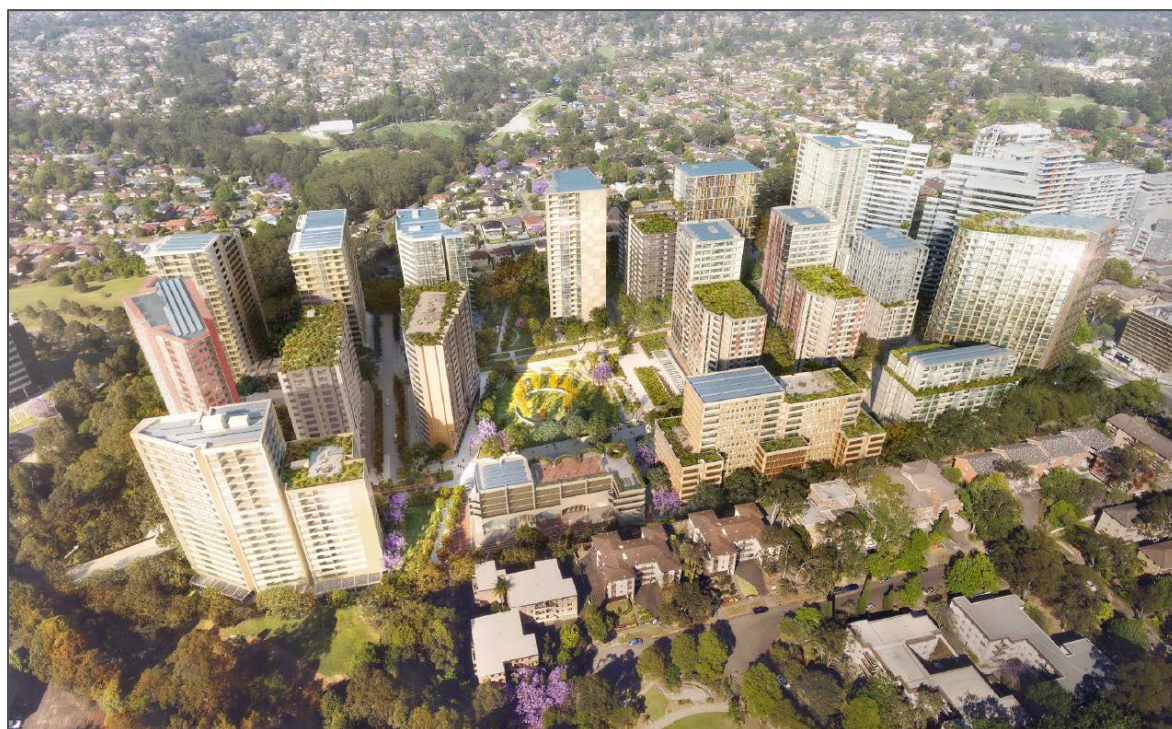




Ivanhoe Estate Redevelopment Stage 1 Modification 4

Removal of 7 trees
State Significant Development Modification Assessment
(SSD 8903 MOD 4)

August 2022



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Title: Ivanhoe Estate Redevelopment Stage 1 Modification 4

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Cover image: of the approved Ivanhoe Estate redevelopment concept plan

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Glossary

Abbreviation	Definition
Applicant	Frasers Property Australia
BDAR	Biodiversity Development Assessment Report
BMP	Biodiversity Management Plan
Council	City of Ryde
Department	Department of Planning and Environment
EHG	Environment and Heritage Group
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
LEP	Local Environmental Plan
LGA	Local Government Area
Minister	Minister for Planning
BC Act	NSW Biodiversity Conservation Act 2016
Planning Secretary	Secretary of the Department of Planning and Environment
RtS	Response to Submissions
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
The site	Ivanhoe Estate, Macquarie Park

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1 Introduction

This report provides an assessment of an application seeking to modify the State significant development approval (SSD 8903) for Stage 1 of the Ivanhoe Estate redevelopment.

