the route of the cycleways.

Having regard to the above, it is unlikely that the continued operation and use of the pop-up cycleways will have any impact on Aboriginal cultural heritage or archaeology.

4.3.4 State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Transport and Infrastructure) 2021 (T&I SEPP) commenced on 1 March 2022 and transfers the provisions of (3) former State Environmental Planning Policies together under a single policy, including the now repealed *State Environmental Planning Policy (Infrastructure) 2007*.

Chapter 2 of the T&I SEPP relates to infrastructure and aims to facilitate the effective delivery of infrastructure across the State and in particular, by identifying the environmental assessment category into which different types of infrastructure and services development fall. The provisions of the T&I SEPP prevail over any provisions within a local environmental plan that relate to the development of roads and road infrastructure facilities identified in the T&I SEPP.

Division 17 in Part 2.3 of Chapter 2 of the T&I SEPP relates to Roads and traffic and Subdivision 1 of Division 17 (sections 2.108 to 2.115) deals with roads and road infrastructure facilities.

Section 2.109 of the T&I SEPP permits development on any land for the purpose of a 'road' or 'road infrastructure facilities' to be carried out by or on behalf of a public authority without consent. Under the definitions at section 2.108 of the T&I SEPP, 'road infrastructure facilities' include a range of facilities such as *tunnels, ventilation shafts, emergency accessways, vehicle or pedestrian bridges, causeways, road-ferries, retaining walls, toll plazas, toll booths, security systems, bus lanes, transit lanes, transitways, transitway stations, rest areas and road related areas* (within the meaning of the *Road Transport Act 2013*).

The definition of 'road related area' within Part 1.2 of the *Road Transport Act 2013* includes:

....(c) *an area that is open to the public and is designated for use by cyclists or animals, or...*

Having regard to the above, cycleways are defined as a *road related area* under the *Road Transport Act 2013* and therefore are defined as a 'road infrastructure facility'.

Notwithstanding, the use of land for the purposes of the pop-up cycleways is considered to be an "activity" within the meaning of Section 5.1 of the EP&A Act on the basis that subclause 5.1(1)(d) of the *Environmental Planning & Assessment Act, 1979* defines the *carrying out of a work* as an "activity". Section 5.1 of the EP&A Act states a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

As such, the continued operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways until the permanent Oxford Street Cycleway between Taylor Square and Centennial Park has been constructed by the NSW Government and is operational is being assessed under Part 5 of the EP&A Act and this Review of Environmental Factors (REF) has been prepared.

Sections 2.10 to 2.167 in Part 2 of the T&I SEPP contain provisions for public authorities to consult with local councils and other public authorities prior to the commencement of certain types of development. **Table 4.1** below outlines the issues to be considered when determining whether consultation is required, and their applicability to this proposal.

Table 4.1: Requirements for consultation under the Transport & Infrastructure SEPP

Issue		Consultation Required?
Section 2.10 - Consultation with Councils – impacts on Council related infrastructure or services		
1(a)	Will the development have a substantial impact on Council stormwater services?	No. As no works are required by the proposal there will be no impact on the existing stormwater drainage

		infrastructure. Notwithstanding, as the City is the proponent, there is no need for consultation.
1(b)	Is the development likely to generate traffic to an extent that will constrain the capacity of the road system?	No.
1(c)	Does the development involve connection to, and a substantial impact on a sewerage system?	No.
1(d)	Does the development involve connection to, and use of a substantial volume of water from a council-owned water supply system?	No.
1(e)	Does the development involve the installation of a temporary structure on, or the enclosing of, a council-managed / controlled public place that is likely to cause disruption to pedestrian or vehicular traffic that is not minor or inconsequential?	No. There will be ongoing temporary disruption to the usual use of the westbound lane of Moore Park Road and to Fitzroy Street while the pop-up cycleways remain in place. However, as the City is the proponent, there is no need for consultation.
1(f)	Does the development involve excavation that is not minor or inconsequential of the surface of, or a footpath adjacent to, a road for which council is the roads authority?	No.
Section 2.11 - Consultation with Councils – impacts on local heritage		
1(a)	Is the development likely to have an impact that is not minor or inconsequential on a local heritage item or a heritage conservation area?	No. The road reserves of Moore Park Road and Fitzroy Street are not listed as a heritage item under Schedule 5 of <i>Sydney Local Environmental Plan 2012</i> . However, they are located within three (3) Heritage Conservation Areas. There are also a number of heritage items in the vicinity of the pop-up cycleways. Notwithstanding, the continued operation and use of the cycleways will not adversely affect the heritage significance of the heritage items or Heritage Conservation Areas.
Section 2.12 - Consultation with Councils – impacts on flood liable land		
2	Is the development on flood liable land and will it change flood patterns other than to a minor extent?	No. The land where the pop-up cycleways are located is not mapped as part of a flood planning area under SLEP 2012.

Section 2.13 - Consultation with State Emergency Service – impacts on flood liable land	
Is the development on flood liable land such that written notice must be given to the State Emergency Service prior to any work being carried out?	No. As noted above, the land is not mapped as being within a flood planning area under SLEP 2012.
Section 2.14 - Consultation with Councils – impacts on certain lands within the coastal zone	
Is the work to be undertaken in a coastal vulnerability area and is inconsistent with a certified coastal management program applying to the land?	No.
Section 2.15 - Consultation with public authorities other than Councils	
2(a)	Is the development adjacent to land reserved under the <i>National Parks and Wildlife Act 1974</i> ? No.
2(b)	Is the development on land zoned E1 National Parks and Nature Reserves? No.
2(c)	Does the development comprise a fixed or floating structure in or over navigable waters? No.
2(d)	Is the development on land mapped as dark sky region and likely to increase artificial light in the night sky? No.
2(e)	Is the development on defence communications buffer land? No.
2(f)	Is the development on land in a mine subsidence district? No.
Section 2.16 – Consideration of Planning for Bushfire Protection	
1	Is the development for the purposes of health services facilities, correctional centres or residential accommodation, in an area that is bush fire prone land? No.

Having regard to the table above, there is no requirement for consultation with local councils and / or other public authorities under the T&I SEPP. Notwithstanding, it should be noted that the City has undertaken a process of continual consultation with TfNSW and other key authority stakeholders since the inception of the project. This included making provision to accommodate access to Allianz Stadium during events.

4.4 Local Environmental Plans

4.4.1 Sydney Local Environmental Plan 2012

The works that are the subject of this REF are located on land to which *Sydney Local Environmental Plan 2012* apply. The Moore Park Road and Fitzroy Street road reserves within which the pop-up cycleways are located are zoned R1 General Residential and B4 Mixed Use respectively. Roads are listed as permissible with consent under the Land Use Table for both the R1 and B4 zones.

Clause 3.1 of the LEP relates to exempt development and states (in part) that *Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.*

Clause 3.2 of the LEPs relates to complying development and states (in part) that *Development specified in Part 1 of Schedule 3 that is carried out in compliance with:*

(a) the development standards specified in relation to that development, and

(b) the requirements of this Part,

is complying development.

Cycleways are not identified as exempt development under Schedule 2, or as complying development under Schedule 3 of the LEP. Therefore, having regard to Clauses 3.1 and 3.2 of the LEP, the pop-up cycleways would ordinarily require development consent under *Sydney LEP 2012*.

However, as identified at Clause 1.9 of the LEP, the provisions of the T&I SEPP override the provisions of *Sydney LEP 2012* and pursuant to Division 17 of the T&I SEPP, the continued use of the land for the cycleways may be carried out as *development without consent*.

4.5 Confirmation of statutory position

All relevant statutory planning instruments have been examined with respect to the proposal.

The continued operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways has been assessed as being *development without consent* under the relevant environmental planning instrument (T&I SEPP). This position relies on the operation of the T&I SEPP to remove the otherwise applicable consent requirements.

The proposal falls within the definition of an 'activity' as defined under Section 5.1 of the *Environmental Planning & Assessment Act, 1979* on the basis that subclause 5.1(1)(d) of the *Environmental Planning & Assessment Act, 1979* defines the *carrying out of a work* as an "activity". Section 5.5 of the *Environmental Planning & Assessment Act, 1979* states a determining authority in its consideration of an activity shall, notwithstanding any other provisions of this Act or the provisions of any other Act or of any instrument made under this or any other Act, examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity.

Therefore, as the cycleways were installed by TfNSW on behalf of the City of Sydney and are now operated / managed by a public authority (the City of Sydney) and they do not require development consent, they are subject to an environmental impact assessment under Part 5 of the *Environmental Planning & Assessment Act, 1979*.

5 Stakeholder and community consultation

5.1 Consultation strategy & community involvement

Prior to the installation of the pop-up cycleways by TfNSW, the City of Sydney notified the residents and occupants of all premises along the cycleway alignment of the proposed pop-up cycleways and provided an opportunity to provide feedback.

The City of Sydney collected and monitored feedback related to the impacts of the pop-up cycleways on street users and the broader community for the period 24 August 2020 to 16 November 2020.

In addition, the City conducted a phone survey of 600 people, with 200 city residents and 400 in surrounding Local Government Areas, found the level of support for making more space for people to ride was high, with 71 per cent of City residents in support, and 68 per cent of residents of surrounding Local Government Areas.

There was also local community support for these projects, as measured by the sentiment in comments submitted to Sydney Your Say. Comments related to broader, structural issues including the consultation process, the role of each cycleway in the broader network roll out and addressing issues discovered immediately following the cycleway implementation. Each pop-up cycleway also had local issues that shaped community sentiment. For example, on Moore Park Road, concern over local access and parking were prominent.

To inform the REFs that were prepared in relation to the for the two (2) year extension, a community consultation was carried out between 12 March and 9 April 2021. A total of 2250 letters for Moore Park Road and 3900 letters for Fitzroy Street were sent to affected residents and businesses.

The City received a total of 123 submissions in response to the Moore Park Road pop-up cycleway, including 102 survey responses to the *sydneyoursay.com.au* site and 21 email submissions. Of these submissions, 41 responses were in support of the proposal, 37 opposed and 45 gave qualified responses and suggestions.

A total of 49 submissions were received in response to the Fitzroy Street pop-up cycleway, including 42 survey responses to the *sydneyoursay.com.au* site and 7 email submissions responses. Of these submissions 14 responses were in support of the proposal, 6 opposed and 29 gave qualified responses and suggestions.

Further community consultation was undertaken with respect to the current proposal to further extend the approval and operation of the pop-up cycleways, including exhibition of this draft REF.

The City consulted local residents and businesses in surrounding streets. There were 450 letters sent advising that the REF was on exhibition. The details of the proposal were available on the Sydney Your Say website with feedback able to be provided between 27 February 2023 and 28 March 2023 by mail or email. The website was visited 366 times.

A total of 35 submissions were received, 12 support the retention of the pop up cycle for up to three years and 23 oppose it. There are also submissions from Key Stakeholders, BIKEast, UTS, Venues NSW and Rugby Australia.

Key issues raised in the submissions are summarised below:

- a. The cycleways are perceived as unsafe.
- b. The cycleways are perceived as underused.
- c. The cycleways have reduced parking.
- d. The cycleways have restricted emergency services access.
- e. The on road bike lanes that were on the road previously were sufficient.

In addition, the following concerns were raised in a number of submissions:

1. Residents have had to put up with the negative impacts for too long and the pop-up cycleways should be removed and the former on-road cycle lanes reinstated.
2. Continued loss of street parking, with the temporary overnight parking on Moore Park Road between 7pm and 6pm daily is of limited benefit to residents.
3. Residents of Moore Park Road have difficulties with access to their properties, including access for deliveries, trades people, removalists and emergency vehicles.
4. There is a safety issue at the intersection of Poate Road and Moore Park Road due to vehicle/cyclist conflict.

A copy of the Community Engagement Report Summary is provided at *Appendix C* of the REF.

A number of issues raised in the submission were not related to environmental impacts and/or were outside the scope of the REF. However, relevant issues are discussed throughout the REF and below.

The community response identifies opposition to the continued operation of the pop-up cycleways, particularly by residents of Moore Park Road adjacent to the cycleway, due primarily to the concerns associated with the loss of on-street parking and access to their properties.

The retention of the pop-up cycleways means that the changed operation of trafficable lanes and on-street parking along Moore Park Road, as well as the temporary loss of the bus lane and bus stop on Fitzroy Street will continue until the pop-up cycleways are removed (31 May 2026 at the latest). However, the ongoing operation of the Moore Park Road and Fitzroy Street pop-up cycleways is considered the preferred option to the removal of the cycleways as it provides a connected and safe east-west cycling link between the eastern suburbs and the City that encourages cycling within the inner city region and, therefore directly meets the strategic framework and objectives outlined in Section 2.2 above.

Retention of the pop-up cycleway arrangements also provides a greater alignment with the stated strategic direction of transport in Sydney and a consistent, stable adjustment for road network users across all transport modes towards those strategic goals.

Removal of the pop-up cycleways and a return to the former east and west bound bicycle lanes within a mixed traffic environment is no longer considered to be the safest option, where cyclists are classed as high risk vulnerable road users. Separation of cyclists from the mixed traffic environment significantly improves safety and encourages the use of cycling as a viable mode of transport.

As such, it is considered that the 'Do nothing option' (i.e. removal of the pop-up cycleways and a return to the former mixed traffic cycle lanes) is not the preferred option, as the benefits to the safety and encouragement for cycling as a viable mode of transport continue to outweigh the alternative, where people using these routes would be returned to the mixed traffic environment. The benefits in terms of safety, accessibility and amenity for people walking and riding are considered to outweigh the resulting inconvenience to affected residents and motorists.

Retention of the pop-up cycleways aligns with the City's strategic direction, including:

- City of Sydney Cycling Strategy and Action Plan
- Sydney's Cycling Future
- Sustainable Sydney 2023-2050 Continuing the Vision

The issues raised in the submissions from Key Stakeholders, BIKEast, UTS and Venues NSW are discussed below and a copy of each of these submissions is provided at *Appendix D* of the REF.

BIKEast

Issue:

- Fully supports the retention of these important and necessary facilities in the growing City of Sydney bicycle network.

Discussion: Noted

UTS

Issue:

- Restoration of periodic suitable loading access that properly services the University's functions at the sport and education facilities within the Rugby Australia House at Moore Park, while still enabling and encouraging bike and pedestrian active transport. Loading access to large trucks approximately 12 to 20 times per annum; small loading zone provided opposite Moore Park Rd is wholly unsuitable for these loading needs because of the nature and size of materials and equipment being loaded or delivered.

Discussion:

The inconvenience of loss of the two (2) loading zones on Moore Park Road to the operations of UTS sports and education facilities is noted. However, the benefits to the wider community of the ongoing use of the pop-up cycleway are considered to outweigh the inconvenience to UTS. Notwithstanding, the City of Sydney has committed to investigate loading options with UTS.

Issue:

- The REF is therefore incorrect in stating that the loading needs of Australia Rugby House and the UTS facilities has been mitigated and still fails to address the impact from the removal of roadside access to meet legitimate loading needs as required by Section 5.5 of the Environmental Planning and Assessment Act 1979.

Discussion:

When considering an 'activity' under Part 5 of the *Environmental Planning and Assessment Act, 1979*, Section 5.5 of the Act requires a determining authority to examine and take into account to the fullest extent possible all matters affecting or likely to affect the environment by reason of that activity. Environmental factors to be considered are set out at Clause 171(2) of the *Environmental Planning and Assessment Regulation 2021*. While the impact to UTS operations as a consequence of the temporary loss of these loading zones is noted, it does not cause a direct and significant environmental impact. Further, TfNSW as the roads authority does not object to the continued loss of these loading zones to allow for the continued operation of the pop-up cycleway.

Venues NSW

Issue:

- With Allianz Stadium fully operational, the cycleway's continued operation results in complications for all stadium users, but particularly patrons requiring universal access. Crucially, it is a barrier to accessible drop-off and pick-up locations along Moore Park Road. The stadium's approved design included primary level access in that area to enable wheelchair users and patrons with accessibility needs to make the most of the venue's DDA-compliant facilities.

Discussion:

While Moore Park Road provides one option to facilitate patrons with accessibility needs to make the most of the venue's DDA-compliant facilities, it is noted that the primary accessible point of entry to the stadium is via the lifts accessed from Driver Avenue.

Planning Approval for Allianz Stadium was granted under State Significant Development Application (SSD-9835) on 6 December 2019 and has been subject to seven (7) modifications since consent was originally granted. Condition D13. Of the Notice of Determination states that *'the applicant must ensure that the planned Moore Park Road separated cycleway is considered appropriately into all operational plans for the stadium having regard to the publicly available details, as required by this development consent.'*

Further, condition D16. required the preparation of a site-specific Event Traffic and Transport Management Plan that must, amongst other matters, *'detail measures to manage cyclist activity along the planned Moore Park Road cycleway on event days.'*

The Sydney Football Stadium Redevelopment Event Traffic and Transport Management Plan (ETTMP) dated 18 July 2022 indicates that the Moore Park Road pop-up cycleway is closed for use during major events and this is facilitated through the placement of signage and vehicles along the cycleway. The ETTMP currently acknowledges the extended approval of the pop-up cycleway until April 2023, after which time it anticipates it's removal and the return of the ability for the southern kerb of Moore Park Road to be used for passenger drop-off and pick-up during events at the stadium. However, the ETTMP sets out details for the preferred arrangement for passenger drop-off and pick-up while the cycleway is in operation. These preferred arrangements were developed in consultation with TfNSW, NSW Police and Greater Sydney Parklands and primarily utilise Driver Avenue. Although the ETTMP also provides future arrangements for passenger pick-up following removal of the cycleway, it is considered that the current arrangements set out in the ETTMP can continue in the event that approval for the continued use of the cycleway until 31 May 2026 or until the permanent Oxford Street Cycleway between Taylor Square and Centennial Park has been constructed by the NSW Government and is operational can remain in place. This may

require an update/amendment to the ETTMP and it is noted that this is contemplated in Chapter 7 of the ETTMP, noting that a Social Impact Monitoring Program (SIMP) prepared to respond to condition D49 of SSD-9835 provides the framework for the monitoring and review process for the ETTMP. Notwithstanding, the update and/or amendment of the ETTMP is not a matter for this REF.

Issue:

- Safety and other concerns include that the temporary Moore Park Road cycleway:
 - Creates a dangerous crossover between pedestrians, vehicles and cyclists at multiple locations along its length;
 - Creates a dangerous crossover between pedestrians, vehicles and cyclists before, during and after stadium events when the precinct is at its busiest;
 - Impedes accessibility for wheelchair patrons who had used Moore Park Road as the principal drop off area and entry point to the stadiums. The alternative drop-off area is in Driver Avenue, several hundred metres further away;
 - Continues to be used as a cycleway despite closure during stadium events. It is Venues NSW's understanding that vehicles block off access to the cycleway at either end as a part of the precinct transport management plan. Despite this, cyclists join the cycleway at other points and transit through the area using it when there are thousands of pedestrians and vehicles in the precinct;
 - Crosses major vehicle entries to the Sydney Cricket Ground and Rugby Australia House, which also houses the University of Technology, Sydney;
 - Impedes emergency service vehicle access to Rugby Australia House;
 - Increases traffic congestion on Moore Park Road, particularly after stadium events; and
 - Is used as an unofficial taxi rank after stadium events have concluded because poor upkeep and broken barriers allow vehicle access.

Discussion:

This situation is not considered to be any different to the situation that occurs across all of the cycleways that have been installed/constructed across the City. All road users have a responsibility to be aware of other road users in order to minimise the potential for conflict/accidents.

In relation to access for emergency vehicles to Rugby Australia House, the City and TfNSW have investigated this issue and have made changes to the materials and configuration of the cycleway at the entry driveway to create a break that facilitates access for emergency vehicles.

Issue:

- There is no investigation of the above accessibility and safety matters in the Draft Review of Environmental Factors.

Discussion:

Refer to the discussion above.

