

7 May 2018

NSW Department of Planning and Environment
PO Box 39
SYDNEY NSW 2001

Attention: Any Nixey Andy.Nixey@planning.nsw.gov.au.

RE: SUBMISSION ON IVANHOE ESTATE MASTERPLAN (SSD 17_8707)

Dear Mr Nixey

INTRODUCTION AND BACKGROUND

This submission on the Ivanhoe Estate Masterplan (SSD 17-8707) has been prepared by Robinson Urban Planning Pty Ltd (**RUP**) for China Overseas Sydney Pty Ltd (**COLI**) being the owner of 137-143 Herring Road at Macquarie Park which occupies the corner of Herring Road and Epping Road to the immediate north-west of the Ivanhoe Estate.

On 16 February 2018, the Sydney North Planning Panel granted a deferred commencement consent for the following development on the COLI site (LDA 2017/0107):

Demolition works and the construction of two residential buildings over basement car parking, landscaping works and tree removal.

COLI welcomes redevelopment of the Ivanhoe Estate and commends the proponent on its proposal to create a mixed use community on the land. There are, however, several aspects of the Ivanhoe Estate Masterplan that may have an adverse amenity impact for the COLI development approved by LDA 2017/0107. This submission details COLI's concerns and recommends solutions to address the shortcomings. The COLI submission is not a comprehensive assessment of the Ivanhoe Estate Masterplan and Environmental Impact Statement (EIS). Instead, the issues raised focus on aspects of the Masterplan that directly affect the approved development on the COLI site.

SUBMISSION

- 1. The EIS contains inadequate and inconsistent information and provides inadequate details on the form of development proposed for the Ivanhoe Estate**
 - a. The SSD seeks approval for the Masterplan Drawing Set which comprises just four plans. Very limited information is shown on the drawings. Information that must be added to the Masterplan Drawing Set includes (but is not limited to) the following:
 - Building envelope sections and elevations
 - Existing and finished ground levels
 - Distribution of proposed land uses
 - Plans showing building footprints, heights, setbacks, separation etc that more closely aligns with the Indicative Reference Design illustrated and assessed in the Design Report and elsewhere in the EIS.

- b. There are very substantial differences between the Masterplan Drawing Set and the Indicative Reference Scheme. Adjoining the COLI Site, the following critical discrepancies are of considerable import for COLI (see our mark-up of the Master Plan Envelope Control Plan, Design Report Photomontage, Design Report Site Plan and Section 06 at **Figures 1 to 4**):
- Height
 - i. Master Envelope Control Plan (DA01.MP.100[3]) shows a consistent building height of 75m for Buildings A1, A2 and A3 (equal to 24 storeys), simply applying the Ryde Local Environmental Plan 2014 (**RLEP 2014**) height standard without responding to the site circumstances.
 - ii. In contrast, the Indicative Reference Scheme described in the Design Report illustrates and assesses 14 storey and 3 storey elements at A2 and A3.2 (respectively).
 - iii. It is not reasonable for the applicant to seek the degree of height flexibility being sought in the Masterplan.
 - Building separation
 - i. Master Envelope Control Plan (DA01.MP.100[3]) no building separation between Buildings A1/A2 and A2/A3.
 - ii. In contrast, the Indicative Reference Scheme described in the Design Report illustrates and assesses buildings with considerable separations.
 - iii. It is not reasonable for the applicant to seek the degree of building separation flexibility being sought in the Master Plan.
 - Building articulation
 - i. Master Envelope Control Plan (DA01.MP.100[3]) shows no building articulation.
 - ii. In contrast, the Indicative Reference Scheme described in the Design Report illustrates and articulated and stepped buildings.
 - iii. It is not reasonable for the applicant to seek the degree of building envelope flexibility being sought in the Master Plan.
 - Land use
 - i. Master Envelope Control Plan (DA01.MP.100[3]) does not show the distribution of land uses.
 - ii. In contrast, the Indicative Reference Scheme described in the Design Report illustrates and assesses the proposed distribution of residential apartments, seniors housing, retail/town centre uses, school child care, open space.
 - iii. It is not reasonable for the applicant to seek the degree of land use flexibility being sought in the Masterplan.
- c. Contrary to the signed statement of Validity at page 8 of the EIS, the EIS is extremely misleading in relation to the proposed Masterplan layout noting that EIS Figure 18 shows the Indicative Reference Design (submitted for information only) but labels it as the “Proposed Masterplan”. Similarly, EIS Figure 19 shows a perspective sketch of the Indicative Reference Design but labels it as the “Indicative Masterplan”. Noting the significant scale reduction proposed by the Indicative Reference Design when compared with the Masterplan Drawing set, the EIS is inaccurate and misleading.
- d. Similarly, appendices to the EIS assess the environmental effects of the smaller Indicative Reference Design (for example the Appendix T - Visual Impact Analysis and Appendix V - Wind Impact Analysis both assessment the smaller reference design which is provided for information only).
- e. Noting the issues described above, the Ivanhoe Estate Masterplan provides maximum flexibility for applicant, but next to no certainty for COLI and the wider community. The following statement in the