The application was lodged by Ethos Urban on behalf of Frasers Property Australia (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*. The proposal seeks approval for the removal of 7 trees previously approved for retention.

1.1 Background

The Ivanhoe Estate (the site) is located within Macquarie Park, within the City of Ryde local government area (LGA). The site has a total area of 8.2 hectares and is located on the south-eastern corner of the intersection of Epping Road and Herring Road (**Figures 1 and 2**). The site also incorporates adjoining land, being a portion of Shrimptons Creek and 2-4 Lyonpark Road.

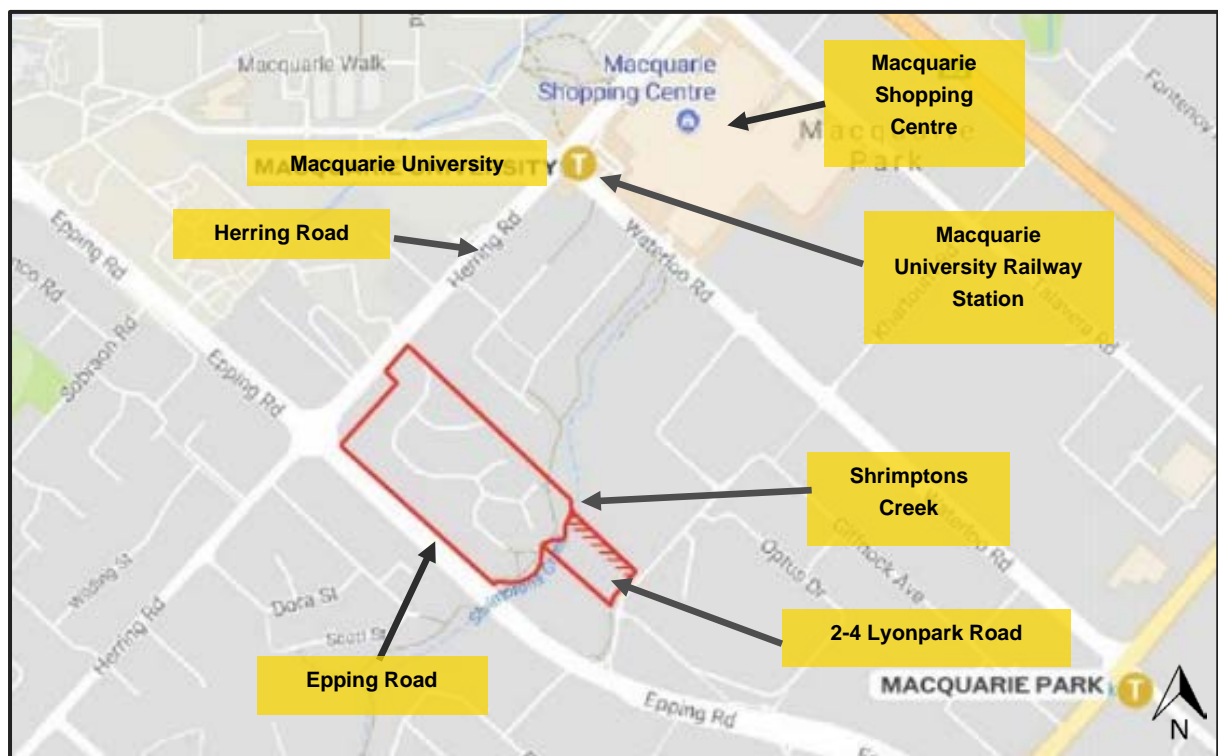


Figure 1 | Site location (highlighted in red) (Source: Department's SSD 8707/8903 Assessment Report)



Figure 2 | Aerial view of the site. Location of approved Stage 1 buildings shown circled red (Base source: Department's SSD 8707/8903 Assessment Report)

1.2 Approval history

On 30 April 2020, the Minister for Planning and Public Spaces approved SSD 8707 and SSD 8903 for the Ivanhoe Estate redevelopment concept plan and Stage 1 respectively.

