

Department of Planning and Environment

Our ref: DOC22/592855

Your ref: SSD-8903-MOD 4

Ms Lucinda Craig
Industry Key Sites
Department of Planning and Environment
4 Parramatta Square
12 Darcy Street
PARRAMATTA NSW 2150

18 July 2022

Subject: EHG comments on Response to Submissions for the Modification Application - Ivanhoe Estate, Macquarie Park - Stage 1 (Midtown) - SSD-8903 MOD 4

Dear Ms Craig

Thank you for the email of 5 July 2022 requesting advice on the Response to Submissions (RtS) for this State significant development Modification Application (MOD 4).

The Environment and Heritage Group (EHG) has reviewed the RtS and provides its comments and recommendations at Attachment A.

EHG requests that it not be given a consultation role in the conditions of consent unless it agrees to the role and the condition.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on 02 8837 6017 or at janne.grose@environment.nsw.gov.au.

Yours sincerely,



Susan Harrison

Senior Team Leader Planning
Greater Sydney Branch, Biodiversity and Conservation
Environment and Heritage Group

Subject: EHG comments on the Response to Submissions for the Ivanhoe Estate (Midtown), Macquarie Park - Stage 1 - SSD-8903 MOD 4

The Environment and Heritage Group (EHG) has reviewed the Response to Submissions (RtS) for this modification application. EHG notes the Ecological Impacts Assessment (dated 2 May 2022) has been resubmitted with the RtS. EHG provides the following comments on biodiversity.

In its submission on the EA for this MOD 4 proposal, EHG previously noted a BDAR had not been provided and advised that under Section 7.17 of Biodiversity Conservation Act (BC Act) a biodiversity development assessment report (BDAR) is required to be submitted with an application unless the authority or person determining the application for modification of the original development consent is satisfied that the modification will not increase the impact on biodiversity values.

In response the RtS notes:

- the Concept Development Application was submitted prior to a BDAR being required
- a biodiversity assessment under the framework at the time of the lodgement of the Concept Development Application was undertaken and provided as part of that assessment.
- a BDAR has not been provided with this modification application as the removal of the seven trees will not result in a significant impact on biodiversity.

Please note the wording to Section 7.17(2)(c) of BC Act is that 'the modification will not increase the impact on biodiversity values'. In this instance EHG considers this modification is not likely to increase the impact on biodiversity values, however as Planning Group is the consent authority, it is a matter for Planning to determine whether the MOD 4 proposal will not increase the impact on biodiversity values as per the BC Act.

Proposed tree removal

EHG noted three of the trees (*Ficus macrocarpa* - 936, 1016, 1017) proposed to be removed have high retention value under the original Arboricultural Impact Assessment (AIA) and advised the RtS needs to provide details on why the trees are considered to have high retention value and whether any of the seven trees to be removed contain nests, dreys, hollows etc.

In response the RtS notes the "trees were considered to have high retention value in the original AIA generally due to their environmental, cultural, physical and social values ... in the case of Trees 936, 1016 and 1017, they were given a high retention value by the arborist due to the size and health of the trees" and it confirms that "the high retention value noted within the submitted AIA does not relate to biodiversity values". EHG notes that while the subject trees do not contain nests, dreys or hollows, the fruit of *Ficus macrocarpa* is likely to provide a food supply for fruit eating birds and bats that feed on the fruit.

Pre-clearance fauna surveys and Relocation of native fauna

EHG recommended pre-clearance fauna surveys are undertaken for the removal of the seven trees and a qualified ecologist relocates any resident native fauna to an appropriate nearby location. EHG advised that the RtS should address whether any of the trees to be removed have tree hollows or provide habitat.

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The RtS confirms that the subject trees do not contain nests, dreys or hollows. EHG considers it is reasonable to remove the requirement for pre-clearance surveys to be undertaken if there aren't hollows, nests or dreys.

Reuse and removed trees and hollows

EHG recommended the MOD 4 proposal reuses native trees that are to be removed including hollows and tree trunks (greater than approximately 25-30cm in diameter and 2-3m in length) and root balls within the riparian corridor or other areas on the Ivanhoe Estate site which are to be replanted with local native species. In response the RtS notes the subject trees do not contain hollows and therefore the use of these trees within the riparian area is not required. EHG considers the removed trees (tree trunks and root balls) can be used to enhance habitat in the riparian corridor and elsewhere on the site.