Issue:

- Of concern is the Paddington Lane vehicle access point to the Sydney Cricket Ground. There are dozens of vehicle movements into the SCG precinct each day

and many more in the lead-up to and during major events such as concerts, the New Year's Test and major football fixtures at the SCG and Allianz Stadium. The safety risk is heightened given the cycleway is poorly maintained with barriers regularly damaged and shunted out of place by passing vehicles. The risk is further heightened because the cycleway is a dual carriageway.

Discussion:

Access to the entry to SCG Gate 1 is maintained as part of the pop-up cycleway configuration, with a break in the Klemmflix barrier allowing for left-in and left-out movements from Moore Park Road into SCG Gate 1. This intersection is also signalised, including bike lanterns that would require cyclists (as well as vehicles) to stop on Moore Park Road to allow vehicles to exit SCG Gate 1 on a green signal. As described earlier, all road users have a responsibility to be aware of the traffic around them and yield as necessary. In this particular instance, applies to riders moving through this intersection, as well as drivers turning into SCG Gate 1 off Moore Park Road. This is a similar situation to all other cycleways across the City that cross vehicular entries to sites along the cycleway routes.

Rugby Australia

Issue:

- Safety - The cycleway (and in particular where it intersects with the RA House driveway) is extremely dangerous for cyclists, pedestrians and road users on Moore Park Road, numerous near misses and at least one collision between a car and cyclist. To the extent that any claims are made against RA in relation to any cycleway-related accidents, RA would seek to ensure City of Sydney assumes full liability in respect of such claims.

Discussion:

As is the case in any road related use, all road users have a responsibility to be aware of their surroundings and to take appropriate caution to minimise the incidence of accidents. The situation created by the installation of the pop-up cycleway in the southern kerbside lane of Moore Park Road is not any different to the configuration and traffic environment from any of the various cycleways across the City and greater Metropolitan area. Issues of liability with respect to accidents are not a matter for this REF.

Issue:

- Cessation of cycleway original purpose - the Covid emergency situation has ceased and therefore the cycleway's original purpose is no longer relevant.

Discussion:

It is acknowledged that the provisions that facilitated the initial installation of the Pop-up Cycleways and their operation under the *Environmental Planning and Assessment (COVID-19 Development – Temporary Cycleways) Order 2020*, together with the prescribed period for approval for the pop-up cycleways under the Order ended on 31 March 2022.

However, the Order required the pop-up cycleways to be removed no more than two (2) months after the expiry of the prescribed period, unless planning approval was given under Part 5 of the *Environmental Planning and Assessment Act, 1979*.

On 17 May 2021, following consideration of two (2) separate REFs for the Moore Park Road and Fitzroy Street pop-up cycleways, the City granted a two (2) year extension until May 2023. This further approval for the pop-up cycleways relied on the relevant provisions under

Division 17 of *State Environmental Planning Policy (Infrastructure) 2007* (now repealed), which allowed for the use of the land for the cycleways without the need for development consent, subject to an environmental impact assessment.

This SEPP has been superseded by *State Environmental Planning Policy (Transport and Infrastructure) 2021* (T&I SEPP) which took effect on 1 March 2022 and Section 2.109 of the T&I SEPP allows the Council of the City of Sydney, as a public authority, to authorise a further continuation of the operation and use of the pop-up cycleways without the need to obtain development consent, subject to a further environmental impact assessment.

Issue:

- Disruption of RA operations - regularly require a safe spot for buses to offload and pick up athletes – the cycleway makes this not possible.

Discussion:

It is acknowledged that the ongoing operation of the pop-up cycleway along Moore Park Road may inconvenience the availability of a safe area on Moore Park Road for the drop-off and pick-up of athletes associated with Rugby Australia (RA) However, Driver Avenue provides alternate arrangements for the drop-off and pick-up of athletes that can be utilised by Rugby Australia (RA).

5.2 ISEPP consultation

As identified in Table 4-1 in the previous Section, consultation in accordance with the T&I SEPP is not required. Notwithstanding, there has been ongoing consultation between Transport for NSW (TfNSW) and other relevant stakeholders and the City of Sydney since inception of the project.

5.3 Government agency involvement

TfNSW, the State Transit Authority (STA) and the Department of Premier and Cabinet (DPC) were consulted during the initial stages of the pop-up cycleways installations. While TfNSW will continue to be consulted, there is no requirement for any further agency involvement.

5.4 Ongoing or future consultation

Affected residents and business owners/operators will need to be provided with a contact name and number that they can contact should any complaints wish to be registered.

6 Environmental assessment

This section of the REF provides a detailed description of the potential environmental impacts associated with the continued operation and use of the pop-up cycleways. All aspects of the environment potentially impacted upon by the proposal are considered. This includes consideration of the factors specified in *Guidelines for Division 5.1 assessments* (DP&E June 2022) as required under Clause 171(2) of the *Environmental Planning and Assessment Regulation 2021*. Site-specific environmental safeguards and management measures are provided to minimise or ameliorate the identified potential impacts.

6.1 Heritage (Built Environment)

6.1.1 Existing environment

The Moore Park Road and Fitzroy Street road reserves do not contain any heritage items. However, there are a number of State and local heritage items listed under Schedule 5 of *Sydney Local Environmental Plan 2012* adjacent to, or in proximity to the cycleways, including:

Moore Park Road Pop-up Cycleway

- 'Busby's Bore, Centennial Park to College Street, Surry Hills' – State Heritage Item (SHR No. 00568)
- 'Busby's Bore or The Tunnel, Oxford Street, Sydney' – State Heritage Item (SHR No. 00568) (Register of the National Estate – No. 1795)
- 'Busby's Bore including tunnels, shafts and wells' – State Heritage Item (SLEP 11)
- 'Captain Cook Hotel including interior', 162 Flinders Street – (SLEP 11060)
- 'Terrace house 'Murilla' and stables, including front fence and interiors of house and stable', 4 Moore Park Road – (SLEP 11066)
- 'Terrace house including interior and front fence', 6 Moore Park Road – (SLEP 11067)
- 'Terrace house including interior and front fence', 8 Moore Park Road – (SLEP 11068)
- 'Terrace house including interior and front fence', 10 Moore Park Road – (SLEP 11069)
- 'Terrace house including interior and front fence', 12 Moore Park Road – (SLEP 11070)
- 'Terrace house including interior and front fence', 14 Moore Park Road – (SLEP 11071)
- 'Terrace group including interior and front fencing', 16-18 Moore Park Road – (SLEP 11072)

- 'Terrace house including interior and front fence', 20 Moore Park Road – (SLEP I1073)
- 'Terrace house including interior and front fence', 22 Moore Park Road – (SLEP I1074)
- 'Terrace house including interior and front fence', 24 Moore Park Road – (SLEP I1075)
- 'Terrace house including interior and front fence', 26 Moore Park Road – (SLEP I1076)
- 'Terrace group including interior and front fencing', 28-30 Moore Park Road – (SLEP I1077)
- 'Terrace house 'Verulam' including interior and front fence', 284 Moore Park Road – (SLEP I1078)
- 'Olympic Hotel including interior', 308 Moore Park Road – (SLEP I1079)
- 'Terrace group including interiors and front fencing', 404-408 Moore Park Road – (SLEP I1080)
- 'Victoria Barracks group', 75 Oxford Street – (SLEP I1086)

In addition, the Moore Park Road cycleway is located within the 'Moore Park' (C36) and 'Sydney Cricket Ground' (C37) Heritage Conservation Areas and is adjacent to the 'Furber Road' (C6), 'Paddington South' (C48), Victoria Barracks (C49) and 'Paddington Urban' (C50) Heritage Conservation Areas listed under Schedule 5 of *Sydney Local Environmental Plan 2012*.

Fitzroy Street Pop-up Cycleway

- 'Moore Park', corner of South Dowling Street and Fitzroy Street – State Heritage Item (SHR No. 01384)
- 'Cricketer's Arms Hotel', 106 Fitzroy Street – Local Heritage Item (SLEP I1540)
- 'The Hopetoun Hotel', 416 Bourke Street – Local Heritage Item (SLEP I1436)

In addition, the Fitzroy Street cycleway is located within the 'Bourke Street South' (C60) Heritage Conservation Area and adjacent to the 'Bourke Street North' (C59) Heritage Conservation Area listed under Schedule 5 of *Sydney Local Environmental Plan 2012*.

6.1.2 Potential impacts

The pop-up cycleways are confined to the road area only and other than any maintenance works that may be necessary during the operation of the cycleways, including median separator material replacement, no construction works are required. The continued operation of the pop-up cycleways will not have any direct impact on the heritage items in the vicinity, or the Heritage Conservation Areas. Further, the cycleway fixtures are low to the ground, easily applied and reversible with no impact on any heritage fabric or element of significance across the length of both cycleways.

6.1.3 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.2 Aboriginal Cultural Heritage and Archaeology

6.2.1 Potential impacts

As described earlier in the REF, a search of the AHIMS data base carried out on 16 December 2022 identified two (2) recorded Aboriginal sites in the vicinity of the cycleways. However, neither site is in proximity such that the cycleways would have any impact on their significance. No Aboriginal places have been declared along the route of the cycleways.

An Aboriginal and Historical Heritage Due Diligence assessment was completed by EMM Sydney in 2017 during the design phase for the Moore Park Road pop-up cycleway. This assessment remains relevant as the cycleway remains in place and the alignment has not changed. A copy of the Due Diligence Assessment is included at *Appendix B* of this REF.

It is noted that the due diligence assessment covered a wider area than the immediate surrounds of the Moore Park Road cycleway, including parts of Fitzroy Street.

The area occupied by the pop-up cycleways has been highly disturbed and as such, is considered to have low archaeological potential. As there are no construction activities proposed, and periodic maintenance activities, including median separator material replacement are unlikely to require additional surface disturbance, the continued operation and use of the cycleways is unlikely to have the potential to harm any Aboriginal objects.

6.2.2 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.3 Traffic, parking and access

6.3.1 Existing environment

Moore Park Road

The cycleway is contained within the existing road reserve of Moore Park Road and utilises the southern kerbside lane for a distance of approximately 1.0km between Lang Road and Driver Avenue and approximately 12m east of the intersection of South Dowling Street.

Land uses along Moore Park Road are predominantly residential on either side of the eastern half of the road. Towards the western half, in addition to residential properties there is the Victoria Barracks group of buildings, Allianz Stadium, the UTS/Rugby Australia building, hotels and various commercial buildings and Moore Park (part of the Centennial Parklands).

The cycleway is two-way and constructed using Klemmfix barriers and concrete medians to separate the cycleway from road traffic. The cycleway is designated with line and paint markings and signage. At the signalised intersection of Moore Park Road and Driver Avenue, the existing pram ramp was widened, and cycle lanterns added as part of the original installation to merge onto an existing shared path between Driver Avenue and ANZAC Parade / South Dowling Street (approx. 350m). At the intersection of Moore Park Road and Lang Road the slip lane has been closed and kerb ramps widened to facilitate crossing the lane.

Two (2) trafficable westbound lanes are retained. The speed limit has been reduced to 40km/h along Moore Park Road as a separate road safety measure implemented by TfNSW.

The 355 Bondi Junction to Marrickville bus service operates along part of Moore Park Road, between Oxford Street and Cook Road (in addition to school bus services).

Moore Park Road is subject to variable Event Mode conditions from Poate Road and Driver Avenue and is a no-stopping zone through from Driver Avenue to Anzac Parade.

To address community concerns over the loss of on-street parking along the eastern part of Moore Park Road, temporary arrangements have been implemented which reduces a section of Moore Park Road to a single westbound trafficable lane between 7pm and 6am and provides for 34 "1P 7pm-6am Permit Holders Excepted Area 13" overnight parking spaces to be provided between the points 50 metres and 255 metres west of Cook Road.

Fitzroy Street

Similar to Moore Park Road, the cycleway is contained within the southern kerbside lane of Fitzroy Street and is approximately 185m long between South Dowling Street and Bourke Street. The cycleway is two-way and has constructed using Klemmfix barriers and concrete medians as cycleway separators and designated with line and paint markings and signage. The speed limit has been reduced to 40km/h for the length of the cycleway as a separate road safety measure implemented by TfNSW. The land uses along Fitzroy Street adjoining the cycleway include residential premises, hotels and commercial premises.

The cycleway occupies the lane that previously operated as a bus lane during am and pm peak times but provided an additional westbound traffic lane outside these peaks. A bus stop located opposite Hutchinson Street has been temporarily closed to use. While parking is permitted in sections of the northern side of Fitzroy Street between 7pm and 6pm weekdays and on weekends, no parking is permitted on the southern side of Fitzroy Street. Between 6am and 7pm daily, a clearway operates for the northern kerbside (westbound) trafficable lane of Fitzroy Street. It is also noted that there are no vehicular entry/exits (driveways) along the southern side of Fitzroy Street that might otherwise be impacted by the continued operation of the cycleway.

The 339, 374, 376 and 391 bus service operate along Fitzroy Street. With the temporary closure of the bus stop opposite Hutchinson Street, the closest bus stop is located at the intersection of Crown and Foveaux Streets, approximately 90m south of Fitzroy Street. This bus stop is serviced by the 304 and 352 bus services, and provides access to the wider Sydney Buses network, as well as the rail network, with Central and Redfern Stations being the closest to Fitzroy Street.

6.3.2 Potential impacts

Moore Park Road

The use of the kerbside westbound lane of Moore Park Road means that the trafficable lanes have been reduced from three (3) to two (2) to facilitate operation of the cycleway. This is further reduced overnight, with traffic flows along the section of Moore Park Road up to 255m west of Cook Road reduced to a single westbound lane between 7pm and 6pm daily, to provide 34 "1P 7pm-6am Permit Holders Excepted Area 13" overnight parking spaces. These parking arrangements have been in place for just over 12 months and is a suitable response to addressing the community concerns at the loss of parking for the duration of the operation of the cycleway.

In addition to the loss of on-street parking, to ensure the safety of cyclists, the ability to make a left turn movement from Lang Road into Moore Park Road has been removed through closure of the slip lane. This is considered to be a minor inconvenience to drivers and a left turn into Moore Park Road can still be made from Cook Road, some 100m to the west of Lang Road, accessed from Lang Road via a short detour along Mitchell Street and Cook Road. The left turn movement from Land Road into Oxford Street is not affected.

A number of other community and traffic safety concerns were raised in response to the implementation of the pop-up cycleway along Moore Park Road. Some of these issues included the loss of an accessible parking space near the intersection of Moore Park Road and Cook Road, the removal of unrestricted parking used for the drop-off / pick-up of children from the Gumnut Gardens child care centre at 61 Moore Park Road, and the loss of a loading zone in front of the Rugby Australia building.

These concerns have been addressed through the implementation of traffic management measures and should be retained for the duration of the cycleways operation. These are set out at 6.3.3 below.

The position of the cycleway in the kerbside westbound lane of Moore Park Road has modified kerbside access to the residential properties between Cook Road and Poate Road from their Moore Park Road frontage. It is noted that these properties have rear access via Poate Lane. However, this is relatively narrow and would not readily allow for a delivery or trade vehicle to park and retain sufficient room for another vehicle to pass. To partially mitigate this issue, a loading zone (7am to 5pm) has been introduced to Poate Lane.

In the event of an emergency, it is anticipated that emergency vehicles such as Police, Ambulance or Fire Brigade vehicles would stop in the left hand trafficable lane on Moore Park Road as per the usual occurrence for emergency vehicles. Furthermore, emergency vehicles can, and do, use cycleways.

The loss of on street parking has limited access to the residential properties between Cook Road and Poate Road, particularly for older people or people with a disability/restricted mobility. Whereas prior to the cycleway it may have been possible to park on Moore Park Road in proximity to individual residential properties, the loss of parking means that people are required to park further away and walk/travel back along the footpath to access the Moore Park Road entry to these properties. This is an inconvenience but not a direct environmental impact. However, the City has sought to partially mitigate this concern through relocation of an accessible parking space to Poate Road and the installation of 3 x 15 minute parking spaces in Cook Road near the bus stop. It is acknowledged that this does not offer an ideal solution for people with restricted mobility. However, the road safety benefits of the continued operation of the pop-up cycleway outweighs this local community impact.

Allianz Stadium and Special Event Clearways

The recently reconstructed Allianz Stadium opened in August 2022 and has a seating capacity of 42,500. This state-of-the-art stadium will host a variety of sporting and entertainment events and will generate significant volumes of traffic and pedestrians.

During events street parking restrictions are in place along Moore Park Road, as well as the surrounding streets. The special event clearways are strict no-parking zones for all vehicle types and apply to residents with local parking permits of TfNSW Mobility Scheme Permit holders. However, the periodic operation of these special event clearways should not have a significant impact on the use of the cycleway.

Fitzroy Street

As noted earlier, the removal of the bus lane / closure of the bus stop on Fitzroy Street, together with the loss of an additional trafficable (westbound) lane outside the bus lane operational times are the most significant impacts resulting from the installation of the pop-up cycleway. The continued operation of the cycleway will have no greater impact on public transport services than currently exist. In addition, there will be no change to the use of the two westbound trafficable lanes. Minor delays may occur for motorists accessing Fitzroy

Street from Nichols Street, Farnell Street, Hutchinson Street and Hutchinson Place during periods of heavy traffic turning into and out of Marshall Street. However, this is considered to be a minor impact in terms of travel delay.

6.3.3 Safeguards and management measures

- The following management measures that have been implemented due to community and road/cycleway user safety concerns for the Moore Park Road pop-up cycleway are to be maintained and remain in place for the duration of the operation of the pop-up cycleway:
 - The "1P 7pm-6am Permit Holders Excepted Area 13" overnight parking arrangements on Moore Park Road between Cook Road and Poate Road;
 - The two loading zones installed in Poate Lane;
 - The accessible parking space relocated to Poate Road;
 - The three (3) P15 spaces installed near the bus stop in Cook Road;
 - The installation of bike safe grates to the kerb inlet pits;
 - The alternate loading zone for Rugby Australia installed in Poate Lane;
 - The warning sign installed in the Moore Park Road median at the intersection of Poate Road to advise motorists turning right into Poate Road that they are crossing the cycleway;

6.4 Noise & vibration

6.4.1 Existing environment

The existing noise environment is typical of an established urban area and heavily trafficked vehicular thoroughfare. Background noise is dominated by vehicular traffic and pedestrian and related noise.

6.4.2 Potential impacts

As the pop-up cycleways are already in place, no construction work, other than any necessary period maintenance, is required. The only noise generation will be from cyclists that are using the cycleways and as such, the potential for adverse noise impacts will be negligible.

6.4.3 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.5 Air quality

6.5.1 Existing environment

The air quality along the route of the cycleways is typical of an established urban environment. The main sources of air pollution are vehicle emissions.

6.5.2 Potential impacts

As the pop-up cycleways are already in place, no construction work, other than any necessary period maintenance, is required. Use of the cycleways does not cause any substantive air pollutants. Therefore, the potential for adverse air quality impacts will be negligible.

6.5.3 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.6 Water quality & Stormwater Drainage

6.6.1 Potential impacts

There is the potential for pollutants to be carried into the stormwater drainage system in the event of rain during construction works. Any stockpiles will need to be suitably constructed and managed to limit the potential for impacts on water quality and drainage through the mobilisation of stockpiled materials by wind or water.

6.6.2 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.7 Visual amenity

6.7.1 Existing environment

The existing visual amenity along the length of both cycleways is typical of an established urban environment comprising public open space, trafficable streets, kerbside parking, street trees and lighting and pedestrian footpaths flanked by a significant open space area (Moore Park) and a variety of buildings, including Allianz Stadium, the UTS/Rugby Australia building, the Victoria Barracks group of buildings, residential buildings, hotels and other commercial premises.

6.7.2 Potential impacts

Changes to this visual environment that resulted from the installation of the pop-up cycleways include the removal of some existing on-street parking, minor changes to the configuration of the road carriageway and footpaths and the visual impacts associated with the Klemmfix barriers and concrete medians, green paint and line markings of the cycleway. However, these are short term visual impacts that will cease once the pop-up cycleways are removed and no safeguards are proposed.