The concept approval for redevelopment of the site included:

- approximately 3,300 residential dwellings, including approximately 950 social and 128 affordable housing dwellings, and 273 seniors housing units (private and social independent living)
- a 120 bed residential aged care facility (RACF)
- a primary school (approximately 430 places)
- community centres
- 960 m² of retail tenancies intended for convenience retail and cafés
- office premises to accommodate Mission Australia
- two childcare centres (approximately 75 places each)
- roads, public and communal open space.

The Stage 1 approval included:

- construction of buildings A1 (25-storeys and 269 apartments) and C1 (14 to 20 storeys and 471 apartments, including 259 social housing apartments)
- a 75-place childcare centre within Building A1
- removal of 343 trees, demolition of the existing road network, bulk earthworks, remediation works and provision of utilities and service infrastructure across the site
- construction of the new estate road network, including new road bridge across Shrimptons Creek
- amalgamation, subdivision and stratum subdivision.

Figure 3 illustrates the approved concept plan, including the location of Buildings A1 and C1 and the approved road network and bridge.

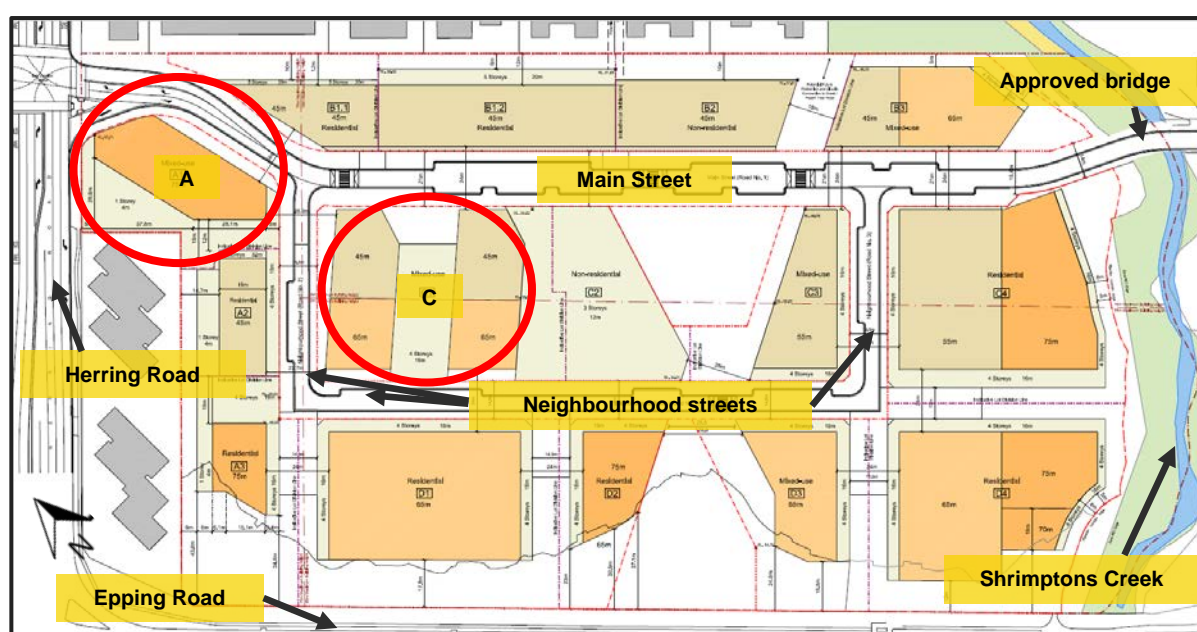


Figure 3 | Approved Ivanhoe Estate Masterplan. Location of approved Stage 1 buildings shown circled red (Base source: Department's SSD 8707/8903 Assessment Report)

The development consent has been modified on three occasions (**Table 1**).