Design Report (p, 109) provides a grossly inadequate justification for this and it is our considered opinion that the Design Guidelines do not provide any increased certainty:

While the indicative design scheme describes the likely size and arrangement of proposed buildings, in order to provide some future flexibility, this Concept Development Application seeks approval for more general building envelopes.

These general envelopes are accompanied by a set of design guidelines which ensure any future development applications are consistent the with principles illustrated in the indicative design scheme.

....

Recommendation 1: The Masterplan Drawing Set and EIS should be amended and expanded to address the issues raised above. In particular, the Masterplan Drawing must be amended to more closely reflect the Indicative Reference Design. If this recommendation is not adopted, the EIS and Design Report must be amended to fully assess the environmental impacts of the Masterplan Envelope Control Plan.

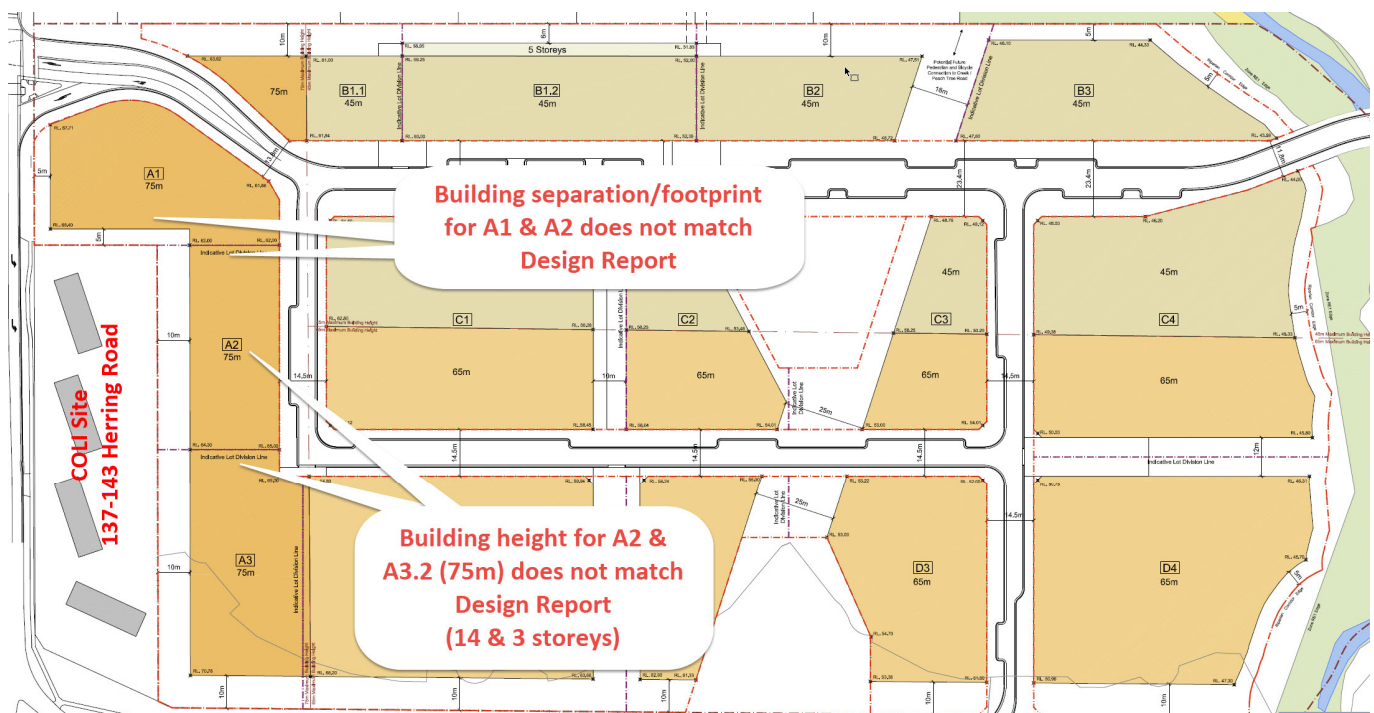
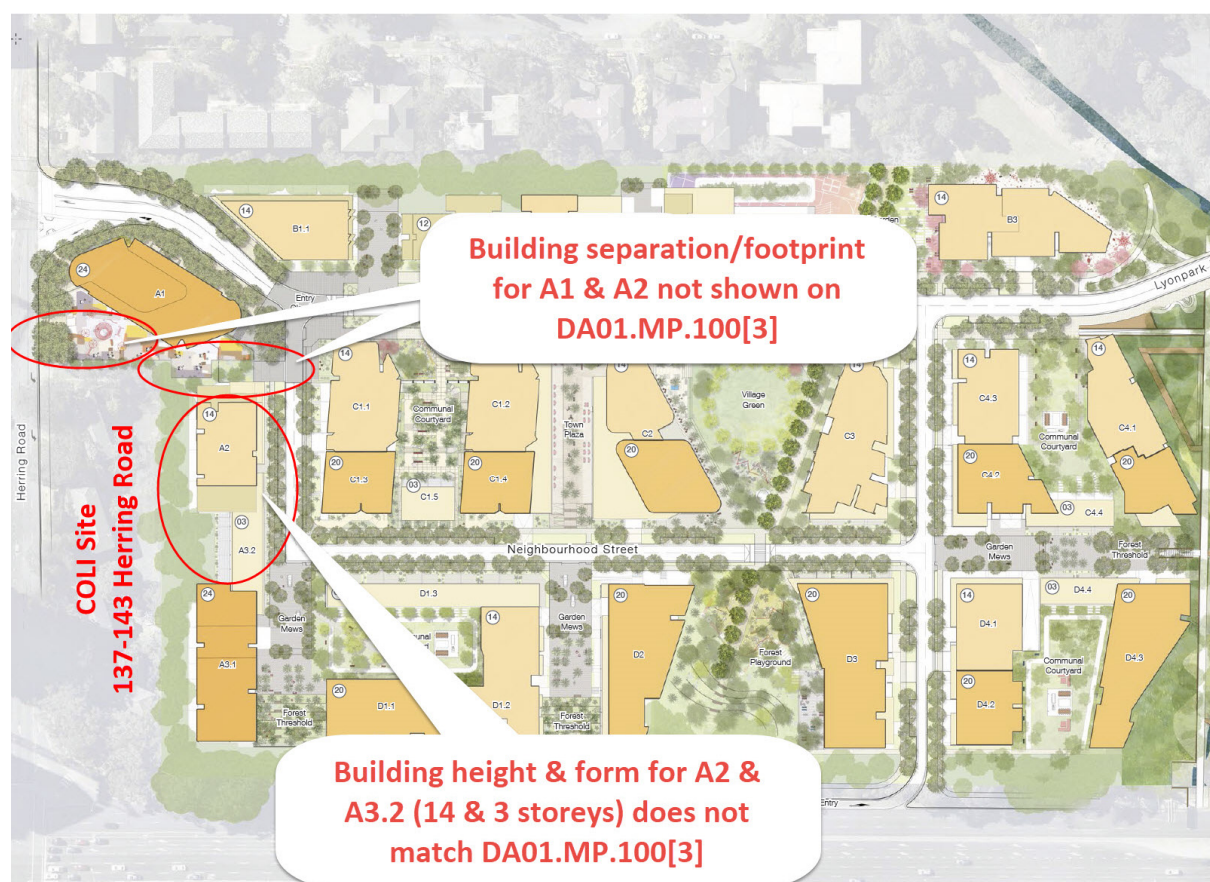