6.7.3 Safeguards and management measures

Although there is a change to the visual environment, this is temporary and will be remedied once the pop-up cycleways are removed. As such, no environmental safeguards or management measures are considered necessary.

6.8 Waste management & minimisation

6.8.1 Potential impacts

As there is no construction work involved, the continued operation and use of the pop-up cycleways is unlikely to generate any substantive waste.

6.8.2 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.9 Community enquiries and complaints

6.9.1 Potential impacts

During the continued operation and use of the pop-up cycleways affected businesses, residents or other members of the community may wish to make enquiries or complaints in relation to a particular aspect of the operation or use of the cycleways. As such, an enquiry / complaint management system needs to be implemented and affected members of the community advised of the protocol for handling enquiries and/or complaints.

6.9.2 Safeguards and management measures

- City of Sydney's Community Liaison Officer, as the first point of contact, followed by the City's Engagement Officer and then the Project Manager (or other nominated person) are to be contactable and available to respond to enquiries and address complaints or other issues during the construction period.

6.10 Accessibility and safety

6.10.1 Existing environment

Prior to the provision of a dedicated cycleway along Moore Park Road and Fitzroy Street, people using this route by bicycle had to travel in a lane with the vehicular traffic, which presents safety issues and acts as a major disincentive to cycling as a mode of transport.

The provision of a dedicated cycleway means that people riding have the option of a safe and separated connection between Centennial Park and the Bourke Street cycleway.

6.10.2 Potential impacts

The beneficial impacts are an improved level of accessibility and safety for all road users. The dedication of a bi-directional pop-up cycleway separated from the other road / footpath users substantially improves the safety and amenity for people walking and riding and is likely to act as an incentive to higher bicycle usage along this east-west route.

The cycleways mean that there has been a loss of trafficable lanes, as well as on-street parking along Moore Park Road, as well as the temporary loss of the bus lane and bus stop on Fitzroy Street. However, the benefits in terms of safety, accessibility and amenity for people walking and riding are considered to outweigh the resulting inconvenience to motorists.

6.10.3 Safeguards and management measures

No environmental safeguards or management measures are considered necessary.

6.11 Social and economic

6.11.1 Potential impacts

The continued operation and use of the pop-up cycleways will have a generally positive socio-economic impact and the safety and amenity for people walking and riding will be improved through the provision of a dedicated cycleway route that will minimise potential conflicts in this heavily trafficked and pedestrianised area. This is likely to encourage the wider

use of the facility, which in turn, has a beneficial impact on the health of users of the cycling facilities.

6.11.2 Safeguards and management measures

No environmental safeguards or management measures are proposed.

6.12 Summary of adverse effects

The main adverse effects of the continued operation and use of the pop-up cycleways include:

- Traffic, parking and access impacts;
- Visual amenity impacts;

6.13 Summary of beneficial effects

The main benefits of the continued operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways until the permanent Oxford Street Cycleway is constructed and becomes operational include:

- Improved safety and 'journey ambience' for people riding through the provision of a separate dedicated east-west cycleway link, and providing an alternative to riding in a mixed traffic environment;
- The associated health and lifestyle benefits attributed to cycling as a viable transport mode;
- Environmental benefits associated with reduced vehicle emissions and noise pollution;
- A reduction in car demand and the associated flow on effects of improvements to traffic flows.

6.14 Consideration of Clause 171(2) Factors

The factors to be taken into consideration when reviewing the likely environmental impact of a proposed activity are listed in Clause 171(2) of *the Environmental Planning and Assessment Regulation 2021*.

Consideration of each of the Clause 171(2) factors is included in the table below. The impacts have been quantified as:

Table 6-1: Clause 171(2) factors for consideration

Factor	Impact
<p>a. The environmental impact on a community?</p> <p>The ongoing operation of the cycleways results in temporary changes to the traffic and parking environment along the route of the cycleways. However, these impacts are minimal and will only exist until the permanent cycleway on Oxford Street is constructed and the pop-up cycleways are removed. Any impacts can be appropriately managed and/or minimised through the implementation of the environmental safeguards and management measures described in Table 7.1.</p> <p>For the duration of the pop-up cycleways, they provide the community with an east-west dedicated cycling route along Moore Park Road and Fitzroy Street, as well as providing connections to the wider network of existing and anticipated future cycleways across the Sydney CBD and wider metropolitan routes.</p>	<p>Short term: Negative</p> <p>Long term: Positive</p>
<p>b. The transformation of a locality?</p> <p>Although only a relatively minor transformation of the road reserves Moore Park Road and Fitzroy Street, the installation of the pop-up separated cycleways provides a dedicated cycling route that will connect with other cycleway links and will improve the level of safety for all road users. The transformation of the locality for the duration of the operation of the cycleways is considered a positive impact.</p>	<p>Short term: Positive</p>
<p>c. The environmental impact on the ecosystems of the locality?</p> <p>The proposal will not have an impact on any ecosystems in the locality.</p>	<p>Nil</p>
<p>d. Reduction of the aesthetic, recreational, scientific or other environmental quality or value of a locality?</p> <p>The proposed works will result in a minor short term reduction in visual amenity during the operation of the pop-up cycleways.</p> <p>However, the recreational value (particularly for people riding) is improved through the introduction of dedicated, legible and safe cycleways.</p>	<p>Short Term: Negative</p> <p>Long Term: Positive</p>

Factor	Impact
<p>e. The effect on a locality, place or building that has –</p> <p>(i) aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or</p> <p>(ii) social significance or other special value for present or future generations?</p> <p>The pop-up cycleways will not have an adverse impact on the heritage significance of any State or local heritage listed properties or Heritage Conservation Areas in the vicinity.</p>	Nil
<p>f. The impact on the habitat of protected fauna (within the meaning of the Biodiversity and Conservation Act 2016)?</p> <p>The pop-up cycleways are located in an urban environment that has been highly modified and is not known to provide specific habitat for any protected fauna. As such, there will be no impact on the habitat of any protected fauna arising from the continued operation and use of the pop-up cycleways.</p>	Nil
<p>g. The endangering of any species of animal, plant or other form of life, whether living on land, in water or in the air?</p> <p>The continued operation and use of the pop-up cycleways will not have an adverse impact on, or endanger any species of animal, plant or other form of life.</p>	Nil
<p>h. Long-term effects on the environment?</p> <p>The continued operation and use of the pop-up cycleways will not result in any long-term effects on the environment.</p>	Nil
<p>i. Degradation of the quality of the environment?</p> <p>The continued operation and use of the pop-up cycleways will not result in the degradation of the quality of the environment.</p>	Nil
<p>j. Risk to the safety of the environment?</p> <p>The continued operation and use of the pop-up cycleways will not generate any risk to the safety of the environment.</p>	Nil
<p>k. Reduction in the range of beneficial uses of the environment?</p> <p>There will be no reduction in the range of beneficial uses of the environment as a result of the continued operation and use of the pop-up cycleways.</p>	Nil

Factor	Impact
<p>l. Pollution of the environment?</p> <p>The continued operation and use of the pop-up cycleways will not pollute the environment.</p>	Nil
<p>m. Environmental problems associated with the disposal of waste?</p> <p>The continued operation and use of the pop-up cycleways will not generate any waste and no hazardous waste will be generated.</p>	Nil
<p>n. Increased demands on resources (natural or otherwise) that are, or are likely to become, in short supply?</p> <p>The continued operation and use of the pop-up cycleways will not place an undue demand on resources that are, or are likely to become in short demand.</p>	Nil
<p>o. The cumulative environmental effect with other existing or likely future activities?</p> <p>There will be no unreasonable cumulative adverse impacts or environmental effects arising from the continued operation and use of the pop-up cycleways.</p>	Nil
<p>p. The impact on coastal processes and coastal hazards, including those under projected climate change conditions?</p> <p>The pop-up cycleways are not located in a coastal area and are not subject to coastal processes or hazards.</p>	Nil
<p>q. Applicable local strategic planning statements, regional strategic plans or district strategic plans made under the Act, Division 3.1?</p> <p>As described in Chapter 2 of the REF, the pop-up cycleways align with several important City of Sydney strategic planning objectives, as well as State Government strategy and policy, including:</p> <ul style="list-style-type: none"> • Sustainable Sydney 2030-2050 Continuing the Vision • City of Sydney Cycle Strategy and Action Plan 2018-2030 • Local Strategic Planning Statement (CoS) • A Metropolis of 3 Cities • State Infrastructure Strategy • Future Transport 2056 • Sydney's Cycling Future (TfNSW 2013) 	Nil

Factor	Impact
<p>r. Other relevant environmental factors?</p> <p>There are no other relevant environmental factors that require consideration.</p>	<p>Nil</p>

7 Environmental management

7.1 Environmental management plans

Environmental safeguards and management measures outlined in *Table 7-1* below will minimise the identified potential adverse environmental impacts of the proposal on the surrounding environment.

7.2 Summary of safeguards and management measures

The environmental safeguards and management measures are aimed at minimising any potential adverse impacts on the surrounding environment arising from the ongoing operation and use of the pop-up cycleways. These are summarised in Table 7-1.

Table 7-1: Summary of environmental safeguards and management measures

No.	Impact	Environmental safeguards
1	Traffic, parking and access	<ul style="list-style-type: none"> • The following management measures that have been implemented due to community and road/cycleway user safety concerns for the Moore Park Road pop-up cycleway are to be maintained and remain in place for the duration of the operation of the pop-up cycleway: <ul style="list-style-type: none"> ➤ The "1P 7pm-6am Permit Holders Excepted Area 13" overnight parking arrangements on Moore Park Road between Cook Road and Poate Road; ➤ The two loading zones installed in Poate Lane; ➤ The accessible parking space relocated to Poate Road; ➤ The three (3) P15 spaces installed near the bus stop in Cook Road; ➤ The installation of bike safe grates to the kerb inlet pits; ➤ The alternate loading zone for Rugby Australia installed in Poate Lane; ➤ The warning sign installed in the Moore Park Road median at the intersection of Poate Road to advise motorists turning right into Poate Road that they are crossing the cycleway; ➤ The reduced 40km/h speed limit on Moore Park Road.
2	Community enquiries and complaints	<ul style="list-style-type: none"> • The City of Sydney's Community Liaison Officer, as the first point of contact, followed by the City's Engagement Officer and then the Project Manager should be contactable and available to respond to enquiries and address complaints or other issues during the ongoing operation of the pop-up cycleways.

8 Conclusion

8.1 Justification

Based on independent research undertaken by leading economic researcher, AECOM, the Inner City Regional Bicycle Network will provide access for 1.2 million people in 164 suburbs and across 11 local government areas. Further, AECOM estimates that the bicycle network is likely to deliver a net economic benefit of \$506 million (in today's dollars) over a 30 year period, and that every dollar spent on delivering the interconnected cycleway, the network will generate an economic return of \$3.88.

On balance the proposal is considered justified.

The environmental impacts of the proposal are not likely to be significant and therefore it is not necessary for approval to be sought for the proposal under Part 4 of the *Environmental Planning & Assessment Act 1979*. The proposal will not have a substantial impact on any matters of National environmental significance.

8.2 Objects of the Environmental Planning & Assessment Act, 1979

Decisions made under the *Environmental Planning & Assessment Act, 1979* must have regard to the objects of the Act, as set out in Section 1.3. The relevant objects are:

- (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 proposal is consistent with the objects of the Act. In particular, the operation of the pop-up cycleways represents the proper management of the public domain and promotes the social and welfare of the community by providing safe, convenient and healthy transport options to improve the traffic, cycling and walking environment and connections across the local streets and between popular destinations.

Further, the implementation of the recommended safeguards and management measures outlined in this REF will ensure the ongoing operation and use of the pop-up cycleways is undertaken in such a way that it protects the environment.

8.3 Ecologically sustainable development

The National Strategy for Ecologically Sustainable Development (NSES) has been formulated to ensure ESD is accounted for in all proposals. There are three core objectives:

- Enhance the well-being and welfare of individuals and the community by following a path of economic development that safeguards the welfare of future generations;
- Provide for equity within and between generations;
- Protect biological diversity and maintain essential ecological processes and life-support systems.

The *Environmental Planning & Assessment Act, 1979* acknowledges that ecologically sustainable development (ESD) should be considered in the assessment and approval of proposed development.

The proposal has been assessed against the following four principles of ecologically sustainable development (ESD) listed in the *Protection of the Environment Administration Act 1991*:

- *The precautionary principle;*
- *The principle of intergenerational equity;*
- *The principle of biological diversity and ecological integrity; and*
- *The principle of improved valuation of environmental resources.*

A discussion on the degree to which the proposed works comply with these principles is provided below.

8.3.1 Precautionary principle

The precautionary principle states that:

if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

- (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
- (ii) *an assessment of the risk weighted consequences of various options*

A range of investigations have been undertaken during the preparation of this REF to ensure that the potential environmental impacts are able to be understood with a high degree of certainty. The proposal has evolved to avoid environmental impact where possible and safeguards and management measures have been recommended to minimise adverse impacts. No safeguards or management measures have been deferred due to a lack of scientific certainty. The proposal is therefore considered to be consistent with the precautionary principle.

8.3.2 Intergenerational equity

The principle of intergenerational equity states that:

the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations.

The proposed ongoing operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways until the permanent Oxford Street Cycleway between Taylor Square and Centennial Park has been constructed and is operational will not result in any impacts that are likely to adversely impact on the health, diversity or productivity of the environment for the future generation. Instead, the pop-up cycleways will continue to realise a number of positive impacts for the benefit present and future generations including:

- The potential for reduced traffic congestion and necessary vehicle trips;
- Improved health and lifestyle benefits afforded by the provision of a safe and dedicated cycleway route;
- The potential for environmental savings through reductions in vehicle emissions and noise pollution;
- Improved safety and ‘journey ambience’ for people riding through the provision of a separate dedicated cycleway, and providing an alternative to riding in a mixed traffic environment;
- The potential for savings in government transport infrastructure building and operating costs;

8.3.3 Conservation of biological diversity and ecological integrity

The principle of biological diversity and ecological integrity states that:

conservation of biological diversity and ecological integrity should be a fundamental consideration.

The proposed ongoing use of the Moore Park Road and Fitzroy Street pop-up cycleways until the permanent Oxford Street Cycleway between Taylor Square and Centennial Park has been constructed and is operational are unlikely to have an impact on biological diversity and ecological integrity. The pop-up cycleways are located in a highly urbanised area where the potential for adverse impacts on flora and fauna are considered minimal. Any flora and

fauna that may be present in the vicinity of the cycleways is reflective of and has adapted to, this highly modified urban environment and is unlikely to be adversely affected.

8.3.4 Improved valuation, pricing and incentive mechanisms

The principle of improved valuation of environmental resources states that:

environmental factors should be included in the valuation of assets and services, such as:

(i) polluter pays – that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

The cost of environmental resources includes those costs that are incurred in order to protect the environment. In this way, any environmental safeguards that are imposed in order to minimise adverse impacts result in economic costs to the construction and operation of the project. This indicates that the valuation of environmental resources has been assigned.

As described in this REF, the implementation of appropriate mitigation measures where environmental impacts are expected will minimise adverse impacts on the environment.

8.4 Conclusion

The proposed ongoing operation and use of the Moore Park Road and Fitzroy Street pop-up cycleways are subject to assessment under Part 5 of the *Environmental Planning & Assessment Act 1979* as it constitutes an 'activity' under section 5.1 (1) of the *Environmental Planning & Assessment Act 1979*. This REF has examined and taken into account to the fullest extent possible, all matters affecting or likely to affect the environment by reason of the proposed activity. The proposed continued operation and use of the pop-up cycleways, as described in the REF, will meet the project objectives but will still result in some minor impacts with respect to traffic, parking and access, visual impacts and potential community concerns along the sections of Moore Park Road and Fitzroy Street where the pop-up cycleways are located. Notwithstanding, the implementation and effective management of the safeguards and management measures that are detailed in this REF will ameliorate or minimise these expected impacts, such that they will have no more than a minor impact.

The proposal will also realise a number of positive impacts, including the continuation of improved conditions, amenity and safety for all road users, opportunities for improved health benefits, reductions in traffic volumes/congestion and vehicle emissions etc.

On balance the proposal is considered justified.

Having regard to the matters which have been identified as potentially affecting or likely to affect the environment by reason of the proposed activity and the statutory and planning framework, it is concluded that:

- a) The environmental impacts of the proposal are not likely to be significant and therefore it is not necessary for approval to be sought for the proposal under Part 4 of the *Environmental Planning & Assessment Act 1979*.
- b) The proposal will not impact on any matters of National environmental significance; and
- c) Having regard to the above, it is concluded that the proposal is not likely to significantly affect the environment within the meaning of Section 5.7 of the *Environmental Planning & Assessment Act 1979*.

9 Conclusion and Certification

This Review of Environmental Factors provides a true and fair review of the proposal in relation to its potential effects on the environment. It addresses to the fullest extent possible all matters affecting or likely to affect the environment as a result of the proposal.

The Review of Environmental Factors identifies the likely impacts of the proposal on the environment and details the environmental safeguards and 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 environmental safeguards and management measures, will not result in a significant effect on the environment.

The proposed activity will not have a substantial impact on any matters of National environmental significance and therefore, does not require referral to the Commonwealth Government under the EPBC Act.



Andrew Robinson MPIA
Director

Andrew Robinson Planning Services Pty Ltd

Date: 17 April 2023

Determining Authority Certification:

I certify that I have reviewed and endorsed the contents of this REF document and, to the best of my knowledge, it is in accordance with the EP&A Act, the EP&A Regulation and the Guidelines approved under clause 170 of the EP&A Regulation, and the information it contains is neither false or misleading.

Decision Statement:

In this regard, based on the REF document and other documents appended to it:

- The proposed activity is not likely to have a significant impact on the environment and therefore an Environmental Impact Statement (EIS) is not required.
- The proposed activity will not be carried out in a declared area of outstanding biodiversity and is not likely to significantly affect threatened species, populations or ecological communities, or their habitats or impact biodiversity values such that a Species Impact Statement (SIS) and/or a Biodiversity Development Assessment Report (BDAR) is not required.
- The proposed activity may proceed as it will not result in a significant effect on the environment and will not have a substantial impact on any matters of National environmental significance and therefore, does not require referral to the Commonwealth Government under the EPBC Act.
- Mitigation measures are required to eliminate, minimise or manage environmental impacts and these are set out in Chapter 6 and summarised in tabular form in Chapter 7 of this REF.

Signature:

Name:

Position:

Date:

10 References

The following publications and documents / resources have been used in the preparation of this REF:

AECOM 2010, *Inner Sydney Regional Bicycle Network, Demand Assessment and Economic Appraisal*

City of Sydney website – www.cityofsydney.nsw.gov.au

Department of Planning & Environment (then DIPNR) 2004, *Planning guidelines for walking and cycling*

Department of Planning and Environment 2022, *Guidelines for Division 5.1 assessments*

NSW Government, 2013, *Sydney's Cycling Future, Cycling for everyday transport*

Transport for NSW – www.transport.nsw.gov.au (*Cycling counts*)

Appendix A

Consideration of Matters of National
environmental significance

Matters of National Environmental Significance

Under the environmental assessment provisions of the *Environment Protection and Biodiversity Conservation Act 2016*, the following matters of National environmental significance and impacts on Commonwealth land are required to be considered to assist in determining whether the proposal should be referred to the Australian Government's Minister for Climate Change, Energy, the Environment and Water.