Table 1 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Modification to various conditions	Director	4.55(1A)	10 November 2020
MOD 2	Increase number of apartments in Building C1 from 471 to 497 and associated design amendments	Director	4.55(1A)	7 May 2021
MOD 3	Removal of three trees that were approved for retention, and retention of two trees that were approved for removal.	Team Leader	4.55(1A)	21 December 2021

2 Proposed modification

The proposal (MOD 4) seeks approval for the removal of 7 trees approved for retention to facilitate the construction of a bridge and road connection to Lyonpark Road. The trees proposed for removal are identified in **Table 2** and shown in **Figure 4** and **Figure 5**.

The Department notes the trees are located at 6-8 Lyonpark Road, which is adjacent to the site.

Table 2 | Trees to be removed

Tree ID	Species	Common name	Exotic or Native
934	<i>Lophostemon confertus</i>	Brush Box	Native
935	<i>Eucalyptus microcorys</i>	Tallowwood	Native
936	<i>Ficus microcarpa</i>	Chinese Banyan	Exotic
938	<i>Eucalyptus microcorys</i>	Tallowwood	Native
1015	<i>Eucalyptus microcorys</i>	Tallowwood	Native
1016	<i>Ficus microcarpa</i>	Chinese Banyan	Exotic
1017	<i>Ficus microcarpa</i>	Chinese Banyan	Exotic



Figure 4 | Subject trees on boundary wall (source: Applicant's Ecological Impact Assessment)



Figure 5 | Tree roots traversing the crib wall (source: Applicant's Ecological Impact Assessment)

The Applicant has requested the following wording for Condition A6 (words proposed to be added are shown in **bold and underline** and those to be deleted are shown in strikethrough) and proposed the insertion of a new Condition A29 (shown in **bold and underline**):

A6. No works, including ~~tree removal~~ **excluding tree removal and structural works approved under MOD 4**, are approved to 6-8 Lyonpark Road, Macquarie Park (Lot 62 DP570271).

A29. All tree removal must be consistent with Table 3 and drawings in Appendix C, contained in the Arboricultural Impact Assessment, prepared by Eco Logical Australia, dated February 2020, as modified by 300001-ESK-213 Revision E dated 02/05/2022.

3 Statutory context

3.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not increase the environmental or biodiversity impacts of the project in the context of tree removal and replanting already approved
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

The Minister for Planning is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation, the Director or Team Leader, Key Sites Assessments, may determine the application as:

- a political disclosure statement has not been made
- there were no public submissions in the nature of objections
- Council has not made a submission by way of objection.

3.3 Mandatory matters for consideration

The following are relevant mandatory matters for consideration:

- environmental planning instruments or proposed instruments
- EP&A regulation
- likely impacts of the modification application, including environmental impacts on both the natural and built environments, and social and economic impacts
- suitability of the site
- any submissions
- the public interest
- the reasons for granting approval for the original application.

The Department has considered all of these matters in its assessment of the proposal. The Department has also given consideration to the relevant matters in **Section 5** and **Appendix B**.

4 Engagement

4.1 Department's engagement

The application was made publicly available on the Department's website and was referred to Environment and Heritage Group (EHG) and City of Ryde Council (Council) for comment.

4.2 Summary of submissions

The Department received a submission from EHG and Council as summarised in **Table 3** and **Table 4**.

No public submissions were received.