Figure 1: Mark-up of Master Envelope Control Plan (DA01.MP.100[3])



Figure 2: Mark-up of Design Report Photomontage



BATESSMART. + HASSELL

Figure 3: Mark-up of Design Report Site Plan

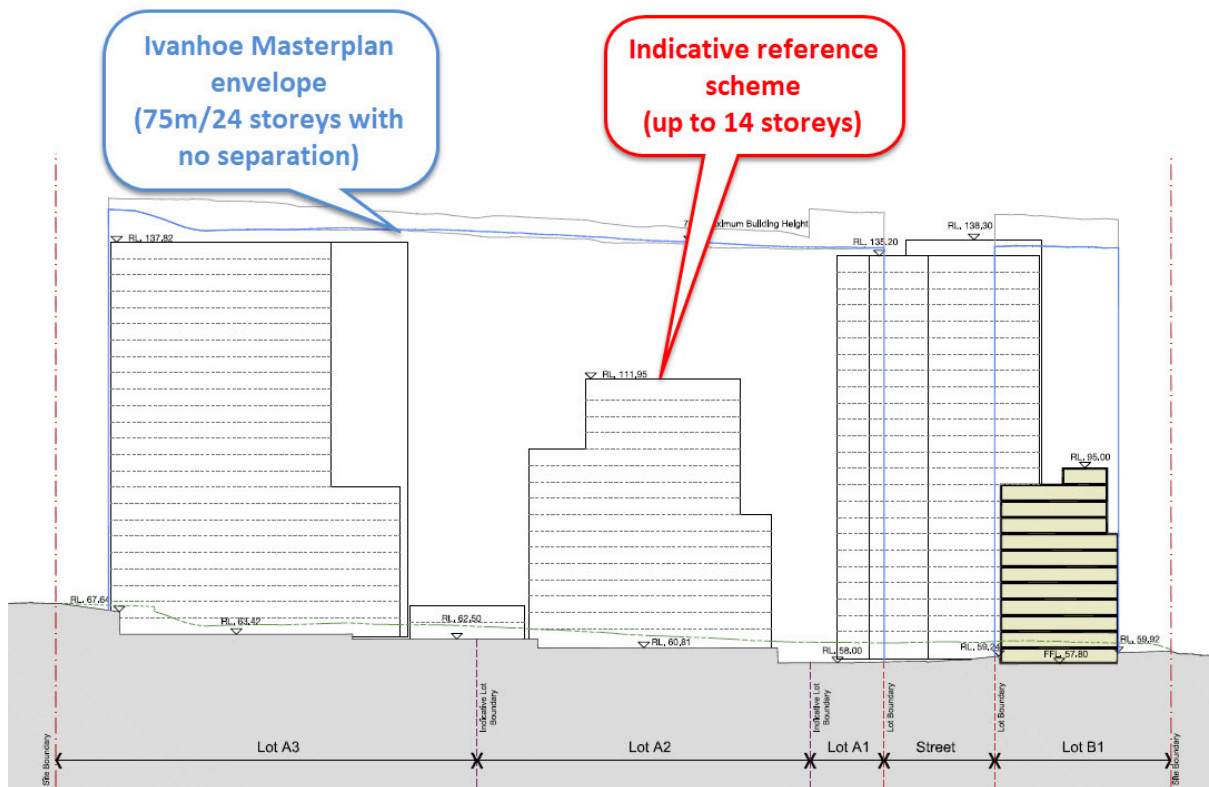


Figure 3: Mark-up of Design Report Section 06 (DA09.MP.102[2])

2. The EIS does not consider the COLI development approved by LDA 2017/0107

- The Master Plan Drawing Set shows the footprint of the disused student housing accommodation on the COLI site rather than showing the approved COLI development (LDA 2017/0107).
- The EIS and Design Report site/context analysis and environmental impact assessments consider the disused student housing accommodation on the COLI site rather than showing the approved COLI development (LDA 2017/0107).
- This is not acceptable and frustrates a proper assessment of the potential impacts of the Ivanhoe Estate Masterplan on the approved COLI development. It also inhibits a proper assessment of the residential amenity likely to be afforded to future residents in Buildings A1, A3 and A3. Amenity issues that will be affected by the approved COLI development include:
 - Wind impacts for and from the proposed Ivanhoe Estate Masterplan
 - Solar access for the Ivanhoe Estate Masterplan, noting that the approved COLI development is not considered in the solar access assessment included in the Design Report. Consequently, solar access to proposed buildings A2 and A3 is overstated.
 - Overshadowing impacts from the Ivanhoe Estate Masterplan for the approved COLI apartments and communal open space areas has not been assessed.
 - Privacy impacts for and from the proposed Ivanhoe Estate Masterplan for the approved COLI apartments have not been assessed. Given the building separation concern addressed in the next point, this is not reasonable.
 - Given the above, the EIS does not provide a proper assessment of the environmental effects of the Ivanhoe Estate Masterplan as required by s. 4.15 of the *Environmental Planning and Assessment Act, 1979*.