Factor	Impact
<p>a. Any impact on a World Heritage property?</p> <p>The proposal will not have an impact on a World Heritage property.</p>	Nil
<p>b. Any impact on a National Heritage place?</p> <p>The proposal will not have an impact on a National Heritage place.</p>	Nil
<p>c. Any impact on a wetland of international importance?</p> <p>The proposal will not have an impact on a wetland of international importance.</p>	Nil
<p>d. Any impact on a listed threatened species or communities?</p> <p>The proposal will not have an impact on a threatened species or community.</p>	Nil
<p>e. Any impacts on listed migratory species?</p> <p>The proposal will not have an impact on a listed migratory species.</p>	Nil
<p>d. Any impact on a Commonwealth marine area?</p> <p>The proposal will not have an impact on a Commonwealth marine area.</p>	Nil
<p>g. Does the proposal involve a nuclear action (including uranium mining)?</p> <p>The proposal does not involve a nuclear action.</p>	Nil
<p>Additionally, any impact (direct or indirect) on Commonwealth land?</p> <p>The proposal will not have an impact on Commonwealth Land.</p>	Nil

Appendix B

Aboriginal and Historic Heritage Due Diligence Assessment



Bondi Junction to City Cycleway

Aboriginal and historical heritage due diligence assessment

Prepared for Spackman Mossop Michaels | 30 July 2018

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Bondi Junction to City Cycleway

Final

Report J17247RP1 | Prepared for Spackman Mossop Michaels | 30 July 2018

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Date	2 November 2017	2 November 2017	Date	2 November 2017

This report has been prepared in accordance with the brief provided by the client and has relied upon the information collected at the time and under the conditions specified in the report. All findings, conclusions or recommendations contained in the report are based on the aforementioned circumstances. The report is for the use of the client and no responsibility will be taken for its use by other parties. The client may, at its discretion, use the report to inform regulators and the public.

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Document Control

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Table of contents

Chapter 1	Introduction	1
1.1	Introduction	1
1.2	Description of the project	1
1.2.1	Overview	1
1.2.2	Project details	1
1.3	Construction activities	3
1.4	Legislative overview	5
1.4.1	Environmental Planning and Assessment Act 1979	5
1.4.2	Aboriginal heritage	5
1.4.3	Historical heritage	5
1.5	Assessment methods	7
1.5.1	Aboriginal heritage	7
1.5.2	Historical heritage	8
<hr/>		
Chapter 2	Existing environment	9
2.1	Aboriginal heritage	9
2.1.1	Landscape context	9
2.1.2	Database searches	9
2.1.3	Previous Aboriginal heritage investigations	11
2.2	Historical heritage	12
2.2.1	Historical overview	12
2.2.2	Statutory register searches	12
<hr/>		
Chapter 3	Site inspection	19
3.1	General	19
3.2	Items of heritage interest	19
<hr/>		
Chapter 4	Potential impacts	27
4.1	Aboriginal heritage	27
4.2	Historical heritage	27
<hr/>		
Chapter 5	Recommendations	33
5.1	Aboriginal heritage	33
5.2	Historical heritage	34
5.2.1	SHR items	34
5.2.2	LEP items	34
<hr/>		
References		34
<hr/>		

Appendices

A	AHIMS search results	
B	Additional assessment for Moore Park and Busby's Bore	

Tables

1.1	Due diligence summary	7
2.1	AHIMS sites	9
2.2	Register search for items within the project area	13
4.1	Register search for items within the project area	28

Figures

1.1	The project area	4
1.2	Due diligence process summary (source: due diligence guidelines (DECCW 2010))	6
2.1	AHIMS sites	10
2.2	Overview of heritage listings	14
2.3	Heritage listings (east)	15
2.4	Heritage listings (centre)	16
2.5	Heritage listings (west)	17

Plates

3.1	Moore Park Rd between Centennial Park and Poate Road. Example of a small grass verge beside bitumen footpath (view west) that will form the cycleway	20
3.2	Example of palm trees requiring removal and relocation along a median strip of Moore Park Road (view east towards Centennial Park)	20
3.3	Example of palm tree to be relocated along median strip of Moore Park Road (view north)	21
3.4	Location above the alignment of Busby's Bore showing current construction zone (view west)	21
3.5	Corner of Driver Avenue and Moore Park Road showing an example of bollards to be removed (view west)	22
3.6	Corner of Driver Avenue and Moore Park Road where the underground alignment of Busby's Bore occurs (view east)	22
3.7	Sandstone pier (marked by red arrow) marking the end of a bollard fence (view east)	23
3.8	Example of the easternmost Moore Park Gateway Piers (view south)	23
3.9	Example of an alignment of sandstone bollards to be removed near the Korean War Memorial (view west)	24
3.10	The western-most Moore Park Gateway piers (left) and the sandstone garden wall to be removed (shown by red arrow) near the Korean War Memorial (view north-east)	24
3.11	View from Bourke St looking east along Fitzroy Street, the easternmost point of the project area. Footpaths on both sides of Fitzroy St are currently shared bike and pedestrian zones	25

1 Introduction

1.1 Introduction

City of Sydney Council (Council) proposes to install a cycleway connecting Centennial Park and Moore Park Trust's Oxford Street Cycleway and Pedestrian Path with the Bourke Street Separated Cycleway (the project) in the Sydney Local Government Area (LGA). The project will primarily involve constructing a two-way separated cycleway along Moore Park Road. The design of the project is attached in Appendix A and the project area that covers the extent of proposed works is shown in Figure 1.1.

EMM Consulting Pty Limited (EMM) has prepared an Aboriginal and historical due diligence assessment to support a review of environmental factors (REF) for the project. The main aims of the assessment were to:

- determine if Aboriginal objects, Aboriginal places or statutory listed historical heritage items will be impacted by the project;
- determine if further assessment or permits are required prior to project construction.

1.2 Description of the project

1.2.1 Overview

The project will provide a safe route for bike riders between Bondi Junction and the City. It will extend along Moore Park Road and a short section of Fitzroy Street connecting with existing cycleways at the northern edge of Centennial Park (Oxford Street) and Bourke Street in the City. The works will be undertaken in accordance with all relevant City of Sydney policies and specifications

1.2.2 Project details

i Cycleway works

- A two-way cycleway is proposed on the south side of Moore Park Road, between Lang Road and South Dowling Street;
- the existing marked bike lanes are currently on each side of the road. This space will be consolidated to the south side and the protection provided by a separated cycle facility will provide a higher level of safety for bike riders. The existing traffic and parking lanes and planted median will be shifted north;
- the cycleway in front of the stadium (between Driver Avenue and Poate Road) will be at the same level as the footpath so that during an event, the cycleway can be closed and provide more footpath space for pedestrians. An alternative route has been proposed during special events;
- the cycleway will occupy the footpath at Fitzroy Street between Anzac Parade and South Dowling Street; and
- the cycleway crossings at signalised and un-signalised intersections will be improved, to provide a safer crossing point for people both walking and cycling.

ii Adjusted traffic signals

- In order to allow people to continue cycling through signalised intersections without dismounting, bicycle lanterns are proposed on existing traffic signals along the route. This will provide bike riders a safe phase within the signal sequence to cross concurrently with pedestrian movements;
- the existing slip lane at the intersection of Fitzroy Street and South Dowling Street will be signalised, to provide a safer crossing for people walking and riding; and
- the existing slip lane at the intersection of Lang Road and Moore Park Road will be removed and an additional left-only traffic lane will be provided instead. This will improve safety at this intersection, and enable a bus stop upgrade.

iii Footpath works

- To improve amenity and safety, the footpath will be widened at Anzac Parade, Oatley Road, Regent Street, Poate Road, Gordon Street and Lang Road;
- to provide space for the cycleway, the footpath will be realigned up to 0.8 m into Moore Park between Anzac Parade and Driver Avenue. The Eastern Distributor tunnel exit along this section prevents this space being harvested from the road. Three Box Brush street trees will require removal. Furthermore, no Moore Park trees will be affected. The proposed design is supported by the Centennial Parklands Trust, and consistent with its masterplan currently on exhibition;
- a larger pedestrian island for people walking and riding will be provided at the intersection of South Dowling and Fitzroy Streets;
- the existing footpath in Moore Park around the Korean War Memorial will be realigned and widened along with new lighting and planting;
- a new bend-out cycleway intersection is proposed at Poate Road to slow vehicles down and provide a safer environment for pedestrian and cyclists; and
- footpaths from Poate Road to South Dowling will be improved with new verge landscaping, to provide better amenity for people walking with the existing footpath and verge retained from Lang Road to Poate Road.

iv Bus Stops

- The existing bus stop on Moore Park Road near Lang Road will be relocated and a new footpath area will be provided for people getting on and off the bus; and
- a shuttle bus stop for the new UTS Moore Park Precinct and Australian Rugby Development Centre will be provided close to the new campus. A setdown area will be provided at the bus stop.

v Parking

No parking will be removed as part of this project. There may be temporary parking loss during construction.

vi Lighting improvement works

- Lighting will be upgraded as required to meet relevant Australian standards at the following intersections:
 - the intersection of Albion Street and Flinders Street; and
 - the intersection of Anzac Parade/Flinders Street and Moore Park Road.
- lighting along the pedestrian crossing on the slip lane at Fitzroy Street and South Dowling Street will be upgraded as required to ensure a compliant level of lighting; and
- lighting will be improved along the upgraded footpath around the Korean War Memorial in consultation with the Centennial Park and Moore Park Trust.

vii Stormwater renewal works

The project will also include stormwater renewal works along Moore Park Road in between Oatley and Gordon Street/Cook Road to address overflow issues in the area. Proposed stormwater renewal works and connections will meet City of Sydney and Sydney Water requirements as applicable.

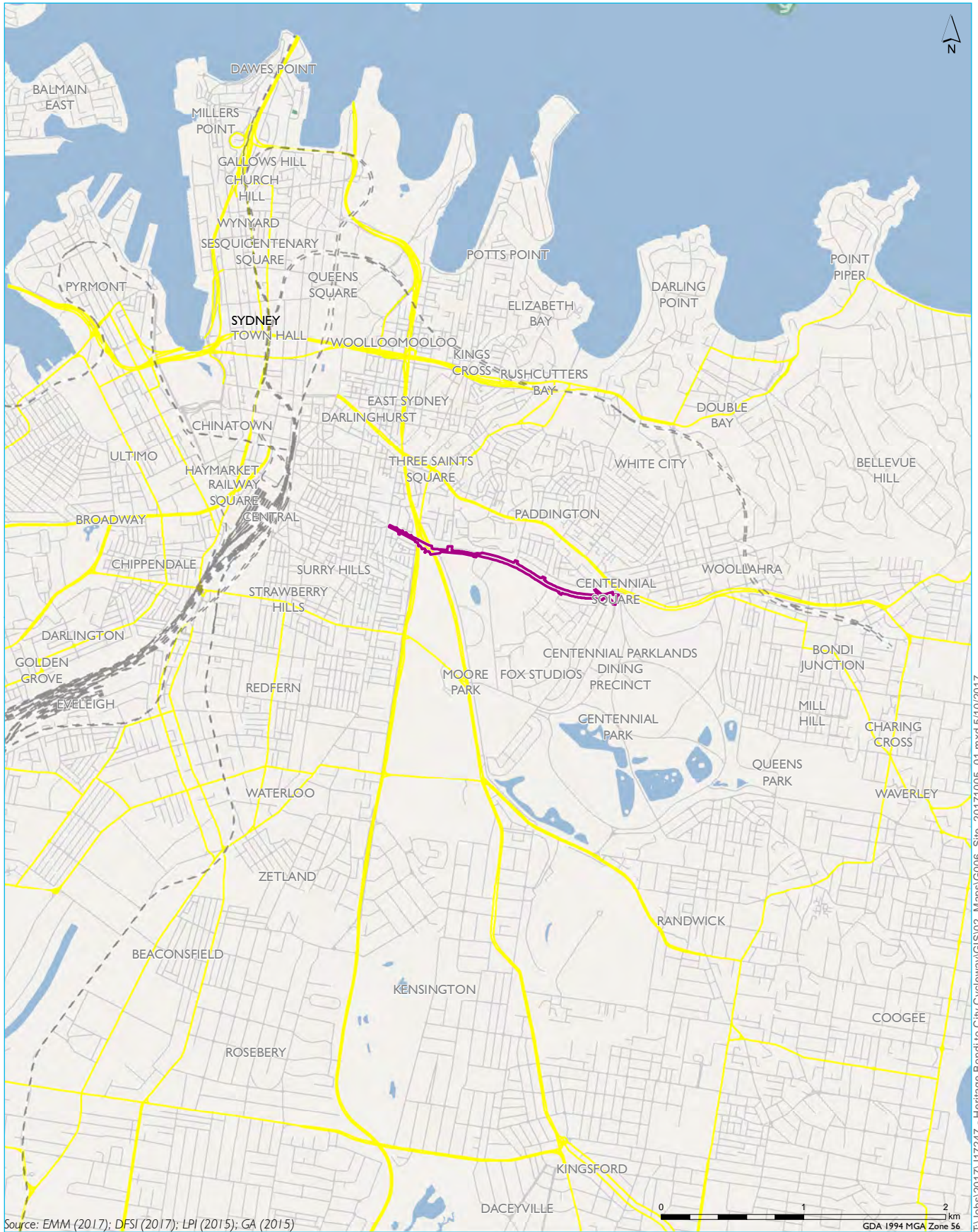
1.3 Construction activities

Construction works will include, but are not limited to, works to upgrade the existing roadway, paving and footpath, curbs, road crossings, parking arrangements, street tree and garden bed planting, and signage to fulfil design and safety requirements. Construction of the stormwater renewal works will be completed within existing stormwater trenches. However, if further ground disturbance of intact soil is required, further consideration may be required.

A number of palm trees along the Moore Park Road central median strip will be removed as part of the realignment of the median strip. Council propose to relocate the affected palms back into the modified central median following major construction.

The cycleway will be constructed of asphalt with the surfaces being delineated though colour treatments and line marking. The materials will reflect the local character and be made up of concrete for the footpath and shared zones, while the cycleway will (as per the entire cycleway to which it connects) be constructed from asphalt. Existing lighting signs and poles will be retained where possible and removed where safe access is required for pedestrians and cyclists. The redevelopment of the Sydney Football Stadium may impact on the construction of the cycleway.

Pedestrian access will be maintained on the southern side of Moore Park Road and Fitzroy Street at all times throughout construction.



KEY

- Project area
- Rail line
- Main road
- Local road
- Waterbody

Project area

Bondi Junction to City cycleway
Aboriginal and historical
due diligence assessment

Figure 1.1

1.4 Legislative overview

1.4.1 Environmental Planning and Assessment Act 1979

The determining authority is Council. Council has the duty to consider the environmental impacts of the project under Section 5.5 of the NSW *Environmental Planning and Assessment Act 1979*, as at 1 July 2018 (EP&A Act). This due diligence assessment forms an appendix to the REF for the project.

1.4.2 Aboriginal heritage

Aboriginal objects and places are protected in New South Wales (NSW) under Part 6 of the NSW *National Parks and Wildlife Act 1974* (NPW Act). Section 90 of the NPW Act requires an Aboriginal heritage impact permit (AHIP) for harm to an Aboriginal object or Aboriginal place. Significant penalties are in place for harm to Aboriginal objects or places or regardless of whether the harm was committed knowingly or not. Defences against prosecution include impacts in compliance with an AHIP, acting in accordance with specified codes of practice or the conduct of certain low impact activities.

The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (due diligence guidelines) (DECCW 2010) provide a generic code of practice used to determine whether activities will harm an Aboriginal object and, if so, what measures can be taken to avoid that harm. A summary of the due diligence process is shown in Figure 1.2. If the due diligence assessment determines that Aboriginal objects or places are likely to be harmed, an AHIP is required to manage harm as defined by Part 6, Section 86 of the NPW Act.

1.4.3 Historical heritage

Listing on statutory registers provides legal protection for heritage items. In NSW, the *Heritage Act 1977* (the Heritage Act), and the *Environmental Planning and Assessment Act* (EP&A Act) are the primary statutory controls protecting historical heritage and archaeology within NSW. The State Heritage Register (SHR), the Section 170 registers, and heritage schedules of Local Environmental Plans LEPs have varying degrees of legal obligation. Places on the National Heritage List and the Commonwealth Heritage List are protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Register of the National Estate became a non-statutory register when the EPBC Act was gazetted.

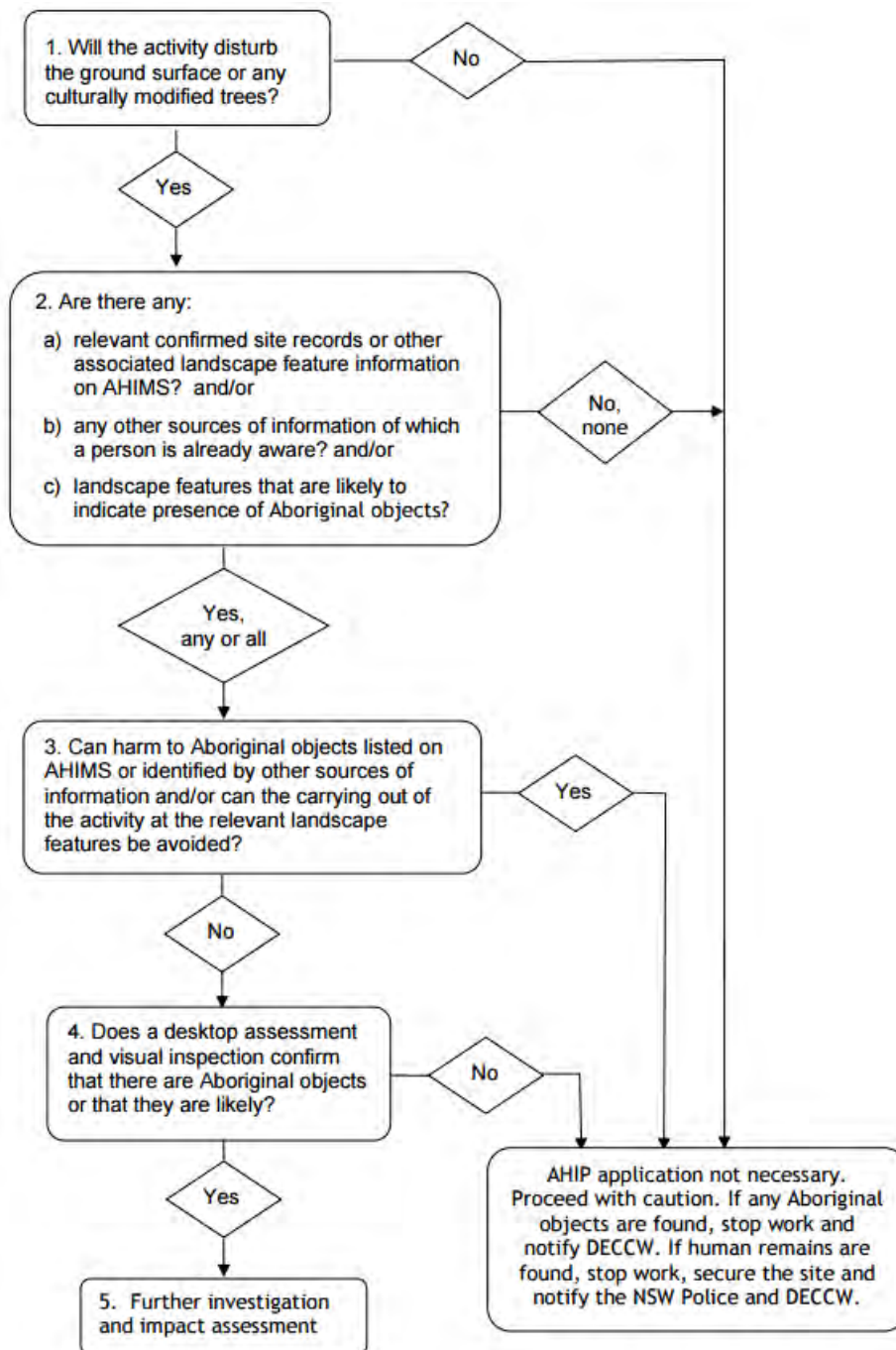


Figure 1.2 Due diligence process summary (source: due diligence guidelines (DECCW 2010))

1.5 Assessment methods

1.5.1 Aboriginal heritage

This report follows the due diligence guidelines. In summary, the assessment involved:

- a search of the Aboriginal Heritage Information System (AHIMS) database on 19 September 2017;
- consideration of existing Aboriginal cultural heritage studies in the area and region for the presence of Aboriginal objects or places;
- consideration of the environmental context for the presence of Aboriginal objects or places;
- a site inspection project area by an EMM archaeologist to identify any Aboriginal objects or areas of potential archaeological deposit (PAD); and
- determination of whether further heritage investigation and impact assessment is required.