Table 3 | Government Agency submissions

EHG	
Application	<p>EHG provided the following comments:</p> <ul style="list-style-type: none">• Section 7.17 of the <i>Biodiversity Conservation Act 2016</i> (BC Act) requires a BDAR be submitted with a modification application unless the consent authority determines the application would not increase the impact on biodiversity values.• A BDAR has not been provided with this modification application.• Provide details on why the trees are considered to have high retention value and whether any of the trees to be removed have tree hollows or provide habitat. <p>EHG recommended conditions be imposed requiring:</p> <ul style="list-style-type: none">• pre-clearance fauna surveys and a qualified ecologist relocate any resident native fauna to an appropriate nearby location.• where any hollow dependent native fauna are found using existing hollows, compensatory tree hollows should be provided prior to removing the hollows and prior to the release of the hollow dependent fauna unless the removed tree hollows can be relocated and installed on the same day they are removed.• the reuse of native trees to be removed including hollows, tree trunks, and root balls within the riparian corridor or other areas on the Ivanhoe Estate site• trees are replaced at a ratio greater than 1:1 (for trees not covered by a biodiversity offset strategy) to mitigate the urban heat island effect and to enhance tree canopy and habitat on the site.
Response to Submissions	<p>EHG provided the following comments:</p> <ul style="list-style-type: none">• the modification is unlikely to increase the impact on biodiversity values.• reasonable to remove the requirement for pre-clearance surveys if there aren't hollows, nests or dreys. <p>EHG recommended conditions be imposed requiring:</p> <ul style="list-style-type: none">• additional habitat features such as a range of nest boxes or artificial hollows are installed to improve biodiversity.• trees to be removed are replaced at a ratio greater than 1:1• replacement trees are:

- species are from the native vegetation community that once occurred in this location
- advanced in size.
- provided with sufficient area to enable growth to full maturity
- are regularly watered and maintained for 12 months following planting and replaced with the same native plant species should any loss of trees occur during the maintenance period.
- the reuse of tree trunks and root balls from the removed native trees within the riparian corridor/remnant vegetation on the site. Where these cannot be accommodated onsite, the proponent should consult with other groups or government agencies to reuse the trees in habitat enhancement and rehabilitation work elsewhere.

Table 4 | City of Ryde Council submission

Council	
EIS	<p>Council did not object to the proposal and provided the following comments:</p> <ul style="list-style-type: none"> • concerns over potential erosion/sedimentation impact, as the removal of these trees would leave the area open and exposed along the creek line section and recommended suitable stabilisation of the area occurs post removal to minimise any sedimentation impacts in rain events or for waterway pollution and downstream sedimentation during and after the works/ machine works. • all components of the retaining wall, including subsoil drainage, must be located entirely within the private land. The subsoil drainage lines of the retaining wall must be shown on the stormwater drainage concept plan. <p>Council recommended conditions be imposed requiring:</p> <ul style="list-style-type: none"> • replacement trees consistent with the local area and vegetation community type are planted within the vicinity prior to the completion of this stage of development • prior to the issue of the relevant Crown building works, the following are to be submitted to the Certifier: <ul style="list-style-type: none"> ○ survey report by a registered surveyor ○ Geotechnical Engineers Report ○ Structural Engineer's details for the retaining wall. • prior to the Occupation or Commencement of Use: <ul style="list-style-type: none"> ○ any necessary plan/documents for easement for support as part of this new retaining wall must be registered with NSW Land Registry Services ○ submit a certificate from a Structural Engineer certifying the retaining wall has been constructed in accordance with the Structural Engineer's details ○ submit a survey by a Registered Surveyor certifying that the retaining wall is wholly within the private land or any necessary easement ○ an approved balustrade may be required to be erected along the top of the wall in the interests of public safety.

4.3 Response to submissions

The Department placed a copy of the submissions on its website and requested the Applicant provide a response to EHG's and Council's comments.

On 4 July 2022, the Applicant lodged a Response to Submissions (RtS). The RtS documents were made publicly available on the Department's website and referred back to EHG for comments. The RtS stated the Applicant accepted Council's recommended conditions, but highlighted some of EHG's conditions were not required.

The Department received a revised response from EHG who recommended conditions of consent be imposed to enhance biodiversity values. The Applicant subsequently accepted EHG's conditions, subject to recommended changes. This matter is discussed further in **Section 5**.

5 Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification application and associated documents
- the Environmental Assessment and conditions of approval for the original application
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act and Regulation
- submissions from Council and EHG.

The Department has assessed the key impacts of the proposal below and other issues in **Table 5**.