- It is not reasonable to defer this assessment to the further/detailed design DAs as the SSD is seeking consent for height, FSR and setbacks; and these attributes of the concept proposals will affect the amenity of adjoining properties.

Recommendation 2: The Masterplan Drawing Set, Design Report and EIS should be amended to properly assess the impact of the Ivanhoe Masterplan on the COLI development approved by LDA 2017/0107.

3. The proposed Masterplan setbacks adjoining the COLI site and existing apartments on Peach Tree Road do not comply with the Apartment Design Guide (ADG) Objectives 2F and 3F

- a. Adjoining the COLI site, the Masterplan Envelope Control Plan (DA01.MP.100[3]) proposes:
 - 10m setback to the north-western (longer) side boundary, whereas the ADG requires a setback of up to 12m for the proposed 75m A2 and A3 building envelopes
 - 5m setback to the western (shorter) side boundary, where the ADG would require a setback of up to 12m for the proposed 75m A1 building envelope.
- b. Adjoining existing apartments on Peach Tree Road, the Masterplan Envelope Control Plan (DA01.MP.100[3]) proposes:
 - 10m setback whereas the ADG requires a setback of up to 12m for the proposed 45m/75m B1.1 and 45m B1.2 and B2 buildings
- c. The EIS does not provide any justification for these proposed ADG building separation non-compliances.
- d. The Masterplan does not provide any information on the placement of balconies, living rooms or privacy protection measures. In the absence of this information, the proposed variations to the ADG separation design criteria cannot be supported at the Masterplan stage.
- e. Within the Ivanhoe Estate, setbacks consistent with the ADG building separation design criteria are proposed. There is no justification for non-complying setbacks where the Estate adjoins residential sites.

Recommendation 3: The Masterplan Drawing Set should be amended to provide side boundary setbacks that comply with the ADG Objectives 2F and 3F.

