

26 October 2021

Our ref: 17720

Frasers Property Australia
 Level 2, 1C Homebush Bay Drive, Rhodes NSW 2138

Attention: Chris Koukoutaris

Dear Chris,

Tree removal – Lyonpark Road Bridge

Eco Logical Australia (ELA) understands that Frasers Property Australia seek advice relating to the removal of an additional three trees on the Ivanhoe Estate site.

ELA prepared the Arboricultural Impact Assessment (February 2020) submitted with SSD 8707 Ivanhoe Estate Redevelopment – Concept. Condition A16 of the consent allowed for tree removal in accordance with Table 3 and drawings in Appendix C contained in the Arboricultural Impact Assessment.

The Stage 1 DA (SSDA 8903) subsequently included Condition B103 to widen the northern verge of the bridge joining to Lyonpark Road. Design drawings prepared by ADW Johnson show that two trees (921 and 922 in the Arboricultural Impact Assessment) proposed for retention require removal. These are shown on the attached drawing (dwg ref 300001-ESK-213).

A third tree (942) will also need to be removed due to construction of a stormwater outlet.

Table 1 Trees to be removed

Tree ID	Species	Height (m)	Diameter at Breast Height (m)
921	<i>Angophora costata</i>	13	0.35
922	<i>Angophora costata</i>	13	0.25
942	<i>Corymbia maculata</i>	10	0.40

The Arboricultural Impact Assessment (ELA, September 2018, section 5.1) acknowledged that there may be cases where detailed root investigation may be required if an impact to a Tree Protection Zone were to exceed 10% Impact. Given trees 921, 922 and 942 will have significant impact to their Tree Protection Zone, including their Structural Root Zone, detailed root investigations will not be able to demonstrate that these trees can be retained.

The above would increase tree removal from 853 to 856. ADW Johnson has however identified that two trees (960 and 961) previously approved for removal no longer require removal, meaning there is a net change of -1 trees. Given the Arboricultural Impact Assessment was based on Concept drawings, it is understandable that minor changes such as this are possible.

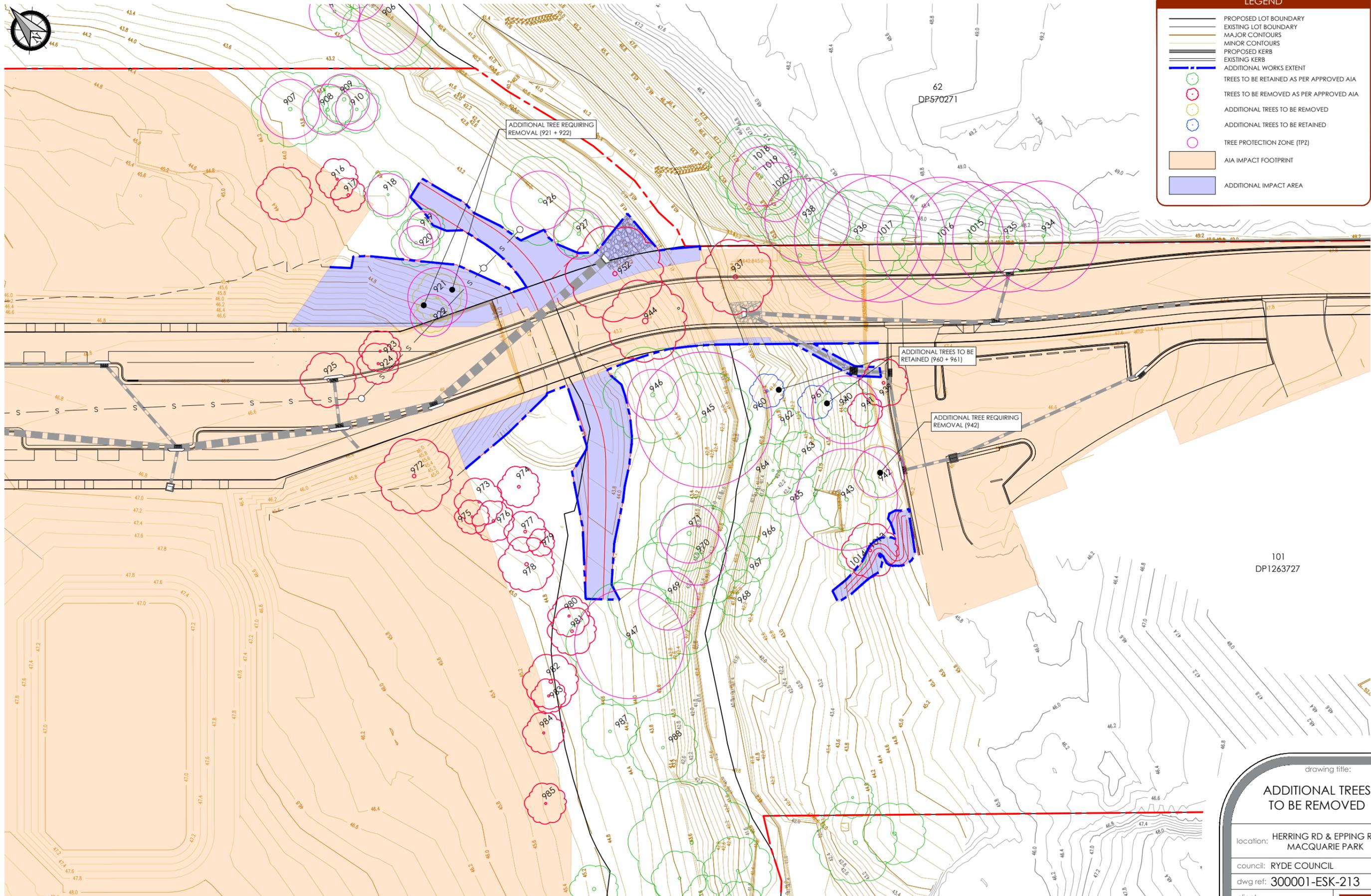
ELA also provided a biodiversity assessment of the Concept Plan. In our opinion, the removal of the three additional trees will not significantly alter the conclusions of the biodiversity assessment or the offset measures required. The trees are located in close proximity to the riparian zone which will be subject to revegetation and landscape works. The net impact of one additional tree being removed represents an increase of 0.1%, which is considered negligible and in keeping with the previously approved assessment.