5.1 Tree removal and biodiversity

The modification seeks the removal of 7 trees originally approved for retention (**Figure 6**).

The Department notes the Stage 1 consent (SSDA 8903) included a condition (Condition B103) to widen the northern verge of the Shrimpton's Creek bridge joining to Lyonpark Road.

The Applicant has advised the reason for the proposed change is that further investigations determined the excavation of the embankment adjacent to the crib wall for the bridge and road connection to Lyonpark Road would result in significant impacts to the structural root zone of these trees.

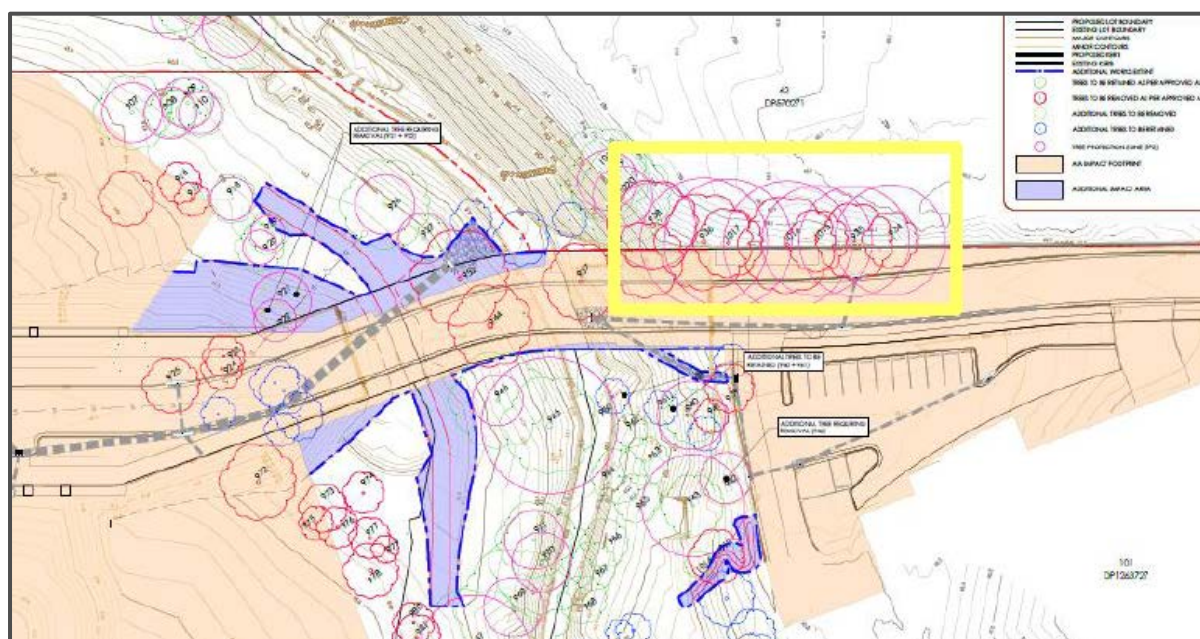


Figure 6 | Approved tree retention plan with the trees proposed to be removed outlined in yellow

An Ecological Impact Assessment was submitted with the application, which advised the removal of the 7 trees would not have a significant impact on biodiversity values and would not require offsetting under the original Framework for Biodiversity Assessment or under the new Biodiversity Assessment Method as they are planted vegetation.

Council raised concerns about potential erosion or sedimentation impacts and recommended replacement trees that are consistent with the local area and vegetation community type are planted within the vicinity prior to the completion of this stage of development to replace the loss of canopy.

EHG noted a BDAR has not been provided with this modification application and that Section 7.17 of the *Biodiversity Conservation Act 2016* (BC Act) requires a BDAR be submitted with a modification application unless the consent authority determines the application not to increase the impact on biodiversity values. EHG requested additional details into why the trees are considered to have high retention value and whether any of the trees to be removed provide habitat.