Table 1.1 describes the basic steps of a due diligence assessment as set out in Section 8 of the due diligence guidelines (refer Figure 1.2). It also provides an overview of the assessment results in accordance with these steps and lists the section(s) in the report where each of these is addressed in full.

Table 1.1 Due diligence summary

Step	Results	Section in this report
STEP 1: Check for records of Aboriginal objects and places in area of proposed activity.	No Aboriginal objects have been recorded in the project area.	Section 2.1.2
STEP 2: Is the activity a 'Low Impact Activity', as defined in the National Parks and Wildlife Regulation?	The project is not a low impact activity.	Section 1.2
STEP 3: Are there any landscape features on undisturbed land that are likely to indicate the presence of Aboriginal objects?	The landscape is modified and highly disturbed. As such, the presence of Aboriginal objects is unlikely.	Section 2.1.1
STEP 4: Does a desktop assessment and visual inspection confirm that there are Aboriginal objects present or likely to be present?	Desktop assessment and a site inspection confirm that the project area is highly disturbed and therefore the presence of Aboriginal objects is unlikely.	Sections 2.1 and Chapter 3
STEP 5: Can the activity be relocated away from the known/likely area for Aboriginal objects?	Not applicable.	Not applicable.
STEP 6: Commence investigation for an Aboriginal heritage impact permit (AHIP).	Not applicable.	Not applicable.

1.5.2 Historical heritage

The purpose of the historical due diligence assessment was to identify historical heritage items and determine whether further assessment and/or permits are required. As such, the assessment has involved:

- Searches of statutory heritage registers;
- background research for an historical overview;
- a site inspection;
- a summary impact assessment; and
- recommendations for the potentially affected heritage items.

2 Existing environment

2.1 Aboriginal heritage

2.1.1 Landscape context

The purpose of reviewing the landscape context of the project footprint is to identify the likelihood of Aboriginal objects being deposited or preserved, in the context of historical and natural site disturbance processes.

The project area was originally part of the territory of the Gadigal Aboriginal group. It lies at the head of the Botany Bay catchment area within a Quaternary sand landscape characterised by gently undulating coastal dune fields (eSPADE 2017). Prior to historic land clearing, the vegetation was dry sclerophyll tall open woodland. Timber clearance led to problems with erosion by the mid nineteenth century.

The project area is now characterised by intensive development related to the construction of paths, roads and parklands. This has involved extensive ground disturbance within the limits of previous excavation for these developments. Any Aboriginal objects originally within the project area are likely to have been removed as a result of activities. Further details of current land use and disturbance are described in the site inspection results in Chapter 3.

2.1.2 Database searches.

Searches were made of the following databases on 12 September 2017:

- the Aboriginal Heritage Management System (AHIMS);
- the Aboriginal places register via NSW State Heritage Register (SHR);
- schedule 5 of the City of Sydney's Local Environment plan (LEP); and
- the Native Title Vision website.

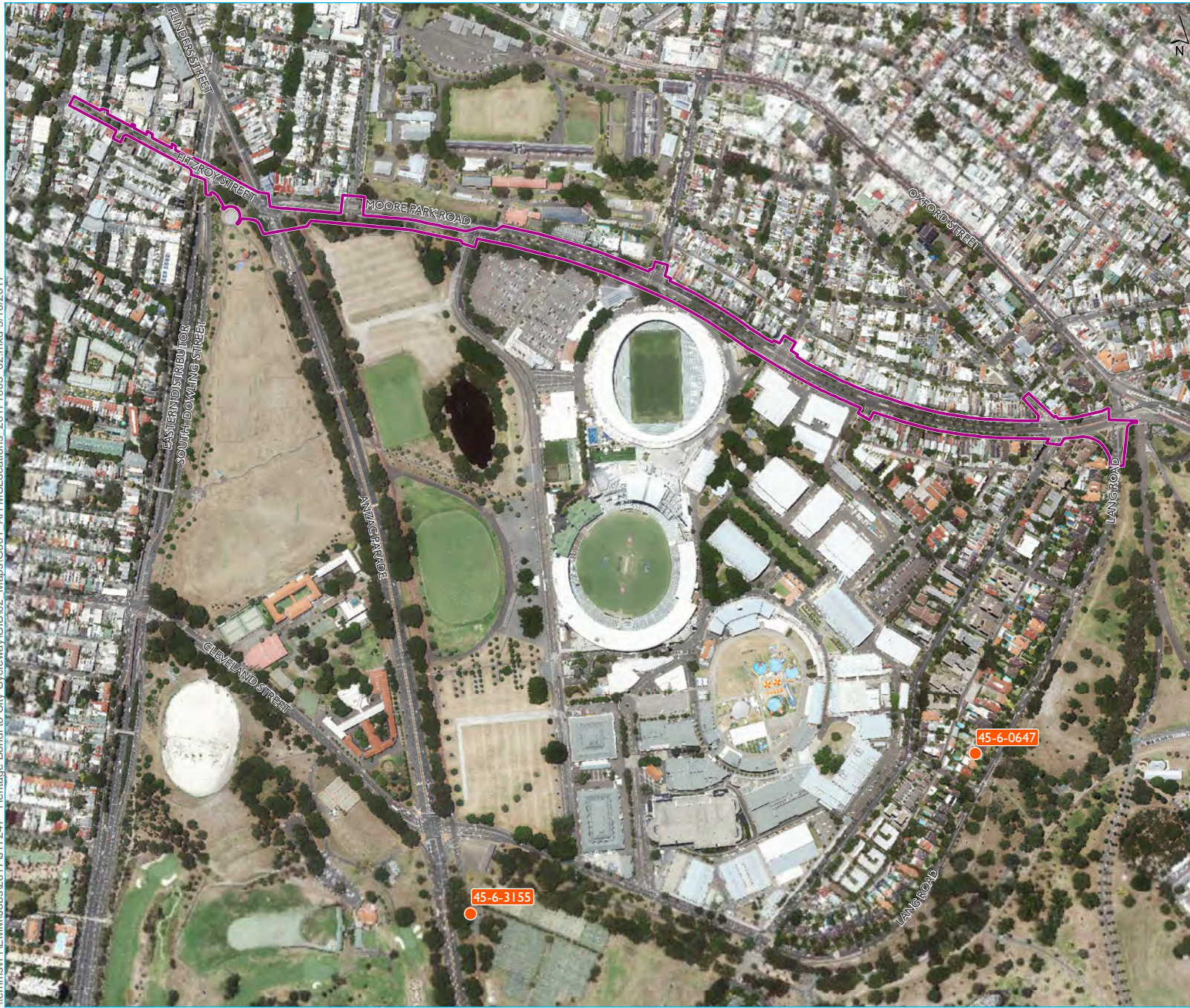
An AHIMS search for an area with a radius of 1 km around the project area identified two sites within the search area (Figure 2.1). Neither of these Aboriginal sites is within the project area. No impacts are anticipated to known Aboriginal sites from the project.

Table 2.1 AHIMS sites

Site ID	Site type	Status
45-6-0647	Rock engraving	destroyed
45-6-3155	Artefacts	destroyed

A search of the Aboriginal places register confirmed that none are situated in or within the vicinity of the project area. No impacts are anticipated to known Aboriginal places from the project.

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KEY
 ● AHIMS site
 □ Project area

AHIMS sites

Bondi Junction to City cycleway
Aboriginal and historical
due diligence assessment

Figure 2.1

Source: EMM (2017); DFSI (2017)

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 GDA 1994 MGA Zone 56



Searches of the Native Vision GIS system on the www.nntt.gov.au website found that none of the project area is subject to any registered native title claims, Indigenous Land Use Agreements (ILUAs), or joint management arrangements.

2.1.3 Previous Aboriginal heritage investigations

The following relevant Aboriginal heritage investigations have been reviewed to determine if Aboriginal objects have been recorded on similar landscapes in the local area and the potential for Aboriginal sites to exist within the project area.

In 2013 Godden Mackay Logan (GML) conducted an assessment for the CBD and South Light Rail Environment Impact Statement (GML 2013). They identified a number of potential archaeological deposits (PADs) in the project footprint and made the following predictions that are pertinent to the project area:

- Aboriginal objects may be present in historical archaeological stratigraphic layers;
- remnant Aboriginal archaeological deposits may survive in small pockets of remnant natural soils;
- given the likely depth of Botany sands within the Moore Park precinct, it is possible that intact soil profiles, which would have the potential for Aboriginal archaeological objects such as hearths or stone artefacts, remain below the modern disturbance; and
- if the pH is close to neutral or within anaerobic/waterlogged conditions, organic remains such as middens or burials may be present.

GML noted that archaeological test excavation would be required to confirm these predictions in key locations.

Australian Museum Business Services (AMBS 2002) assessed pre-colonial Aboriginal land and resource-use in Centennial, Moore and Queen's Parks. They concluded that there is some potential for Aboriginal sites to survive at depth below areas of disturbance and that any buried archaeological evidence would be most likely small scale artefact scatters, isolated artefacts, hearths and pounding/grinding stones. However further work was need to assess the full extent of the impact of disturbance on potential archaeological deposits.

GML and Austral Archaeology (1997) undertook a program of archaeological test pitting along the western edge of Moore Park as part of early works for the Eastern Distributor. Test pits were dug to 2.2 m. They found fill between 40–150 cm and no evidence of Aboriginal occupation.

The only case of Aboriginal artefacts being identified near the project area is a campsite beneath the car park of the Moore Park Tennis Centre which was discovered in 2014 (AHIMS 45-6-3155). It consisted of the remains of dune sands containing a small number of stone artefacts (Sydney Barani website).

2.2 Historical heritage

2.2.1 Historical overview

Centennial Parklands is part of land originally designated as Sydney Common in 1811. In 1820 a water reserve was set aside to the east of Sydney Common and between 1827 and 1838 Lachlan's Water Tunnel (Busby's Bore) was built, using convict labour, to provide fresh water to a terminal in Hyde Park (SHR 01384). The 'Bore' was approximately 5.5 foot (1.65 m) high, 4.5 foot (1.35 m) wide and extended for 12,000 feet (approximately 4 km). Shafts and wells were tapped into the bore, of which 28 have been located, including two in Victoria Barracks, opposite the project area (Sydney Water 2005).

A Permanent Conservation Order applies to the section of the Bore between Centennial Park and College Street. This includes the project area (DP205794/Lot 1 and DP 752011/Lot 1528). Busby's Bore has a heritage curtilage of 3 m from all surfaces of the horizontal channel of the bore itself and 3 m from all surfaces of all the vertical shafts, offset shafts and structures associated with it (SHR 00568).

In 1866 Sydney City Council dedicated the north-west section of Sydney Common as Moore Park for public recreation. Since then, the original topography of the project area has been modified by roads and modern development. Aerial photography shows that in 1943 there was little to no vegetation along the south side of Moore Park Road (SIX maps imagery).

2.2.2 Statutory register searches

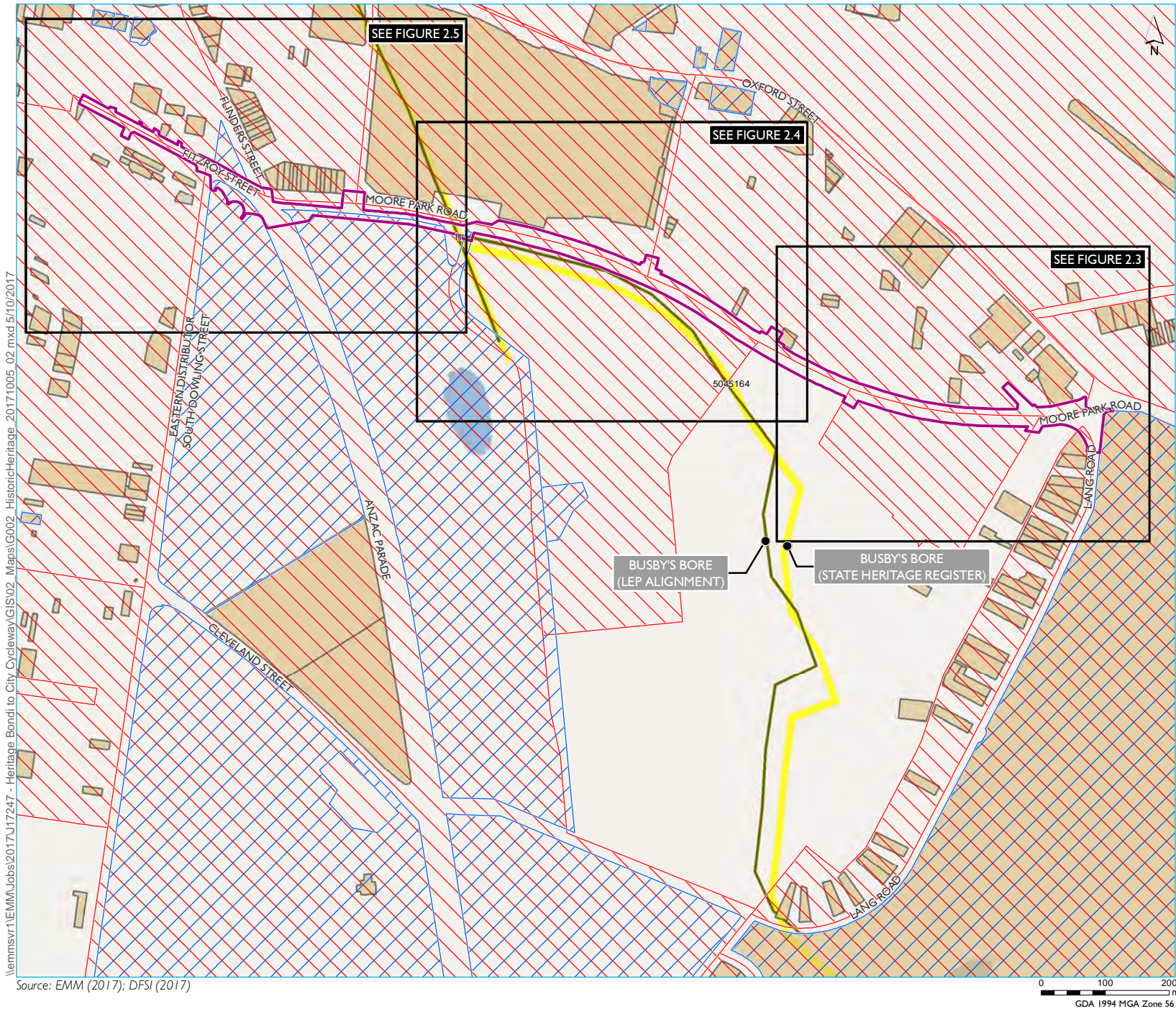
Searches were made of the following databases on 12 September 2017:

- The National Heritage List (NHL);
- The Commonwealth Heritage List (CHL);
- The State Heritage Register (SHR);
- Schedule 5 of the City of Sydney Local Environment Plan (LEP); and
- The Register of the National Estate (RNE, non-statutory).

The results of the register searches are listed in Table 2.2 and illustrated on Figures 2.2–2.5.

Table 2.2 Register search for items within the project area

Register	Register listing
National Heritage List (NHL)	The land within the project area is not listed on the NHL.
Commonwealth Heritage List (CHL)	The land within the project area is not listed on the CHL.
State Heritage Register (SHR)	00568 – Busby’s Bore, Centennial Park to College St, Surry Hills. This item intersects with the cycleway near the junction of Moore Park Road and Driver Avenue. 01384 Centennial Park, Moore Park, Queens Park. Parts of the project area are within the north-western curtilage of Moore Park.
City of Sydney LEP (2012)	Item 1 – Busby’s Bore, including tunnels, shafts and wells. Conservation Area C6 – Furber Road Conservation Area C7 – Lang Road Conservation Area C36 – Moore Park Conservation Area C37 – Sydney Cricket Ground Conservation Area C48 – Paddington South Conservation Area C49 – Victoria Barracks Conservation Area C59 – Bourke Street North Conservation Area 60 – Moore Park
Register of the National Estate (RNE, non-statutory)	1795 – Busby’s Bore or The Tunnel, Oxford St, Sydney.



- KEY**
- Project area
 - State Heritage Act
 - Conservation Area - general
 - Busby's Bore (State Heritage Register)
 - Item - general
 - Waterbody

Overview of heritage listings

Bondi Junction to City cycleway
Aboriginal and historical
due diligence assessment

Figure 2.2

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Source: EMM (2017); DFSI (2017)

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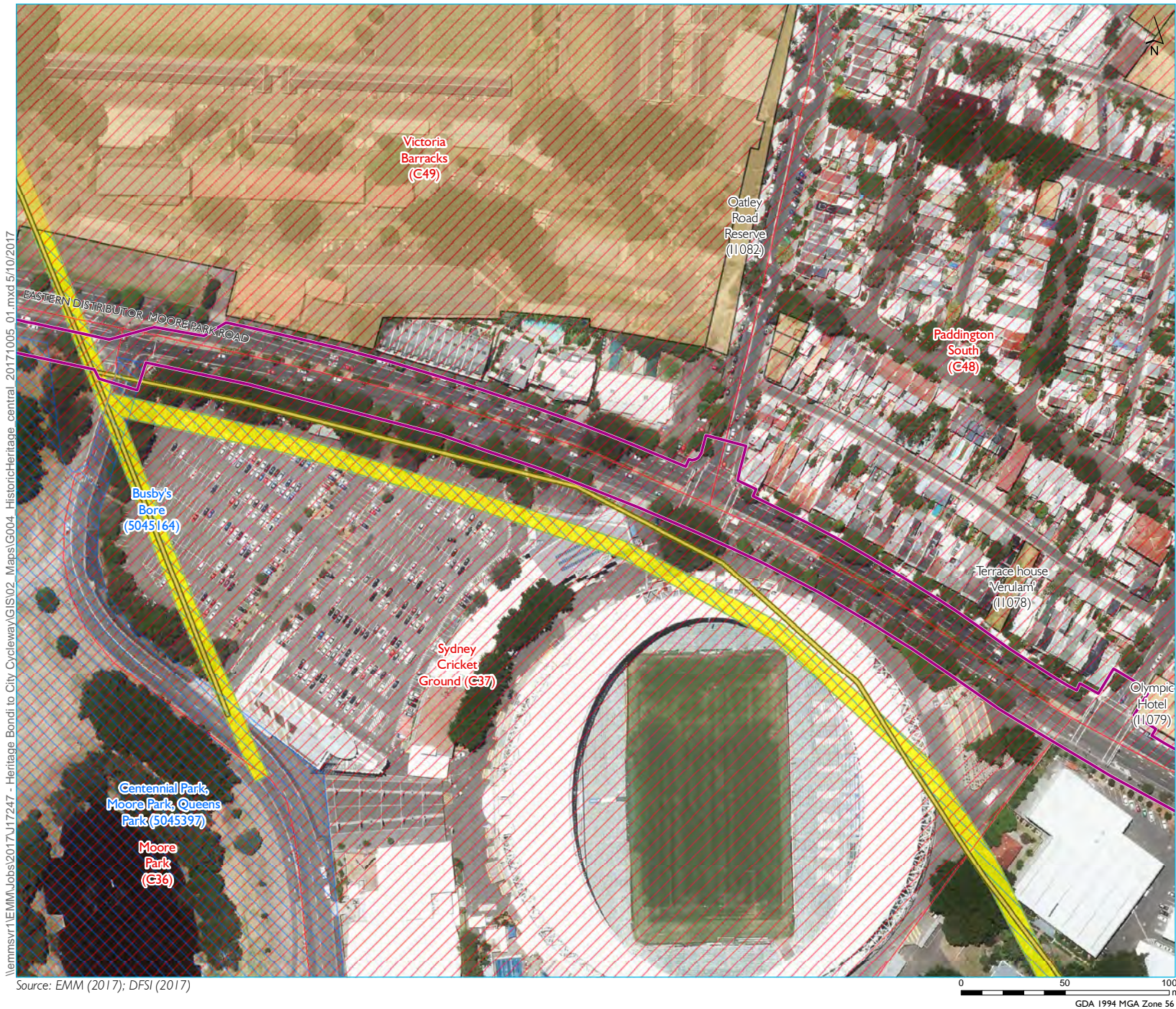
- KEY**
- Project area
 - Busby's Bore (State Heritage Register)
 - Conservation Area - General
 - State Heritage Act
 - Item - general

Heritage listings (east)

Bondi Junction to City cycleway
Aboriginal and historical
due diligence assessment

Figure 2.3





- KEY**
- Project area
 - Busby's Bore (State Heritage Register)
 - Conservation Area - General
 - State Heritage Act
 - Item - general

Heritage listings (centre)

Bondi Junction to City cycleway
Aboriginal and historical
due diligence assessment

Figure 2.4



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Source: EMM (2017); DFSI (2017)

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GDA 1994 MGA Zone 56



- KEY**
- Project area
 - Busby's Bore (State Heritage Register)
 - Conservation Area - General
 - State Heritage Act
 - Item - general

Heritage listings (west)

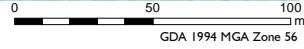
Bondi Junction to City cycleway
Aboriginal and historical
due diligence assessment

Figure 2.5



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Source: EMM (2017); DFSI (2017)



3 Site inspection

3.1 General

Pamela Chauvel (Archaeologist EMM) inspected the project area on 19 September 2017 in order to identify areas of archaeological potential or items of heritage interest. The inspection began at the corner of Moore Park Road and Oxford Street, the easternmost point of the project area and continued west along the southern side of Moore Park Road, following the route of the proposed cycleway, to the corner of Fitzroy Street and Bourke Street (Plate 3.11).