If you require further advice, please contact me on 0405 910 839.

Regards,

A handwritten signature in black ink, appearing to read 'DB', with a stylized flourish extending from the bottom right.

Dave Bonjer
Principal Planning Consultant / Sydney Office Manager



TREE RETENTION PLAN
SCALE 1:250

drawing title:
ADDITIONAL TREES TO BE REMOVED

location: HERRING RD & EPPING RD
MACQUARIE PARK

council: RYDE COUNCIL

dwg ref: 300001-ESK-213

client:



central coast office ph: (02) 4305 4300
hunter office ph: (02) 4978 5100
sydney office ph: (02) 8046 7411

ver.	date	comment	drawn	pm	level information	scale (A1 original size)	notes
C	19.10.2021	AMENDED DESIGN	JJ	BM	DATUM: N/A CONTOUR INTERVAL: 0.2m	A1 1:250 0 5.0 10.0 12.5m A3 1:500	

3 November 2021

17156

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

Memo

Company Name:	Department of Planning, Industry and Environment
Attn:	Lucinda Craig / Lara Fusco
Date:	8 December 2021
Re:	Request for additional information
Project Name:	Ivanhoe Stage 1 SSD DA - MOD 3

Comments:

- As detailed in the Modification Application, while ever effort has been made to retain and protect trees “where design allows”, compliance with Condition B103 of the Stage 1 consent that requires widening the bridge connection through the site, will unavoidably impact Trees 921 and 922 and as such these trees are required to be removed. This is likewise the case for Tree 942 that is unavoidably impacted by the stormwater network.
- The angophora trees (Trees 921 and 922) were considered to have high retention value under the original Arboricultural Impact Assessment. Section 2.2 of that assessment confirms the relevant considerations for the different classification categories. These categories detail the order of priority trees for retention to removal where design allows. As detailed, compliance with Conditions B103 of the consent requires that the bridge be widened post-approval which has unavoidably impacted these trees. Compliance with Condition B103 has meant that these angophora trees cannot be retained.
- The presence of nests, dreys and hollows is addressed as part of the endorsed Biodiversity Management Plan (BMP) under Condition B47 of the Stage 1 consent. This BMP includes processes for the pre-clearance survey of vegetation and the replacement of removed hollows at a rate of 1:4. The existing consent, therefore, has an appropriate framework in place for determining whether the trees contains nests, dreys, hollows etc, and providing compensatory hollows, in accordance with EES Group’s recommendations. A further condition of consent to this effect is not required.
- The specific details for the two trees to be retained on the site has been provided in the appended letter from EcoLogical (see Table 2 of the letter dated 1 December 2021) including the species, height, and diameter of these trees. The trees to be retained are mature Casurina Cunninghamiana trees, commonly known as ‘River Oak’, which is a native species endemic besides creeks and rivers.
- Further native vegetation will be planted across the Master Plan site with each progressive stage of the project, in accordance with Condition A17 of the Master Plan consent. The replacement ratio remains greater than 1:1 across the Master Plan site. A further condition of consent to this effect is therefore not required.