The RtS advised the original Arboricultural Impact Assessment (AIA) identified the trees with a high retention value in generally due to environmental, cultural, physical and social value. In regard to trees 936, 1016 and 1017, the high retention value was attributed to the size and health of the trees, not biodiversity values. Regarding the conditions recommended by EHG and Council, the RtS noted the following:

- existing Condition B47 requires the preparation of a BMP, which includes processes for the pre-clearance survey of vegetation, the replacement of removed hollows and the use of local provenance species. Therefore, an additional condition is not considered to be required.
- ecologists have been to site and confirmed that the subject trees do not contain nests, dreys or hollows. Therefore, the use of these trees within the riparian area is not considered to be required
- existing Condition B29 requires additional trees to be planted across the site with each stage of the development. As the existing replacement rate is greater than 1:1, an additional condition is not considered to be required
- existing Condition B45 requires a Construction Soil and Water Management Plan be prepared to manage soil and water impacts during construction. The Applicant advised no objection would be raised to an additional condition to clarify the stabilisation of this embankment.

EHG subsequently advised the modification was unlikely to increase the impact on biodiversity values. However, recommended conditions of consent be imposed to enhance biodiversity values, including:

- the reuse of tree trunks and root balls from the removed native trees within the riparian corridor/remnant vegetation on the site. Where these cannot be accommodated onsite, the proponent should consult with other groups or government agencies to reuse the trees in habitat enhancement and rehabilitation work elsewhere.
- installation of additional habitat features such as a range of nest boxes or artificial hollows are installed to improve biodiversity.
- replacement of removed trees at a ratio greater than 1:1 with trees that are:
 - species are from the native vegetation community in this location
 - advanced in size
 - provided with sufficient area to enable growth to full maturity
 - are regularly watered and maintained for 12 months following planting and replaced with the same native plant species should any loss of trees occur during the maintenance period.

In terms of Section 7.17 of the BC Act, the Department is satisfied the proposed modification would not increase the impact of biodiversity values. Therefore, in accordance with Section 7.17(2)(c) of the BC Act, a BDAR is not required.

The Department accepts tree removal is required to facilitate the construction and operation of the bridge and road connection to Lyonpark Road, and the trees proposed to be removed are not located within the endangered ecological corridor along Epping Road.

The Department considers it reasonable the trees proposed to be removed as part of the modification are replaced at a rate of 1:1 and subject to the requirements listing by EHG, noting the concept approval already requires a minimum of 950 replacement trees across the Estate.

The Department considers the proposed tree removal and biodiversity impacts are acceptable as:

- EHG determined the application was unlikely to increase the impact on biodiversity values
- it would not require offsetting under either the original Framework for Biodiversity Assessment or the Biodiversity Assessment Method
- none of the trees to be removed are of heritage significance or are within the endangered ecological corridor along Epping Road
- the removal of 4 native and 3 exotic trees would be offset by 7 replacement native trees within the Shrimptons Creek Corridor or immediate surrounds, in addition to the 950 replacement trees conditioned to be planted across the site
- any potential impacts from the tree removal would be minimised by existing conditions of consent and EHG's recommended conditions.

The Department concludes the proposed tree removal and biodiversity impacts are acceptable, subject to the recommended conditions.

5.2 Other Issues

The Department's consideration of other issues is provided within **Table 5**.

Table 5 | Department's assessment of other issues

Issue	Findings	Recommendations
Stormwater	<ul style="list-style-type: none"> • Council advised that all components of the retaining wall, including subsoil drainage, must be located entirely within the private land and the subsoil drainage lines of the retaining wall must be shown on the stormwater drainage concept plan and recommended conditions related to Prior to Construction Certificate and Prior to Occupation or Commencement of Use (Section 4.2) • As part of the RtS, the Applicant advised the retaining wall works have been designed to comply with Council's requirements and accepted their recommended conditions. • The Department considers stormwater can be appropriately managed, subject to Council's recommended conditions. 	The Department recommends Council's recommended conditions of consent be imposed.