The Biodiversity Assessment Report and Offset Strategy (BAROS) for the Ivanhoe Estate Re-development SSD 17-8707 noted a total of two hollow bearing trees will be impacted in relation to the Ivanhoe Estate redevelopment. This implies hollow bearing trees are scarce across the entire site. The BAROS noted nest boxes are to be installed within the retained vegetation along Shrimptons Creek at a ratio of 1:4 (removed: replaced) to offset the removal of the two hollow trees.

While the RtS confirms that the trees proposed to be removed for the MOD 4 proposal do not contain hollows the removal of the existing trees and the benefits that they provide, will take decades for a juvenile tree to grow and replace. The removal of some of these seven trees may also remove the potential supply of future hollows that would be expected to form in time. EHG recommends that in addition to the tree hollow replacement requirements included in the BAROS to replace the two hollow bearing trees impacted by the overall Ivanhoe Estate redevelopment that the MOD 4 proposal includes a condition which requires additional nest boxes or replacement habitat (artificial hollows using a HollowHog tool (<https://www.hollowhog.com.au/>) to be installed along the riparian corridor and remnant vegetation that is to be conserved to mitigate the loss of the future potential supply of hollows and to improve biodiversity on the site.

Also, EHG repeats its recommendation that a condition of consent is included to reuse the tree trunks and root balls from the removed native trees (please see below).

It is suggested the removed tree trunks/root balls are placed on the ground in small, scattered piles within the riparian corridor/remnant vegetation on the site to provide shade, shelter and habitat for fungi, moss and lichens, insects, reptiles, frogs etc which will subsequently provide a food source for other native fauna, potentially including threatened species. The decaying wood also provides nutrients as it slowly decays.

If the proponent is not able to reuse the removed trees on the Ivanhoe Estate site, the proponent should consult with community restoration/rehabilitation groups, Landcare groups, and relevant public authorities, local councils, and Greater Sydney Local Land Services prior to removing the native trees to determine if the removed trees can be reused in habitat enhancement and rehabilitation work.

The Proponent must where it is practicable reuse any of the native trees that are to be removed, including tree trunks (greater than 25-30 centimetres in diameter and 2-3 metres in length), and root balls to enhance habitat on the Ivanhoe Estate site

If removed native trees are not able to be entirely re-used on the site, the proponent should consult with local community restoration/rehabilitation groups, Landcare groups, and relevant public authorities, local councils, and Greater Sydney Local Land Services prior to removing any native trees to determine if the removed trees can be reused in habitat enhancement and rehabilitation work. This detail including consultation with the community groups and their responses must be documented.

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Tree replacement ratio

EHG recommended the trees proposed to be removed are replaced at a ratio greater than 1:1 (for trees not covered by a biodiversity offset strategy) and recommended a condition of consent is included to this effect to mitigate the urban heat island effect and to enhance tree canopy and habitat on the site. In response the RtS states "Further native vegetation is to be planted across the site with each progressive stage of the project, in accordance with condition A17 of the Concept Approval consent. The replacement ratio remains greater than 1:1 across the site, and therefore a further condition is not required. "

The seven trees proposed to be removed by the MOD 4 proposal were initially approved to be retained by the Concept approval. As previously advised by EES in its submission on the RtS for the MOD 3 proposal if there are likely to be further modification proposals which also require tree removal, EHG considers that for clarity the inclusion of a condition which outlines the tree replacement requirements for each Modification proposal would be useful.

As noted above, the decision on whether a BDAR and further biodiversity assessment is required needs to be made by Planning as the consent authority, but this does not prevent DPE from seeking additional mitigation measures from the applicant or the inclusion of additional conditions of consent for the MOD 4 proposal to enhance biodiversity values at the Ivanhoe Estate site. For example, the Planning could include:

- The trees to be removed by the MOD 4 proposal are replaced at a ratio greater than 1:1.
- The replacement tree species are from the native vegetation community that once occurred in this location rather than use exotic species or non-local native species.
- The replacement trees are advanced in size.
- Sufficient area needs to be provided to allow the replacement trees to grow to full maturity
- The replacement trees are regularly watered and maintained for 12 months following planting and should any loss of trees occur during the maintenance period they are replaced by the same native plant species.
- Additional habitat features such as a range of nest boxes or artificial hollows are installed to improve biodiversity.

End of Submission