1 December 2021

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Table 2 Additional to be retained

Tree ID	Species	Height (m)	Diameter at Breast Height (m)
960	<i>Casurina cunninghamiana</i>	15	0.25
961	<i>Casurina cunninghamiana</i>	15	0.4

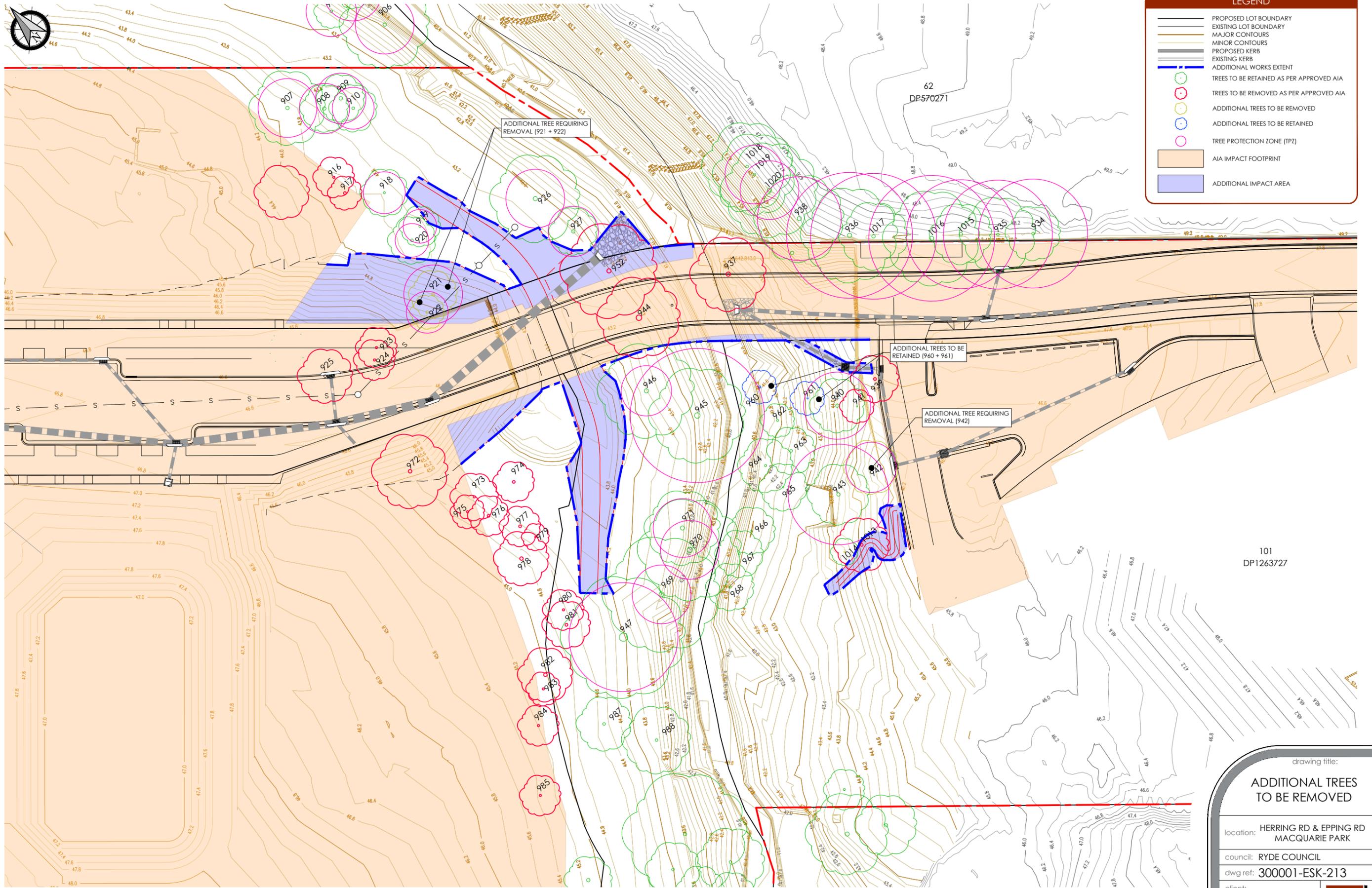
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Principal Planning Consultant / Sydney Office Manager



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