6 Evaluation

The Department has reviewed the proposed modification and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal is acceptable as:

- the modifications would not alter the assessment of the endorsed BMP under Condition B47 of the Stage 1 consent
- the modification does not hinder the commitments to rehabilitate the Shrimptons Creek Corridor and protect the ecologically significant corridor fronting Epping Road
- the removal of additional 4 native and 3 exotic trees would be offset by a further 7 replacement native trees within the Shrimptons Creek Corridor, in addition to the 950 replacement trees conditioned to be planted across the site
- potential impacts to biodiversity values are mitigated by the recommended conditions of consent, including replacement planting and the installation of additional habitat features
- existing conditions of consent would mitigate potential erosion or sedimentation impacts from the tree removal
- it is substantially the same development as the approved development and would not result in any adverse environmental impacts.

The Department considers the modification is in the public interest and should be approved, subject to the recommended conditions of consent.

7 Recommendation

It is recommended that the Acting Director, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD 8903 MOD 4 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the consent SSD 8903
- **signs** the attached approval of the modification (**Appendix C**).

Recommended by:

A handwritten signature in black ink, reading 'Lucinda Craig', with a stylized, cursive script.

Lucinda Craig
Planning Officer
Key Sites Assessments

8 Determination

The recommendation is **Adopted** by:

A handwritten signature in blue ink, appearing to read 'CS', is positioned above a horizontal line.

5.08.22

Cameron Sargent

Acting Director

Key Sites Assessments

(as delegate of the Minister for Planning)

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-tree-removal-1>

Appendix B – Statutory considerations

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 1** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification. The table represents a summary for which additional information and consideration is provided in other sections of this report, as referenced in the table.

Table 1 | Consideration of the matters listed under Section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	The Department's assessment
(a) the provisions of - i. any environmental planning instrument	The modified proposal remains consistent with the relevant environmental planning instruments.
ii. any proposed instrument	The modified proposal remains consistent with relevant draft environmental planning instruments.
iii. any development control plan	Under clause 2.10 of the Planning Systems SEPP, Development Control Plans (DCPs) do not apply to SSD.
liia. any planning agreement	Not applicable.
iv. the regulations	The application satisfactorily meets the relevant requirements of the Environmental Planning and Assessment Regulation 2021, including the procedures relating to applications (Part 6), the requirements for notification (Part 3, Division 5) and fees (Part 13, Division 3 and Schedule 4) (refer to Section 4).
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department considers the proposed changes to be minor and would not result in any adverse environmental impacts or increase impacts to biodiversity values (refer to Section 5).
(c) the suitability of the site for the development	The site remains suitable for the development.
(d) any submissions	As discussed at Section 4 and 5 , the Department received submissions from Council and EHG. No public submissions were received.
(e) the public interest	The Department considers the modified proposal to be in the public interest as it would facilitate the orderly and efficient redevelopment of the Ivanhoe Estate.

Table 2 | Consideration of Section 4.55(1A) of the EP&A Act

Section 4.55(1A)	Assessment
That the proposed modification is of minimal environmental impact	The proposal would not alter any of the key components or characteristics of what was originally approved under SSD 8903 and would be of minimal environmental impact and would not increase the impacts on biodiversity values.
That the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified	<p>The development, as proposed to be modified, is substantially the same development as that originally approved in that:</p> <ul style="list-style-type: none"> the proposed use of the site remains the same it would not increase the impact on biodiversity values or result in any additional adverse environmental impacts. <p>The Department is therefore satisfied the modification application would therefore result in a development that is substantially the same as originally approved.</p>
The application has been notified in accordance with the regulations.	Section 4 of this report demonstrates the modification application followed the consultation requirements as outlined in the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)
Any submission made concerning the proposed modification has been considered.	The Department has considered submissions made, as addressed in Section 4 and Section 5 of this report.

Appendix C – Modification Instrument

The Modification Instrument can be found on the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-4-tree-removal-1>