The project area slopes gently from east to west from Centennial Park to Oatley Road where it levels out before rising again towards Anzac Parade. From there it undulates and then rises more steeply along Fitzroy Street towards Bourke Street.

Ground surface visibility within the project area was poor, being mostly covered with a bitumen surface on roads and footpaths. Between Centennial Park and Poate Road there was a narrow (approximately 1 m) wide grassed verge between the road curb and bitumen footpath (Plate 3.1), but the footpath along the remainder of the route was completely surfaced with bitumen between the road curb and fences. The road curbs were all of concrete material and no historical sandstone curb material was observed during the site inspection.

No Aboriginal objects were identified during survey. The entirety of the project area is within a modified landscape.

3.2 Items of heritage interest

The site inspection focused on identifying historical items within the vicinity of the project footprint. These items were photographed and are discussed below.

The project will involve the removal and relocation of a number of palm trees along sections of the median strip on Moore Park Road (Plate 3.2 and Plate 3.3). These trees are well-established and contribute to the streetscape of Moore Park Road within their respective conservation areas.

The underground alignment of Busby's Bore intersects with the project area between Oatley Road and Driver Avenue. Construction works for the Australian Rugby Development Centre are currently occurring directly above Busby's Bore (Plate 3.4). Immediately to the west of Driver Avenue, there is a T-junction in the surface curtilage of Busby's Bore and it heads north-west across Moore Park Road (Plate 3.6). No features of Busby's Bore were visible as it is an underground structure.

Chain-linked bollards will be retained at the west of the corner of Moore Park Road and Driver Avenue (Plate 3.5) and to the north of the Korean War Memorial (Plate 3.9).

Other items of interest include sandstone columns related to the entrance and fencing of Moore Park (Plate 3.7, Plate 3.8 and Plate 3.10). These items will have new asphalt their bases but will not be physically impacted by the project. A small alignment of sandstone blocks around a garden bed near the corner of South Dowling Street and Fitzroy Street will be retained (Plate 3.10).



Plate 3.1 Moore Park Rd between Centennial Park and Poate Road. Example of a small grass verge beside bitumen footpath (view west) that will form the cycleway



Plate 3.2 Example of palm trees requiring removal and relocation along a median strip of Moore Park Road (view east towards Centennial Park)



Plate 3.3 Example of palm tree to be relocated along median strip of Moore Park Road (view north)



Plate 3.4 Location above the alignment of Busby's Bore showing current construction zone (view west)



Plate 3.5 Corner of Driver Avenue and Moore Park Road. Bollards will be retained (view west)



Plate 3.6 Corner of Driver Avenue and Moore Park Road where the underground alignment of Busby's Bore occurs (view east)



Plate 3.7 Sandstone pier (marked by red arrow) marking the end of a bollard fence (view east)



Plate 3.8 Example of the easternmost Moore Park Gateway Piers (view south)



Plate 3.9 Bollards near the Korean War Memorial that will be retained (view west)



Plate 3.10 The western-most Moore Park Gateway piers (left) and the sandstone garden wall that will be retained (shown by red arrow) near the Korean War Memorial (view north-east)



Plate 3.11 View from Bourke St looking east along Fitzroy Street, the easternmost point of the project area. Footpaths on both sides of Fitzroy St are currently shared bike and pedestrian zones

4 Potential impacts

4.1 Aboriginal heritage

Desktop assessment indicated that the project area exhibits landform elements, which if undisturbed, may have archaeological potential. However, review of the findings of previous reports, the historical background and a site inspection indicates that the project area has been highly disturbed and therefore has low archaeological potential. The width and depth of additional excavation required for the project is very likely to remain within the level of previous land use disturbance and therefore Aboriginal objects are unlikely to occur in this area.

It is likely that activities associated with the stormwater renewal works will remain within existing trenches or the highly disturbed soil directly surrounding it. However, if the works are anticipated to involve disturbance to intact soils then further investigation or impact assessment may be required.

4.2 Historical heritage

The potential impacts of the project on historical heritage are addressed in Table 4.1. The details of each of these items were reviewed on the State Heritage Inventory (SHI) to identify which of their aspects (if any) may be impacted by the project.

The project area is along the edges of eight conservation areas. Generally, the project will not adversely impact on the heritage significance or character of the streetscape because the proposed cycleway will be created along existing roads and paths. The removal and relocation of palm trees along the median strip of Moore Park Road will be a temporary visual impact during cycleway construction but it will not cause long-term impacts. Additional garden beds and plantings along the project area are encouraged according to the policy recommendations for relevant conservation areas. Overall the project is likely to have a neutral impact on the heritage conservation areas, with a temporary visual impact during construction.

The project enters the curtilage of two SHR listed heritage items: Moore Park and Busby's Bore. In July 2018, EMM conducted further assessment to more accurately map the Bore's horizontal and vertical channels so that a more reliable impact assessment could be made. Results of this assessment are included in Appendix **Error! Reference source not found.**

The additional heritage assessment tasks completed for the project indicate that impacts are not anticipated to heritage items in the vicinity. Provided that City of Sydney Council consults with The Centennial and Moore Park Trust and the works are undertaken in accordance with the endorsed management plan, the following recommendations can be made:

- The proposed works within the curtilage of Centennial Park, Moore Park, Queens Park (SHR #01384) comply with the site specific SHR exemptions for the item. No exemption notification under Section 57(2) of the Heritage Act is required for Heritage Division approval for the proposed works to proceed.
- The proposed works are very unlikely to be within the heritage curtilage of Busby's Bore (SHR #00568). Therefore no standard exemption notification under Section 57(2) of the Heritage Act is required for the proposed works to proceed.

Table 4.1 Register search for items within the project area

Register	Register listing	Overview of significant features relevant to the project	Potential Impacts
National Heritage List (NHL)	The land within the project area is not listed on the NHL.	Not applicable.	Not applicable
Commonwealth Heritage List (CHL)	The land within the project area is not listed on the CHL.	Not applicable.	Not applicable
State Heritage Register (SHR)	00568 – Busby’s Bore, Centennial Park to College St, Surry Hills. This item intersects with the cycleway near the junction of Moore Park Road and Driver Avenue.	Water supply tunnel from Centennial Park to Hyde Park. Built 1827–1837.	It is conservatively estimated that the proposed works are over 13 m from the nearest vertical shaft. The 1892 plan indicates that the horizontal channel of the bore is approximately 38 feet (116 m) below the ground surface. Proposed works will be less than 1 m. See Appendix C for the relevant maps and plan. As such, impacts are very unlikely.
	01384 Centennial Park, Moore Park, Queens Park. Parts of the project area are within the north-western curtilage of Moore Park.	The curtilage of Moore Park where it intersects with the project is part of the greater Centennial Parklands which is a unique place of exceptional National, State and Local heritage significance. It is a grand, linked open space of largely nineteenth-century landscape design intended for social and physical activity.	The project will involve minor changes within the northern boundary of the SHR curtilage. Originally planned changes to the Korean War Memorial will no longer take place.
City of Sydney LEP (2012)	Item 1 – Busby’s Bore, including tunnels, shafts and wells. Conservation Area C6 – Furber Road	Refer to SHR listing above. The significance of Moore Park Road within this conservation areas is quoted from the SHI as follows: “Southern side only from Poate Road to Cook Road: very intact very few intrusions. Predominant character: Two storey grand Federation era terraces and semi-detached houses, largely intact. Detracting elements: high front fences to Moore Park Road, 1st floor balcony enclosures to facades to Moore Park Road, and the post war residential flat building at 59 Moore Park Road. Street Rating: A”	Refer to SHR listing above The palm trees subject to removal and relocation are not specifically referred to as significant features of the conservation area. However, the policy recommendations to enhance the significance of the conservation areas include maintaining street plantings to unify street scapes. Overall, the removal and relocation of the designated palm trees will cause a temporary visual impact to the streetscape. Other changes relate to the cycleway construction and will only occur on existing paths or roads. As such impacts will be minor to negligible.

Table 4.1 Register search for items within the project area

Register	Register listing	Overview of significant features relevant to the project	Potential Impacts
	Conservation Area C7 – Lang Road	Main significance is associated with residences and their setting adjacent to Centennial Park.	<p>No significant features will be impacted.</p> <p>The project will only change the corner footpaths and road of Lang and Moore Park road. As stated in the policy recommendations for the heritage item, the proposed garden bed and trees are encouraged at street ends to reinforce landscape vistas.</p> <p>Other changes relate to the cycleway construction and will only occur on existing paths or roads. As such impacts will be minor to negligible.</p>
	Conservation Area C36 and C60 – Moore Park	Refer to SHR listing for the item.	Refer to SHR listing for the item
	Conservation Area C37 – Sydney Cricket Ground	Significance of this conservation area primarily relates to the cricket grounds and not necessarily Moore Park Road.	<p>The removal and relocation of palm trees would not impact the significance of the conservation area.</p> <p>Other changes relate to cycleway construction and will only occur on existing paths or roads. As such impacts will be minor to negligible.</p>
	Conservation Area C48 – Paddington South	The significance of Moore Park Road within this conservation area relates to the Victorian building developments that characterise the area.	<p>The palm trees subject to removal and relocation are not specifically referred to as significant features of the conservation area. However, the policy recommendations to enhance the significance of the conservation areas include maintaining street plantings to unify street scapes.</p> <p>Other changes relate to the cycleway construction and will only occur on existing paths or roads. As such impacts will be minor to negligible.</p>
	Conservation Area C49 – Victoria Barracks	The significance of the conservation area primarily relates to the complex of buildings to the north and not particularly Moore Park Road.	<p>The removal and relocation of palm trees would not impact the significance of the conservation area.</p> <p>Other changes relate to the cycleway construction and will only occur on existing paths or roads. As such impacts will be minor to negligible.</p>
	Conservation Area C59 – Bourke Street North	<p>Primary significance relates to Victorian era houses. The significance of Fitzroy Street is summarised as:</p> <p>“A street of Victorian character that is predominantly intact and contains a mixture of shops/residences and terraces. Subject to heavy traffic. New work should focus</p>	Proposed changes relate to the cycleway construction and will only occur on existing paths or roads. As such impacts will be minor to negligible.

Table 4.1 Register search for items within the project area

Register	Register listing	Overview of significant features relevant to the project	Potential Impacts
Register of the National Estate (RNE, non-statutory)	1795 – Busby’s Bore or The Tunnel, Oxford St, Sydney.	on reinstating balconies and restoring original elements. Dormers may be appropriate and should be considered on merit. Sections of sandstone curbing are present and should be maintained with missing sections rebuilt. Street Rating: A”.	Refer to SHR listing for details.

5 Recommendations

5.1 Aboriginal heritage

The following recommendations have been prepared to respond to the site conditions and current legislation and guidelines protecting Aboriginal cultural heritage:

- The nature and extent of ground disturbance activates associated with the stormwater renewal works must be resolved prior to excavation activities.
 - If the stormwater renewal works will be constructed within existing trenches and/or previously disturbed land, then no further investigation is required.
 - If the stormwater renewal works will involve ground disturbance intact soils (soils not previously disturbed) then further investigation and assessment is required to determine if Aboriginal objects will be harmed by the activity.
- No further assessment is required for the remaining project activities and it can proceed with caution in the project area.
- Aboriginal objects and places remain protected under the NPW Act. Considering this, all workers (including contractors) should be made aware that it is illegal to harm an Aboriginal object, and if a potential Aboriginal object is encountered during activities associated with the project all work will cease in the immediate vicinity of the item and a qualified heritage professional will be contacted for advice.
- In the event that known or suspected human skeletal remains are encountered during the activity, the following procedure will be followed:
 - all work in the immediate vicinity will cease and the find will be immediately reported to the work supervisor who will immediately advise the Environment Manager or other nominated senior staff member;
 - the Environment Manager or other nominated senior staff member will promptly notify the police and the state coroner (as required for all human remains discoveries);
 - the Environment Manager or other nominated senior staff member will contact OEH for advice on identification of the skeletal material;
 - if it is determined that the skeletal material is Aboriginal ancestral remains, the Local Aboriginal Land Council will be contacted and consultative arrangements will be made to discuss ongoing care of the remains; and
 - if it is determined that the skeletal material is not Aboriginal ancestral remains, further investigation will be conducted to determine if the remains represent a historical grave or if further involvement of the police is required.

5.2 Historical heritage

5.2.1 SHR items

No further heritage investigations or permits are required for the proposed works to proceed. However, significant historical archaeological remains are still protected under the Heritage Act through the operation of the 'relics' provisions in Sections 139–146 of the Heritage Act. If archaeological deposits are discovered during the works, all work must cease in the affected area(s) and the Heritage Division must be notified in accordance with Section 146 of the Heritage Act. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

5.2.2 LEP items

The project is unlikely to detract from the heritage significance of heritage conservation areas through which it traverses. Table 4.1 of this report should be considered as a summary statement of heritage impact that demonstrate impacts will be minor to negligible.

It is recommended that the design and materials used for the cycleway are in keeping with established cycleways in the City of Sydney Council LGA and that these are sympathetic to the heritage significance of the conservation areas.

References

Australian Museum Business Services (AMBS), January 2002, *Pre-colonial Aboriginal land and resource use in Centennial, Moore and Queens Parks—assessment of historical and archaeological evidence for Centennial Parklands Conservation Management Plan*

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Appendix A

AHIMS search results

<u>SiteID</u>	<u>SiteName</u>	<u>Datum</u>	<u>Zone</u>	<u>Easting</u>	<u>Northing</u>	<u>Context</u>	<u>Site Status</u>	<u>SiteFeatures</u>	<u>SiteTypes</u>	<u>Reports</u>
45-6-0647	Centennial Park	AGD	56	336273	6247961	Open site	Valid	Art (Pigment or Engraved) :-	Rock Engraving	
	<u>Contact</u>	<u>Recorders</u>	ASRSYS					<u>Permits</u>		
45-6-3155	Moore Park AS1	GDA	56	335613	6247909	Open site	Destroyed	Artefact :-		
	<u>Contact</u>	<u>Recorders</u>	Artefact - Cultural Heritage Management ,Mr.Josh Symons,Mr.Alex Timms					<u>Permits</u>	4019	

Report generated by AHIMS Web Service on 12/09/2017 for Pamela Chauvel for the following area at Datum :GDA, Zone : 56, Eastings : 334214 - 337654, Northings : 6247656 - 6250032 with a Buffer of 50 meters. Additional Info : Report for client. Number of Aboriginal sites and Aboriginal objects found is 2

This information is not guaranteed to be free from error omission. Office of Environment and Heritage (NSW) and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omission.

Appendix B

Additional assessment for Moore Park and Busby's Bore



11 July 2018

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Re: Bondi Junction to City Cycleway: Additional heritage assessment and advice regarding State Heritage Register (SHR) items: Centennial Park, Moore Park, Queens Park (SHR #01384) and Busby's Bore (SHR #00568).

Dear Matthew

1 Background

City of Sydney Council (Council) proposes to install a cycleway connecting Centennial Park and Moore Park Trust's Oxford Street Cycleway and Pedestrian Path with the Bourke Street Separated Cycleway (the project) in the Sydney Local Government Area (LGA). The project will primarily involve constructing a two-way separated cycleway along Moore Park Road.

In November 2017, EMM Consulting Pty Limited (EMM) prepared an Aboriginal and historical due diligence assessment (heritage assessment) to support a review of environmental factors (REF) for the project. As part of the assessment outcomes, the report identified that the project may encroach upon the curtilages of two State Heritage Register (SHR) items: Centennial Park, Moore Park, Queens Park (SHR #01384) and Busby's Bore (SHR#00568). These heritage items are protected under the NSW *Heritage Act 1977* (Heritage Act).

The heritage assessment identified that although the project will involve works within the curtilage of Moore Park (part of SHR #01384) on its very northern boundary, it is unlikely to impact the heritage significance of the item. Moore Park is a place of exceptional National, State and Local heritage significance. It is a grand, linked open space of largely nineteenth-century landscape design intended for social and physical activity. EMM advised that further assessment was needed to confirm that the proposed works within the small area of SHR curtilage are exempt from requiring a Section 60 application to impact a SHR item in accordance with Section 57(2) of the Heritage Act.

The heritage assessment identified that the project will involve works above the alignment of Busby's Bore which is a water supply tunnel from Centennial Park to Hyde Park built 1827–1837. EMM determined that the project was unlikely to impact Busby's Bore, but further investigation was recommended to more accurately map the Bore's horizontal and vertical channels so that a more reliable impact assessment could be made.

2 Methods and results

2.1 Centennial Park, Moore Park, Queens Park (SHR #01384)

2.1.1 Aims and methods

The aim of the additional assessment was to verify if the proposed works within curtilage of Moore Park (part of SHR #01384) qualify as being exempt activities under Section 57(2) of the Heritage Act and if an exemption notification form is required to be submitted to the NSW Heritage Council via the Heritage Division, Office of Environment and Heritage (Heritage Division). Accordingly, EMM completed the following:

- review of the proposed works against the site specific exemptions set out in Schedule C of the SHR exemption criteria; and
- consultation with the Heritage Division to determine if an exemption notification form is required.

2.1.2 Results

Site specific exemptions apply to Centennial Park, Moore Park, Queens Park (SHR #01384) under Section 57(2) of the Heritage Act, and which are listed on the items SHR datasheet. EMM consulted the Heritage Division on 9 November 2017 to determine if an exemption notification was required for the proposed works. The Heritage Division advised that no exemption notification would be required if the proposed works follow the activities set out in Schedule C of the SHR exemption criteria.

The proposed works are reviewed against the relevant exemption criteria in Table 1. Many of the exemption criteria are linked to activities aimed to implement the *Centennial Parklands Plan of Management*. The Plan of Management (2006–2016) is in the process of being replaced by the *2018 And Beyond* document (in draft). Management objectives specific to Moore Park are detailed in the subsidiary document, *Moore Park Master Plan 2040* which identifies improved access for cyclists and pedestrians throughout the park, including along Moore Park Road, as a key priority.

The Centennial and Moore Park Trust (the Trust) is responsible for the long-term strategic planning of the Parkland, implementing the Plan of Management, as well as the day-to-day management of the three parks – Centennial Park, Moore Park and Queens Park. EMM understand that Council has consulted with the Trust (Geoff Reinhard – Manager, Planning) about the proposed works to ensure the design and materials of the project within the SHR curtilage are in keeping with the Plan of Management and other Trust policies.