4. The floor space ratio (FSR) exception to development standards request has not demonstrated that compliance is unnecessary or unreasonable

The clause 4.6 exception to development standards request seeks a 22,283m² variation to the RLEP 2014 FSR standard. The variation is justified by the applicant on the basis that the Masterplan incorporates affordable/social housing, seniors housing, community uses, creek rehabilitation etc. It is our view that the clause 4.6 FSR variation request is premature and that the applicant has not demonstrated that compliance is unnecessary or unreasonable for the following reasons:

- a. The magnitude of variation sought is momentous, noting that it is almost identical to the GFA of the entire COLI development (which has an approved GFA of 22,346m² and comprises two x 24 storey towers).
- b. The Masterplan Drawings do not provide any certainty that the affordable/social housing, seniors housing and community uses will be provided.
- c. The EIS and clause 4.6 variation request do not adequately assess the environmental effects of the Masterplan Envelope Control Plan; instead relying on the smaller Indicative Reference Design which is provided for information only. Given this, the potential environmental impacts of the additional FSR has not been assessed.

- d. It is not reasonable to seek consent for a FSR that relies on the site area of land in Zone RE1. This effective transfer of GFA/FSR places an unreasonable burden on the developable portion of the site (with potential adverse amenity impacts in terms of urban design, bulk, scale and built form, privacy and building separation and tree retention/replacement).
- e. The cl. 4.6 “Justification for Contravention of the Development Standard” consistently relies on the environmental effects of the Indicative Reference Design, which is provided for information only. A proper cl. 4.6 request must consider the impacts of the Master Envelope Control Plan (DA01.MP.100[3]) for which consent is sought.
- f. The cl. 4.6 “Justification for Contravention of the Development Standard” makes no reference to the COLI development approved by LDA 2017/0107.
- g. To achieve the proposed non-compliant FSR, the Masterplan Development proposes the removal of significant trees and relies on building separation distances that do not meet the ADG building separation design criteria for existing and approved apartments to the north-west (on the COLI site) and north-east (on Peach Tree Road). A reduction in GFA/FSR would provide opportunities for increased building separation distances and tree retention, reducing adverse amenity impacts for existing and future residential properties that adjoin the site.

Recommendation 4: The GFA/FSR sought by the Ivanhoe Estate Masterplan should be reduced to comply with the relevant FSR standards.

5. There is no deep soil proposed between the COLI site and Ivanhoe Estate, resulting in the loss of trees that form part of the Sydney Turpentine Ironbark Forest

- a. ADG Objective 3E-1 provides that deep soil zones must have a minimum dimension of 6m. Relying on this, the Ivanhoe Estate Masterplan provides no deep soil zones along the common boundaries to the COLI site.
- b. It is critical that this boundary area accommodate generous deep soil zones to enable the retention of existing significant trees and to promote the provision and healthy growth of large new trees. Retention of the existing significant trees is highly desirable, and it would provide an immediate tree canopy enhancing the landscape context, providing a privacy screen and enhancing amenity for both sites.
- c. The proposal to remove these significant boundary trees and provide no opportunity for replacement trees is a significant concern for COLI. Given the size of the Ivanhoe Estate, and the proposed substantial FSR non-compliance, this component of the Masterplan should not be approved.
- d. Building the proposed basement to the common boundary between the Ivanhoe Estate and the COLI site necessitates the removal of trees that form part of the Sydney Turpentine Ironbark Forest (**STIF**) which is an Endangered Ecological Community under the *Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Act 1999*. The COLI development was designed to protect these trees and their importance was noted by Land and Housing Corporation, NSW Department of Family and Community Services when it commented on the COLI site DA (see attached letter, page 3).

Recommendation 5: The Ivanhoe Estate Masterplan should be amended to provide deep soil zones along the side boundaries with the COLI site with the deep soil dimensions designed to enable the retention of existing significant trees and the planting of new large trees.

