

3 November 2021

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Kiersten Fishburn
Secretary
Department of Planning, Industry and Environment
12 Darcy Street,
Parramatta NSW 2150

Attn: Andy Nixey

SECTION 4.55(1A) MODIFICATION APPLICATION - SSD 8903 Stage 1 of Ivanhoe Estate, Macquarie Park

This application has been prepared by Ethos Urban on behalf of Frasers Property Australia pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to modify SSD-8903 relating to the Ivanhoe Estate (the site).

The modification seeks to remove three (3) trees that were approved for retention, and retain two (2) trees that were approved for removal, resulting in a net loss of one (1) tree as part of the site preparation works being undertaken as Stage 1 of the Ivanhoe Estate redevelopment.

This application identifies the consent, describes the proposed modifications and provides an assessment of the relevant matters contained in section 4.55(1A) of the EP&A Act. This application is accompanied by an impact assessment prepared by Eco Logical provided at **Attachment A**.

1.0 Introduction

Consent proposed to be modified

Development consent was granted by the Minister for Planning and Public Spaces on 30 April 2020 for State Significant Development (SSD-8903) for Stage 1 of the Ivanhoe Estate development in Macquarie Park. The development is pursuant to the approved Ivanhoe Estate Masterplan (SSD-8707) and comprises:

- Site preparation works, including removal of trees, demolition, bulk earthworks and excavation
- Construction of new roads, bridge over Shrimptons Creek and new road connection to Lyonpark Road
- Construction of two residential apartment buildings (Building A1 and Building C1) with basement car parking
- Landscaping and public domain works
- Amalgamation and subdivision

The consent has been previously modified on two (2) previous occasions, comprising:

- Section 4.55(1a) - MOD 1 - amendments to a number of conditions of consent to clarify specific requirements, timings, and nominated personnel or issues; approved on 10 November 2020.
- Section 4.55(2) - MOD 2 - detailed design changes to Building C1; approved on 7 May 2021.

2.0 Strategic context

The strategic context of the approved development has not materially changed since the Minister for Planning and Public Spaces granted consent to the Stage 1 SSD DA on 30 April 2020, and the subsequent two (2) Modification Applications. DPIE considered when granting consent to the Stage 1 SSD DA that this first stage of physical works to deliver the Ivanhoe Estate Masterplan was appropriate for the site given it was consistent with the relevant strategic plans of the State.

3.0 Description of modifications

Stage 1 of the Ivanhoe Estate redevelopment approves the removal or retention and protection of trees as part of site preparation works occurring across the site. Through post-approval design development and testing, changes are required to these approved works comprising:

- Removing two (2) trees, known as Tree 921 and 922, as a result of widening the northern verge of the new vehicle and pedestrian bridge over Shrimptons Creek. This design development has occurred in accordance with Condition B103 of the consent which requires (among other things) widening the bridge.
- Removing one (1) tree, known as Tree 942, as a result of the detailed design of the stormwater outlet in this area.
- Retaining and protecting two (2) trees, known as Tree 960 and 961, that were previously approved for removal but are no longer required for removal.

A plan illustrating these changes is included at **Attachment A**.

4.0 Statutory context

4.1 Section 4.55 of the EP&A Act

Substantially the same development

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if “*it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)*”.

The development, as proposed to be modified, is substantially the same development as that originally approved as no change is proposed to the approved land uses, the extent of development on the site including the approved buildings, public domain areas or road network, or the qualitatively essential parts of the approved development such as the overall built form and scale, impacts on surrounding development, traffic and parking, amenity, and the like.

Environmental impacts

Section 4.55(1A) of the EP&A Act also states that a consent authority may modify a development consent if “*it is satisfied that the proposed modification is of minimal environmental impact*”. Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

The planning assessment of the proposed modified development remains generally unchanged with respect to these matters, with further assessment provided at **Section 6.0** below.

4.2 Section 4.22 of the EP&A Act

Under Section 4.24 of the EP&A Act, whilst a Concept Proposal remains in force, any further detailed application cannot be inconsistent with the consent for the Concept Proposal.

The modified development remains not inconsistent with the Ivanhoe Estate Masterplan. The proposed modifications are minor and will not result in any adverse or significant new environmental impacts, including with respect to biodiversity and the approved offset strategy for the Ivanhoe Estate redevelopment. The proposal does not hinder the Masterplan's commitments to rehabilitate the Shrimptons Creek Corridor, protect the ecologically significant corridor fronting Epping Road, and provide a minimum of 950 replacement trees across the Estate.

4.3 Biodiversity Conservation Act 2016

The Masterplan and Stage 1 SSD DA, which granted consent for all tree removal across the Estate, was assessed as a transitional project against the *Environment Protection and Biodiversity Conservation Act 1999* and an offset strategy was approved for all development within the Estate. The proposed modifications do not impact the agreed offset measures for the Ivanhoe Estate redevelopment.

5.0 Engagement

No consultation has been completed for this application outside of that undertaken as part of the preparation and refinement of the Stage 1 SSD DA. The scale of the proposed changes, and associated environmental impacts, are shown to be minor and as such are not considered to warrant further consultation.

6.0 Assessment of impacts

Section 4.55(1A) of the EP&A Act states that a consent authority may modify a development consent if "*it is satisfied that the proposed modification is of minimal environmental impact*". Under section 4.55(3) the consent Authority must also take into consideration the relevant matters to the application referred to in section 4.15(1) of the EP&A Act and the reasons given by the consent authority for the grant of the original consent.

Biodiversity

The assessment by Eco Logical at **Attachment A** confirms that the removal of the three (3) additional trees, and net change of one (1) tree, will not significantly alter the conclusions of the biodiversity assessment or the offset measures for this project. The trees proposed to be removed are not located within the endangered ecological community corridor along Epping Road, and are located in close proximity of the riparian zone which will be subject to revegetation and landscape works providing significant planting opportunities. The net impact of one additional tree being removed represents a numerical increase of 0.1%, which is considered negligible and in keeping with the previously approved assessment.

Reasons given for granting consent

The proposed modification does not alter the development insofar as the matters identified by the Minister as the reasons for granting the original development consent.

7.0 Justification

This Modification Application seeks to remove three (3) trees that were approved for retention, and retain two (2) trees that were approved for removal, resulting in a net loss of one (1) tree as part of the site preparation works being undertaken as Stage 1 of the Ivanhoe Estate redevelopment. The proposed works are as a result of post-approval design development and testing, including compliance with the design development requirements for the Shrimptons Creek Bridge. The project as a whole and as modified is considered to be appropriate and supportable with regard to the social, economic, and environmental impacts.

In accordance with section 4.55(1A) of the EP&A Act, DPIE may modify the consent as:

- the proposed modification is of minimal environmental impact; and
- is substantially the same development as development for which the consent was granted.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification request.

Yours sincerely,



Anna Nowland
Principal Planner