Overall, Table 1 demonstrates that the proposed works fall under the SHR exemption criteria, assuming that the Trust agrees that the nature of the proposed works are to implement the Plan of Management and other Trust policies. Accordingly, no exemption notification form is required to be submitted to the NSW Heritage Council.

Table 1 Centennial Park, Moore Park, Queens Park (SHR #01384) Exemption evaluation

SHR Exemption Criteria	Relevant proposed works
4. Alteration of roads, pathways and fences:	
i) Closure, removal, alteration or construction of roads and pathways to implement the Plan of Management and other Trust policies.	The proposed works includes alterations and constructions of pathways to create the cycleway. Council has consulted with the Trust so that the proposed works are in keeping with the Plan of Management and other Trust policies. The proposed works fulfil this exemption criterion.
ii) Repair, removal and installation of fences to implement the Trust's policies	The proposed works includes the removal and installation of fences along Moore Park Road. None of these were identified as heritage items during the heritage assessment. Council has consulted with the Trust so that the proposed works are in

Table 1 Centennial Park, Moore Park, Queens Park (SHR #01384) Exemption evaluation

SHR Exemption Criteria	Relevant proposed works
	keeping with the Plan of Management and other Trust policies. The proposed works fulfil this exemption criterion.
iii) Parking management measures to implement the Trust's parking policies.	Not applicable
5. Management of lawns, sports fields, garden beds, hard landscaping and living collection	
i) Removal and replacement of existing plantings.	The proposed works will involve the removal of four trees along Moore Park Road at the very edge of the SHR curtilage between Anzac Parade and Driver Avenue. These trees were not identified to have heritage significance during the heritage assessment. Most trees will be retained, including all of the fig trees south of the proposed cycleway near the Korean War Memorial. Council has consulted with the Trust so that the proposed works are in keeping with the Plan of Management and other Trust policies. The proposed works fulfil this exemption criterion.
ii) Removal, construction or alteration of garden beds, hard landscaping and plantings to implement the Plan of Management and other policies for the parklands where the Trust is satisfied that the activity will not materially affect the heritage significance of the Parklands as a whole or the area in which they are to be undertaken.	The proposed works will involve landscaping. Importantly, the landscaping will not remove the sandstone garden bed wall located adjacent to the Moore Park Gateway piers near the Korean War Memorial. Council has consulted with the Trust so that the proposed works are in keeping with the Plan of Management and other Trust policies. The proposed works fulfil this exemption criterion.

2.2 Busby's Bore (SHR#00568)

The aim of the additional assessment was to determine if the project will potentially impact Busby's Bore. EMM completed the following tasks:

- interpretation of the historical plan of Busby's Bore (1892) provided by the Heritage Division using GIS to determine the current location and depth of the bore and the vertical shafts depicted on the plan; and
- review of the maximum depth of excavation proposed for the project in the vicinity of Busby's Bore;
- assessment of the project's potential to impact Busby's Bore; and
- determination if further assessment or approvals required for the proposed works above Busby's Bore.

2.2.1 Results

EMM consulted the Heritage Division on 9 November 2017 to determine if an exemption notification needed to be submitted for the proposed works. The Heritage Division advised that no exemption notification is required if the proposed works do not fall within the identified curtilage of the bore. The SHR curtilage for Busby's Bore is described as:

“All those pieces or parcels of land extending between Centennial Park and College Street, Sydney, along with a curtilage of three metres from all surfaces of the horizontal channel of the Bore itself and three metres from all surfaces of all the vertical shafts and offset shafts and structures associated with the Bore, as shown edged heavy black on the plan catalogued H.C. 1564 in the office of the Heritage Council of New South Wales.”

The general alignment of the bore and its curtilage is provided on GIS spatial data issued by the Heritage Division. However, the data does not show the location of the bore’s vertical shafts. To resolve this issue and measure the project’s distance from the nearest vertical shafts, the EMM GIS team superimposed the 1892 plan of the bore onto a current map using the ArcGIS geo-referencing tools (Figures 1 and 2). Using a conservative measurement (measuring from outer rim of the vertical shaft marked on the 1892 plan), the proposed works are over 13 m from the nearest shaft (Shaft No.8). A more realistic measurement taken from the centre point of the shaft marked on the 1892 plan indicates that the proposed works are over 20 m from Shaft No.8.

The 1892 plan also includes a vertical plan showing the depth of the horizontal channel of the bore along its entire alignment (Plate 1). The vertical plan indicates horizontal channel of the bore is approximately 38 ft (11.6 m) below the ground surface. The proposed works above the bore will involve excavation to a maximum depth of 0.8 m associated with pathway construction. As such, the proposed works will not impact the ground within the heritage curtilage of the bore.

3 Conclusion and recommendations

The additional heritage assessment tasks completed for the project indicate that impacts are not anticipated to heritage items in the vicinity. Provided that City of Sydney Council consults with The Centennial and Moore Park Trust and the works are undertaken in accordance with the endorsed management plan, the following recommendations can be made:

- The proposed works within the curtilage of Centennial Park, Moore Park, Queens Park (SHR #01384) comply with the site specific SHR exemptions for the item. No exemption notification under Section 57(2) of the Heritage Act is required for Heritage Division approval for the proposed works to proceed.
- The proposed works are very unlikely to be within the heritage curtilage of Busby's Bore (SHR #00568). Therefore no standard exemption notification under Section 57(2) of the Heritage Act is required for the proposed works to proceed.

No further heritage investigations or permits are required for the proposed works to proceed. However, significant historical archaeological remains are still protected under the Heritage Act through the operation of the ‘relics’ provisions in Sections 139–146 of the Heritage Act. If archaeological deposits are discovered during the works, all work must cease in the affected area(s) and the Heritage Division must be notified in accordance with Section 146 of the Heritage Act. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

4 Closing

I trust that this letter meets your requirements for works to proceed. Please do not hesitate to contact me on my details below.



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T:\Jobs\2017\17247 - Heritage Bondi - to City Cycleway\GIS02 - Maps\G007 - BusbysBoreLocation_20180710_02.mxd 16/07/2018



KEY

- █ Project area
- █ Busby's Bore alignment (State Heritage Act)

Project area

Geo-referenced 1892 plan of Busby's Bore

Figure 1

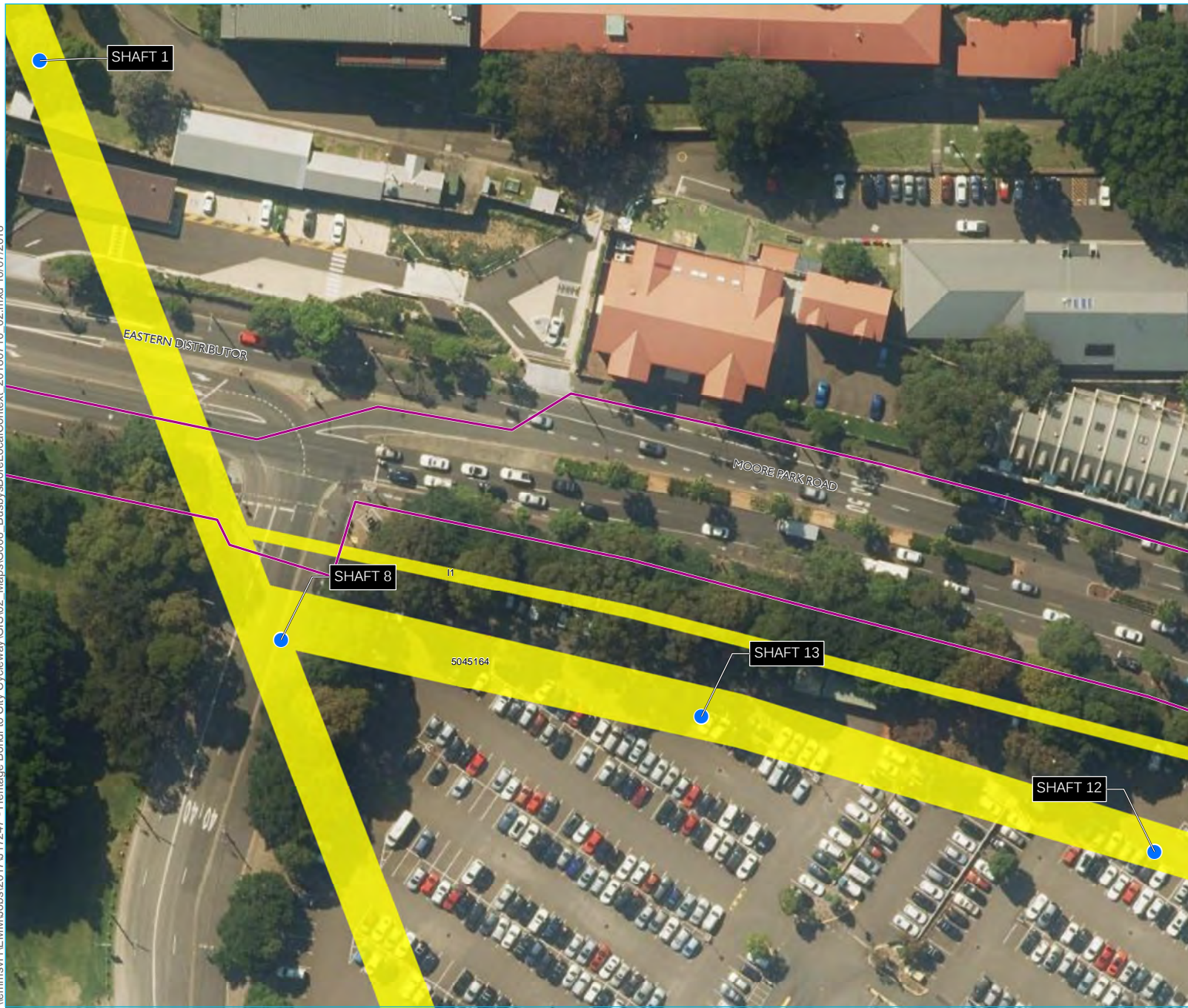


Source: EMM (2017); DFSI (2017)

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- KEY
- Indicative shaft location of Busby's Bore
 - ▭ Project area
 - Busby's Bore alignment (State Heritage Act)

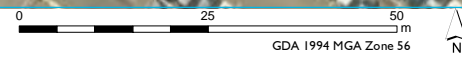
Local extent

Geo-referenced 1892 plan of Busby's Bore

Figure 2



Source: EMM (2017); DFSI (2017)



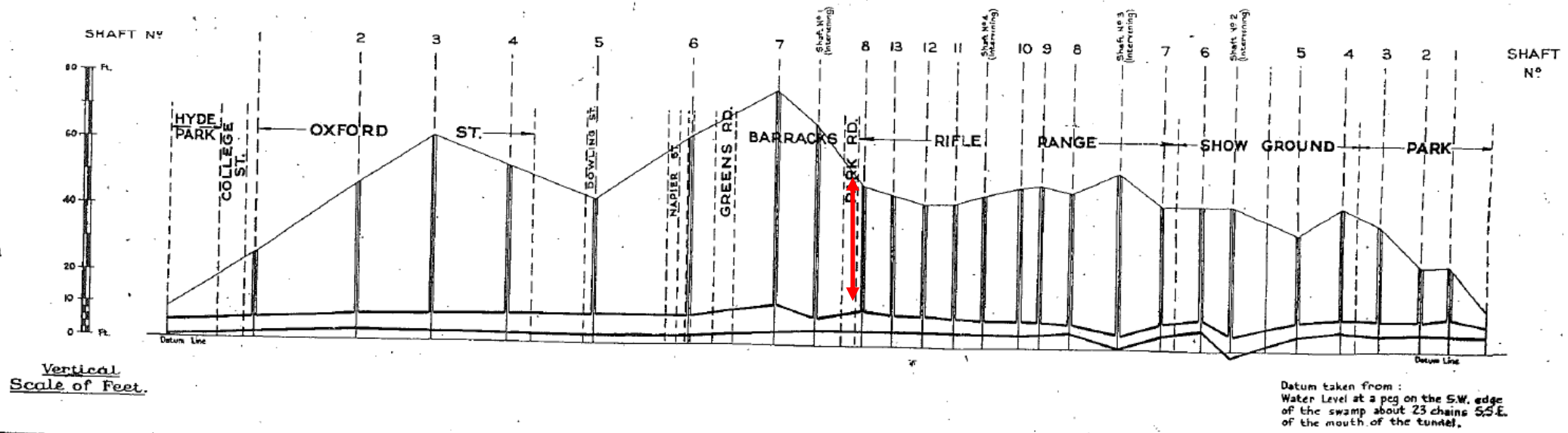


Plate 1 Vertical plan of Busby's Bore with red arrow inserted by EMM to show the location of the proposed works and the distance between ground level and the top of the vertical bore channel (source: Heritage Council NSW, Plan Number H.C 1564).

Appendix C

Community Engagement Report Summary

Engagement Report: Continued Operation and Use of the Moore Park Road and Fitzroy Street Pop-up Cycleways Review of Environmental Factors (REF)

Consultation summary

The City consulted local residents and businesses in surrounding streets. There were 450 letters sent advising that the REF was on exhibition.

The details of the proposal were available on the Sydney Your Say website with feedback able to be provided between 27 February 2023 and 28 March 2023 by mail or email. The website was visited 366 times.

A total of 35 submissions were received, 12 support the retention of the pop up cycle for up to three years and 23 oppose it.

There were submissions from BIKEast, UTS, Venues NSW and Rugby Australia. These submissions included comments that require ongoing stakeholder engagement.

Issues summary

Issue	Addressed in REF section	City of Sydney comment
The cycleway is unsafe	See REF Section 2	<p>The separated cycleway is much safer than the bike lanes on Moore Park Road.</p> <p>Between 2009 and 2019 there were an average of 2.3 crashes per year involving people riding on Moore Park Road bad enough to be reported to police, including a tragic fatality of a bike rider in March 2018. Over those ten years, Moore Park Road was the 9th worst road for bike crashes in our local government area.</p> <p>Following the pop-up cycleway's installation in 2020, our most recent figures (to 30 June 2022) indicate no bike crashes have been reported to the police.</p>
The cycleway is unsafe when events are on at the stadium	See REF Section 6.3.2	The cycleway is closed when events are on at the stadium.
The cycleway is under utilised	See REF Section 3.1	Currently there are around 390 bike trips on the Moore Park Road cycleway each day.
The cycleway has removed parking	See REF Section 3.1 and 6.3	<p>48 parking spaces in front of homes were reallocated to make space for the pop-up cycleway. Of the 66 dwellings, 43 of them have a total of 62 off-street parking spaces.</p> <p>There are still 129 spaces on the northern side of Moore Park Road (105 are 1P permit exempt and 24 are unrestricted), and a further 814 in the neighbouring streets (597 are 1P permit exempt and 112 are unrestricted). We believe there is sufficient parking in the area.</p>
The cycleway has removed access for trades and services	See REF Sections 5.1, 6.3.2 and 6.3.3 – the City sought to partially mitigate this impact by introducing drop off spaces for the child care centre, a disabled	Like other streets with clearways, trades and services are not able to park directly out front.

Issue	Addressed in REF section	City of Sydney comment
	parking space in Poate Road and loading spaces in Poate Lane.	
The overnight parking is insufficient for trades and services	See comment above	Like other streets with clearways, trades and services are not able to park directly out front.
Properties don't have sufficient rear access	See REF Section 6.3.2	Of the 66 dwellings, 43 of them have a total of 62 off-street parking spaces. There are 20 dwellings with parking permits, and sufficient parking nearby (a total of 943 spaces on the other side of Moore Park Road and in nearby streets).
The cycleway has removed emergency vehicles access	See REF Section 6.3.2	Emergency vehicles can, and do, use cycleways.
The bike lanes that were in place prior to the pop-up functioned well	Out of scope of the REF.	The previous bike lanes were unsafe, leading to injury and death.
Cycleway needs to be cleaned more regularly	Out of scope of the REF.	Issue noted
The temp barriers toward the west are unsightly and should be replaced with better barriers (like closer to Centennial Park)	Out of scope of the REF.	The proposal includes replacing the Klemmfix type barriers with more sturdy material like the material used along the section of Moore Park Road between Poate Road and Lang Road.
The pop-up was built by the City of Sydney without notice or consultation	See REF Section 5.1 for details of pre-construction notification and subsequent consultation.	The pop-up was built by Transport for NSW who later handed over the management to the City of Sydney. The City has notified residents of changes to the barriers and reintroduction overnight parking. The City also consulted the community on the previous REF.
People are riding on the footpath	Out of scope of the REF.	People must not ride on the footpath unless they are under 16, accompanying someone under 16, have a medical certificate or a postal worker. The City has education sessions four times a week, runs cycling courses which teach legal and

Issue	Addressed in REF section	City of Sydney comment
		courteous riding and has messages on our map about not riding on the footpath.
People are riding on the road	Out of scope of the REF.	We advocate for people to use the cycleways when they are in place however some people riding may choose to ride on the road and they are legally allowed to do so.
Clarify 4.5 of the REF	See REF Section 4.5 – the continued operation of the pop-up cycleways does not require development consent under Part 4 of the EP&A Act and may be carried out without development consent under Division 17 of the T&I SEPP, subject to an environmental impact assessment (in this instance, in the form of a REF).	The REF follows a process and format established by NSW legislation.
The REF is biased to the benefits of cycleways		The REF follows a process and format established by NSW legislation.
The reduction in speed is not needed, people were compliant with 50km/h. Now the limit is 40km/h, no police presence has meant that people are doing 60km/h	Out of scope of the REF.	The speed limit is a matter for Transport for NSW and enforcement is a matter for NSW Police.
Turning in and out of Poate Road is unsafe	Out of scope of the REF.	There are stop and give way markings to indicate priority.
People riding do not give way when crossing Poate Road	Out of scope of the REF.	There are stop and give way markings to indicate priority.
The cycleway is unsafe for people walking and riding next to the stadium when events are on	Out of scope of the REF.	The cycleway is closed during major events at the stadium.

Issue	Addressed in REF section	City of Sydney comment
The cycleway is unsafe at the driveways to the stadium	Out of scope of the REF.	NSW Centre for Road Safety crash data shows the cycleway is safer than before.
Reduced parking on Moore Park Road has increased parking pressure on Poate Road. People overstay the 1 hour limit and aren't booked but residents who park illegally are booked. There should be resident parking only during events		There are thousands of parking spaces in the Entertainment Quarter. Most of the on-street parking spaces are 1P permit exempt. Residents can request enforcement from the rangers.
Reinstate bus stop on Fitzroy Street	Out of scope of the REF.	The decision to close the bus stop was by Transport for NSW.
The shared path at the western end of Moore Park Road has post and poles that make it unsafe	Out of scope of the REF.	The worst pole, a directional sign that used to be in the middle of the path was moved to the edge. City staff have sent a request to Transport for NSW about relocating the other poles which obstruct the path.
The connection between Moore Park Road and Fitzroy Street is insufficient	Out of scope of the REF.	It is difficult to make improvements due to the major state road intersections.
Many cyclists continue from Fitzroy Street onto the Bourke Street cycleway to the city. There needs to be a "holding box" for cyclists waiting for the traffic lights at this junction.	Out of scope of the REF.	Transport for NSW have agreed to make improvements to the Fitzroy/Bourke intersection to facilitate crossing diagonally here.
The eastern end transition is unsafe. Barrier keeps getting moved and people riding join traffic lane in the wrong direction	Out of scope of the REF.	The proposal includes replacing the Klemmfix type barriers with more sturdy material as necessary.
The cycleway should extend to Central Station.	Out of scope of the REF.	