6. The proposed Masterplan disregards the easement that benefits the COLI site and burdens Ivanhoe Estate

As illustrated on the Ivanhoe Estate Site Survey (EIS Appendix D, page 8 of 9), the COLI site being Lot 1 DP 609711 benefits from an easement to drain water over Lot 12 DP 861433 which forms part of the Ivanhoe Estate. The Stormwater and Drainage Assessment by ADW Johnson (EIS Appendix F, page 29) notes that “the

proposed development would impact on this connection, however any designs will consider this connection to ensure it remains”.

Contrary to this statement, the Masterplan Drawings and basement plans for the Indicative Reference Design completely ignore COLI’s rights in this regard. The applicant is not entitled to obstruct this easement and the Masterplan proposes a material interference to COLI’s rights which cannot be approved.

RUP is advised that COLI has made several attempts to discuss the drainage easement, but negotiations have not progressed due to fundamental differences between the party’s positions. To this end, legal proceedings regarding the easement are in progress. COLI has proposed a relocated easement, the location of which is flexible to accommodate the applicant’s future redevelopment plans for the Ivanhoe Estate.

As the COLI site has an existing easement right, which would be altered by the Ivanhoe Estate Masterplan, it is essential that the easement arrangements are properly addressed as part of the Ivanhoe Estate Masterplan.

Recommendation 6: The Ivanhoe Estate Masterplan and Indicative Reference Design must be amended to comply with the terms of the easement to drain water over Lot 12 DP 861433 which benefits the COLI site as amended to meet the requirements of the approved COLI development LDA 2017/0107.

CONCLUSION

A summary of the COLI objections to the Ivanhoe Estate Masterplan and suggested recommendations to resolve the considerable concerns follows:

1. The EIS contains inadequate and inconsistent information and provides inadequate details on the form of development proposed for the Ivanhoe Estate

Recommendation 1: The Masterplan Drawing Set and EIS should be amended and expanded to address the issues raised above. In particular, the drawings must be amended to more closely reflect the Indicative Reference Design. If this recommendation is not adopted, the EIS and Design Report must be amended to fully assess the environmental impacts of the Masterplan Envelope Control Plan.

2. The EIS does not consider the COLI development approved by LDA 2017/0107

Recommendation 2: The Masterplan Drawing Set, Design Report and EIS should be amended to properly assess the impact of the Ivanhoe Masterplan on the COLI development approved by LDA 2017/0107.

3. The proposed Masterplan setbacks adjoining the COLI site and existing apartments on Peach Tree Road do not comply with the Apartment Design Guide (ADG) Objectives 2F and 3F

Recommendation 3: The Masterplan Drawing Set should be amended to provide side boundary setbacks that comply with the ADG Objectives 2F and 3F.

4. The floor space ratio (FSR) exception to development standards request has not demonstrated that compliance is unnecessary or unreasonable

Recommendation 4: The GFA/FSR sought by the Ivanhoe Estate Masterplan should be reduced to comply with the relevant FSR standards.

5. There is no deep soil proposed between the COLI site and Ivanhoe Estate, resulting in the loss of significant trees that form part of the STIF.

Recommendation 5: The Ivanhoe Estate Masterplan should be amended to provide deep soil zones along the side boundaries with the COLI site with the deep soil dimensions designed to enable the retention of existing significant trees and the planting of new large trees.

6. The proposed Masterplan disregards the easement that benefits the COLI site and burdens Ivanhoe Estate

Recommendation 6: The Ivanhoe Estate Masterplan and Indicative Reference Design must be amended to comply with the terms of the easement to drain water over Lot 12 DP 861433 which benefits the COLI site as amended to meet the requirements of the approved COLI development LDA 2017/0107.

The issues raised in this submission are considerable and well founded and SSD 17_8707 should be amended to address each of the recommendations or refused consent.

Yours sincerely



Sandra Robinson BTP (Hons) MPIA
Director