Issue	Addressed in REF section	City of Sydney comment
The cycleway connection to Paddington Gates Centennial Park is poor (constricted, high pedestrian traffic, many people walking dogs).	Out of scope of the REF.	Noted. It was not possible to reallocate road space at this location.
Program automatic green for bikes and install advance sensors	Out of scope of the REF.	Not possible within the scope of this temporary project.
Build a raised crossing over Lang Road	Out of scope of the REF.	Not possible within the scope of this temporary project.
Remove the slip lane at Lang Road	Out of scope of the REF.	Not possible within the scope of this temporary project.
Stop people parking in the cycleway outside of the stadium	Out of scope of the REF.	TfNSW close the cycleway during major events at the stadium. At other times, rangers can enforce parking restrictions.
People riding prefer Oxford Street even prior to the proposed cycleway	Out of scope of the REF.	While Oxford Street provides a more direct connection to the city centre, Moore Park is a more direct connection towards the southern part of the city.
The cycleway has removed access for older and young people directly to properties	See REF Section 6.3.2 and 6.3.3	The cycleway provides a safe transport mode for people to young or old to drive, for people with disabilities preventing them from driving, and others in the community.
The cycleway has caused traffic congestion		The cycleway replaced a parking lane. Removing the friction from parking manoeuvres reduces congestion.
The City of Sydney has not responded to community concerns	See REF Section 5.1	The City responds to every piece of correspondence. The best way to ensure that a message gets to the right staff member is by emailing, council@cityofsydney.nsw.gov.au You can also find information about contacting Councillors

Issue	Addressed in REF section	City of Sydney comment
The cycleway has removed the option for buses to load and unload at the stadium	See REF Section 6.3.2 and 6.3.3	There are alternative locations for buses to load and unload for the stadium.
Surveys for this project have been biased toward the agenda of the City of Sydney	Out of scope of the REF.	The previous time the REF was exhibited, a survey was available that stated: Please provide your feedback on the REF document. This time submissions were requested by email or post.
Opportunities to speak Committees/Council are limited for residents and advocates/bike groups got more time	Out of scope of the REF.	Committee and Council meetings have guidelines to hear a wide range of views and concerns within the limited time available. There may be instances where Councillors or the meeting chair will ask extra questions of a speaker and so that may mean their time is extended.
The REF does not consider or propose new options	See REF Section 3.1.1	The purpose of the Review of Environmental Factors is to identify environmental impacts of a proposal, which in this case is to retain the pop-up cycleway for longer.
The loading zone on Cook Road has caused traffic jams		The City has investigated and found no significant impact.
The resident parking on the north side is too far for residents to use and has removed the option of commuter parking		There are almost a thousand parking spaces in the area.
Traffic on Moore Park Road is too busy for families to use the cycleway	Out of scope of the REF.	We have seen families using the cycleway.
People driving are unaccustomed to looking for people riding and can't anticipate the speed of the bikes	Out of scope of the REF.	The main location where riding and driving paths cross, at Poate Road, the people riding are required to give way. Drivers must give way at driveways.

Issue	Addressed in REF section	City of Sydney comment
The cycleway is illegal because the legislation/orders have expired	Out of scope of the REF.	Opinion noted
Cannot find parking for the fourth vehicle for the household	Out of scope of the REF.	There are almost a thousand parking spaces in the area.
The cycleway has caused property prices to decrease	Out of scope of the REF.	Opinion noted
The cycleway has impacted access to the childcare centre	See REF Section 6.3.2 and 6.3.3	New drop off spaces for the childcare centre were installed. We're pleased to see that some parents can now access the childcare centre by bike.
The proposed time to wait for Oxford Street cycleway is too long	Out of scope of the REF.	We have asked TfNSW to expedite the delivery of Oxford Street cycleway.
Interaction between people walking and riding at intersections is unsafe		On shared paths people riding must give way to people walking.
Fitzroy Street between Anzac Parade and South Dowling Street is unsafe to use for cars	Out of scope of the REF.	
Fitzroy Street west of South Dowling Street is one way and so the cycleway should be one way too. Unclear where should bikes heading against traffic go	Out of scope of the REF.	The cycleway on Fitzroy Street is two way, so that people riding can travel safely in both directions. At South Dowling they join the shared path section.
Connect Taylor Square to Moore Park Road via Flinders Street	Out of scope of the REF.	We have asked TfNSW to progress a cycleway on Flinders Street.
Don't pursue the Oxford St East Cycleway and make Moore Park Rd the cycleway by creating a shared lane in each direction.	Out of scope of the REF.	Oxford Street is the primary desire line for people riding between Bondi Junction/east and the city centre. Shared lanes would not be safe enough.

Appendix D

Submissions from Key Stakeholders



Representing the community's interests in getting around on bikes in
Sydney's eastern suburbs

Review of Environmental Factors for the cycleways on Moore Park Road, Centennial Park and Fitzroy Street, Surry Hills

13 December 2020

BIKEast Incorporated
www.bikeast.org.au
Bondi Junction NSW 2022
contact@bikeast.org.au

Submitted online
sydneycycleways@cityofsydney.nsw.gov.au

Dear CEO,

BIKEast is pleased to make a submission on the City of Sydney Review of Environmental Factors for the cycleways on Moore Park Road, Centennial Park and Fitzroy Street, Surry Hills: [REF for cycleways on Moore Park Road and Fitzroy Street](#).

BIKEast fully supports the retention of these important and necessary facilities in the growing City of Sydney bicycle network.

Sincerely,

A handwritten signature in blue ink, appearing to read "M Worthington".

Mark Worthington
BIKEast President



Nigel Oliver
Director
Property Unit
15 Broadway, Ultimo NSW 2007

T: +61 2 9514 1258
Nigel.Oliver@uts.edu.au

PO Box 123
Broadway
NSW 2007 Australia
www.uts.edu.au

UTS CRICOS PROVIDER CODE 00099F

27 March 2021

Chief Executive Officer
City of Sydney
GPO Box 1591
Sydney NSW 2001

Attention: Craig Ryan via sydneycycleways@cityofsydney.nsw.gov.au

Dear Craig

Review of Environmental Factors for the Moore Park Road Temporary Cycleway

I am writing to you regarding the exhibition of the Review of Environmental Factors (REF) for the second extension of time for the Moore Park Road Temporary Cycleway up to 2026.

UTS interest is in the restoration of periodic suitable loading access that properly services the University's functions at the sport and education facilities within the Rugby Australia House at Moore Park, while still enabling and encouraging bike and pedestrian active transport.

The Moore Park facility accommodates sport and exercise science and management programs from the University's Faculty of Health, as well as the Graduate School of Health's physiotherapy program and sports media classes run by the Faculty of Arts and Social Sciences.

Despite Council and Transport for NSW assurances, critical operational needs of UTS remain that require loading access to large trucks approximately 12 to 20 times per annum for the delivery and retrieval of:

- biohazardous waste;
- sports and therapeutic equipment; and
- furnishings and event catering equipment.

The small loading zone provided opposite Moore Park Rd is wholly unsuitable for these loading needs because of the nature and size of materials and equipment being loaded or delivered. Accordingly, loading must occur haphazardly on site, often blocking the building basement entrance, with operational and safety implications that can also disrupt pedestrian movements on the street footpath and safe use of the temporary cycleway.

The REF is therefore incorrect in stating that the loading needs of Australia Rugby House and the UTS facilities has been mitigated and still fails to address the impact from the removal of roadside access to meet legitimate loading needs as required by Section 5.5 of the *Environmental Planning and Assessment Act 1979*.

However, it is noted by observation that use of the temporary cycleway is concentrated within morning and afternoon peak hours with little to no use during day times when major delivery and loading operations generally occur.

It is also noted that the temporary cycleway is sectioned requiring riders to leave the dedicated cycle paths to the shared footpaths (or the traffic lane by rider choice) and that the temporary cycleway is only for approximately half the length of the Moore Park Road link in any case.

Given the temporary nature of the cycleway, the concentrated peak hour use, and the discontinuity of rider conditions, an appropriate arrangement could be accommodated that allowed limited periodic use of the closed inner lane for large truck loading outside of peak cycling hours.

28 March 2023

Ms Monica Barone
Chief Executive Officer
City of Sydney
GPO BOX 1591
SYDNEY NSW 2001

By email sydneycycleways@cityofsydney.nsw.gov.au

Dear Ms Barone

RE: TEMPORARY MOORE PARK ROAD CYCLEWAY

I write regarding the temporary Moore Park Road cycleway and reiterate Venues NSW's past requests for its removal as soon as practical because of accessibility and safety concerns.

The cycleway was installed as a temporary measure during the Allianz Stadium redevelopment, part of the NSW Government's COVID-19 response. Now with Allianz Stadium fully operational, the cycleway's continued operation results in complications for all stadium users, but particularly patrons requiring universal access. Crucially, it is a barrier to accessible drop-off and pick-up locations along Moore Park Road. The stadium's approved design included primary level access in that area to enable wheelchair users and patrons with accessibility needs to make the most of the venue's DDA-compliant facilities.

Further, the expanded public open space and community facilities have attracted new users to the precinct, exacerbating the safety concerns first flagged in July 2020. Venues NSW's safety and other concerns include that the temporary Moore Park Road cycleway:

- Creates a dangerous crossover between pedestrians, vehicles and cyclists at multiple locations along its length;
- Creates a dangerous crossover between pedestrians, vehicles and cyclists before, during and after stadium events when the precinct is at its busiest;
- Impedes accessibility for wheelchair patrons who had used Moore Park Road as the principal drop off area and entry point to the stadiums. The alternative drop-off area is in Driver Avenue, several hundred metres further away;
- Continues to be used as a cycleway despite closure during stadium events. It is Venues NSW's understanding that vehicles block off access to the cycleway at either end as a part of the precinct transport management plan. Despite this, cyclists join the cycleway at other points and transit through the area using it when there are thousands of pedestrians and vehicles in the precinct;



6 April 2023

The Rt Hon Lord Mayor of Sydney
Councillor Clover Moore
City of Sydney
Email: cmoore@cityofsydney.nsw.gov.au

Chief Executive Officer
City of Sydney

Craig Ryan
Senior Community Engagement Coordinator
City of Sydney
Email: sydneycycleways@cityofsydney.nsw.gov.au

Dear Lord Mayor and City of Sydney,

Moore Park Road Temporary Cycleway, Moore Park

Rugby Australia (RA) writes to again express its concerns with the Moore Park Road temporary cycleway. RA respectfully urges City of Sydney to discontinue the cycleway given the real and present risks it poses to public health and safety.

Some background

On or around 8 April 2021, RA made a submission on a 'Review of Environmental Factors' document that was exhibited earlier in 2021 regarding a continuation of the cycleway for a further two (2) years (**enclosed**). I refer you to that submission, the background set out in it, and highlight that RA opposed the continuation of the cycleway at that time including for public health and safety reasons. RA also raised its concerns and opposition to the cycleway with Transport for NSW on several occasions throughout 2021.

Notwithstanding the objections of RA and other stakeholders, RA understands that City of Sydney allowed the cycleway to remain until May 2023. RA further understands City of Sydney is now proposing to extend the cycleway for up to three (3) more years or until the Oxford Street east cycleway between Centennial Park and Taylor Square is completed by the NSW Government.





RA objects to the cycleway's continuation

RA formally objects to the cycleway's continuation. RA's key concerns are outlined below.

Safety concerns

The cycleway presents a real and immediate public health and safety risk. The cycleway (and in particular where it intersects with the RA House driveway) is extremely dangerous for cyclists, pedestrians and road users on Moore Park Road, together with RA House staff and visitors when taxis and ride share vehicles are dropping off and picking up. RA is aware of numerous near misses and at least one collision between a car and cyclist. This should be of immediate concern to the City of Sydney.

RA has opposed the cycleway since its inception. City of Sydney has continued and intends on continuing the cycleway despite being aware of the safety risks. To the extent that any claims are made against RA in relation to any cycleway-related accidents, RA would seek to ensure City of Sydney assumes full liability in respect of such claims.

Cessation of cycleway's original purpose

RA understands the cycleway was introduced as an emergency response measure to COVID-19. With COVID-19 being well managed thanks in large part to the City of Sydney and NSW Government, RA respectfully suggests that the emergency situation has ceased and therefore the cycleway's original purpose is no longer relevant.

Disruption to RA operations

The issues regarding the cycleway's disruption to RA operations detailed in the enclosed 8 April 2021 submission are ongoing. Additionally, RA House contains a high-performance centre used daily by teams which regularly require a safe spot for buses to offload and pick up athletes – the cycleway makes this not possible.

RA urges discontinuation of the cycleway

RA respectfully urges City of Sydney to discontinue the Moore Park Rd cycleway due to the serious public health and safety risks it presents.





RA would be grateful for the opportunity to discuss our concerns further and understand City of Sydney's views. Perhaps a meeting involving RA, City of Sydney and our RA House co-tenant UTS would be useful.

Please feel free to contact me via email at Richard.Gardham@rugby.com.au or phone on 0427 189 530.

Yours faithfully,

Richard Gardham
Chief Financial Officer
Rugby Australia





8 April 2021

Re Moore Park Road Pop-Up Cycleway, Moore Park

To Whom It May Concern:

Rugby Australia (**RA**) writes to express its concerns with the Moore Park Road pop-up cycleway and respectfully urge each of you to act to immediately discontinue it given the real and present risk it presents to public health and safety and the adverse impact it has on RA's operations.

Some background

RA understands Transport for NSW and City of Sydney worked together in mid-2020 to build several temporary pop-up cycleways, including the Moore Park Road pop-cycleway.

RA received a letter from Transport for NSW dated 18 August 2020 which indicated that it was not able to consult on the cycleways as it normally would due to the development being an emergency response measure to COVID-19.

RA appreciates the difficult circumstances COVID-19 has presented, particularly during the middle of the 2020, and the need for urgent responses to it. In this respect, RA wishes to wholeheartedly thank the NSW Government and City of Sydney for its incredible efforts and success in managing COVID-19 and reducing its impact.

RA understands the Public Health Order under which the cycleway was installed expired on or around 25 March 2021.

RA further understands that City of Sydney is planning to allow the cycleway to remain for a further two (2) years and is currently seeking community feedback on a review of environmental factors.

RA feedback to date

RA has raised its concerns about the cycleway with Transport for NSW on several occasions including via an online cycleway updates registration form on 25 February 2021, in email correspondence with Tyson Kinnane 5 March 2021, in a phone conversation with Mr Kinnane 9 March 2021, and a video conference with Mr Kinnane, Susan Tracey and Nicolas Kocoski 15 March 2021. During those exchanges, RA outlined its concerns with a focus on the immediate risk the cycleway presented to public health and safety.

RA understands from the 15 March 2021 conference that Transport for NSW is responsible for the safety of the cycleway and that it would investigate the introduction of safety measures to





the cycleway particularly around driveways intersecting it (e.g. warning signs, requirements for cyclists to dismount). RA does not believe any such measures have been introduced.

RA objects to the cycleway's continuation

RA formally objects to the cycleway's continuation. RA's key concerns and queries are outlined below.

Safety concerns

The cycleway presents a real and immediate public health and safety risk.

RA believes the cycleway (and in particular where it intersects with access points to Rugby Australia's office and the Sydney Football Stadium construction site) is extremely dangerous for cyclists, pedestrians and road users on Moore Park Road.

With numerous unsolicited reports of near-misses, RA thinks it is an accident waiting to happen. RA believes someone could get seriously injured or killed at any time.

This should be of immediate concern to the NSW Government, Transport for NSW and City of Sydney.

To prevent completely unavoidable accidents, RA urges the prompt removal and discontinuation of the cycleway at least until appropriate consultation and safety-focused design can be implemented without the ongoing threat to the public.

Disruption to RA operations

The cycleway has caused significant disruption and inconvenience to RA's operations.

The cycleway has resulted in the removal of a loading bay which makes it difficult and dangerous for suppliers, contractors and couriers to make deliveries and visits to RA. They are forced to park on the north side of Moore Park Road or further afield and, often carrying bulky goods and/or equipment, cross four lanes of traffic plus the two-way cycleway to access the RA building.

The removal of more than 100 on-street car parks in the vicinity due to the cycleway has caused disruption to the commuting arrangements of a substantial number of our staff. Many RA staff members find it difficult or prohibitively expensive to commute to and from work using public transport meaning that driving is the only realistic option. However, the removal of so many car parks has now made commuting by driving extremely difficult too and is no doubt adversely impacting residents of the surrounding areas.





This disruption to both parking and loading arrangements was acknowledged in Transport for NSW's 18 August 2020 letter. However, no satisfactory solutions or mitigation to the impact have been provided. Unless appropriate solutions are implemented (e.g. local business staff parking permits and/or access to the pop-up car park on Driver Avenue), RA requests the cycleway be removed and discontinued to prevent the ongoing adverse impact to its operations.

Cycleway's original purpose and need

RA understands the cycleway was introduced as an emergency response measure to COVID-19 with the aim of providing safe transport connections.

With COVID-19 being well managed thanks in large part to the NSW State Government, RA respectfully suggests that the emergency situation has reduced substantially and that, therefore, the cycleway's original purpose is no longer relevant.

Further, as noted previously, the cycleway presents a serious risk to the public's safety and therefore directly undermines one of the development's key initial aims.

Public Health Order expiry

RA would be grateful for an explanation as to how the cycleway can remain in place when, as far as we understand it, the Public Health Order under which the cycleway was implemented expired on 25 March 2021.

Further consultation

Given the immediate risks to the community and the disruption to surrounding businesses, RA respectfully urges you each to consider the discontinuation of the Moore Park Rd cycleway at least until appropriate safety and business impact mitigation measures can be implemented.

RA would appreciate the opportunity to discuss our concerns further, listen to and understand your views and engage in any ongoing community consultation regarding the cycleway.

Should you wish to discuss directly, please contact me using the details below.

Yours faithfully,

Adam Foulsham
Chief Operating Officer | Rugby Australia



- Crosses major vehicle entries to the Sydney Cricket Ground and Rugby Australia House, which also houses the University of Technology, Sydney;
- Impedes emergency service vehicle access to Rugby Australia House;
- Increases traffic congestion on Moore Park Road, particularly after stadium events; and
- Is used as an unofficial taxi rank after stadium events have concluded because poor upkeep and broken barriers allow vehicle access.

There is no investigation of the above accessibility and safety matters in the Draft Review of Environmental Factors (REF). This is despite regular correspondence from Venues NSW to the City of Sydney and NSW Government since the safety and accessibility issues were first raised on 1 July 2020. The proposed extension will see Allianz Stadium operate with sub-optimal conditions for five years, which particularly affect patrons with accessibility needs.

The REF's conclusion (P6) that it provides a safe connection between the eastern suburbs and the city is, with respect, unsustainable. Of concern is the Paddington Lane vehicle access point to the Sydney Cricket Ground. There are dozens of vehicle movements into the SCG precinct each day and many more in the lead-up to and during major events such as concerts, the New Year's Test and major football fixtures at the SCG and Allianz Stadium. The safety risk is heightened given the cycleway is poorly maintained with barriers regularly damaged and shunted out of place by passing vehicles. The risk is further heightened because the cycleway is a dual carriageway.

Venues NSW has a green travel plan as part of Allianz Stadium operations. It encourages the use of sustainable travel options, particularly public transport, walking and cycling usage. Our target is to double the modal share of cyclists visiting Allianz Stadium. This has been supported with new bicycle parking delivered as a part of the redevelopment.

Venues NSW acknowledges plans for a cycleway on Oxford Street which, appropriately managed with local residential and business communities, has the potential to help revitalise one of Sydney's most loved and important retail, cultural and dining districts.

We trust that the issues raised here will be addressed as soon as possible.

Yours sincerely



PHILLIP HEADS

Group GM, Communications Heritage & Community

It is considered that disruption of bicycle riders would be negligible, and the few riders potentially affected would only be required to use the shared path arrangement as they are already required to do for other sections of the link.

As previously claimed by Transport for NSW, such an arrangement need not impact its continuity and accordingly, the temporary cycleway will remain consistent with its original objectives and intent.

Council has stated that a dedicated cycleway will not be implemented after the temporary arrangement is removed, and accordingly, a targeted loading arrangement should not have longer term restraints or impacts as well.

It is requested that Council officers meet with UTS to discuss potential solutions for its Moore Park loading needs as well as provide an update to Council on the design process for the Jones Street Ultimo cycleway and related matters.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nigel Oliver', written over a horizontal line.

Nigel Oliver
Director, Property