

## Gateway Determination

**Planning proposal (Department Ref: PP\_2016\_CBANK\_001\_00):** to amend the floor space ratio and height of buildings controls for land at 30 - 46 Auburn Road, Regents Park.

I, the Deputy Secretary, Planning Services, at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that the proposed amendment to the *Bankstown Local Environmental Plan (LEP) 2015* to amend the floor space ratio (FSR) and height of building controls for land at 30 - 46 Auburn Road, Regents Park should proceed subject to the following conditions:

1. Prior to undertaking community consultation the planning proposal is to be amended to:
  - a) reflect the outcome of FSR review (either 1.75:1 or 2.25:1, or an alternative FSR);
  - b) remove the requirement for the provision of public benefits to achieve the maximum FSR;
  - c) include a contamination study which addresses the requirements *State Environmental Planning Policy No 55 - Remediation of Land*; and
  - d) include a flood study which addresses the requirements of section 117 Direction 4.3 - Flood Prone Land.
2. Prior to undertaking community consultation, consultation is required with the following public authorities under section 56(2)(d) of the Act:
  - Transport for NSW - Sydney Trains
  - Roads and Maritime Services
  - Environment Protection Authority
  - Australian Rail Track Corporation
  - Ausgrid
  - Telstra
  - Sydney Water

The public authorities are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

If any public authority requires additional information, or specifies any additional matters to be addressed, the planning proposal is to be updated to respond to any such submission.

3. The planning proposal is to be amended to reflect conditions 1 and 2 and a copy is to be provided to the Director Sydney Region West for approval prior to community consultation being undertaken.

4. Community consultation is required under sections 56(2) and 57 of the Act as follows:
  - a) the planning proposal must be made publicly available for 28 days; and
  - b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of the Department's 'A Guide to Preparing Local Environmental Plans'.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Dated 23<sup>rd</sup> day of September 2016



**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**  
**Department of Planning and Environment**  
**Delegate of the Greater Sydney Commission**



Mr Matthew Stewart  
Interim General Manager  
Po Box 8  
Bankstown NSW 1885

16/11262

Attention: James Carey

Dear Mr Stewart *Math*

**Planning Proposal to amend Bankstown Local Environmental Plan 2015**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) regarding the planning proposal to amend *Bankstown Local Environmental Plan 2015* (LEP) by changing the Floor Space Ratio (FSR) and height of building controls for 30-46 Auburn Road, Regents Park.

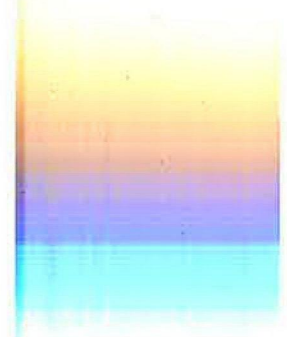
As delegate of the Greater Sydney Commission, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have conditioned the determination to reflect the recommendation of the Sydney West Joint Regional Planning Panel that the maximum FSR not be subject to the provision of public benefits. I support the Panel's recommendation that the proponent and council engage in discussion regarding an appropriate mechanism to achieve improved links to Regents Park Village.

I note that Council previously resolved to increase the FSR to 2.25:1 and that Council now proposes to review the FSR for the site. I request Council to complete this review and confirm the proposed FSR. The proposal will need to be amended (if necessary) and resubmitted to the Department for approval prior to community consultation.

I have also agreed that the planning proposal's inconsistency with S117 Direction 3.1 Residential Zones is of minor significance, and that no further approval is required in relation to this Direction. In relation to S117 Direction 4.3 Flood Prone land, Council is required to undertake and provide a flood study that either demonstrates consistency with this Direction, or demonstrates that any inconsistency is minor and justified. A copy of the study must be included in the proposal prior to public exhibition.

I understand that contamination investigations were undertaken in 2005 when the site was rezoned from an industrial zone to a high density residential. However, the contamination investigations are based on a significantly smaller scale residential development compared to the current proposal. Therefore, it is requested that Council undertake and report on relevant site investigations to address the requirements of the



*State Environmental Planning Policy No 55 - Remediation of Land*. A copy of the study must also be included in the proposal prior to public exhibition.

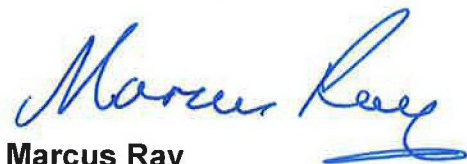
Plan making powers were delegated to Councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposals and have decided not to issue an authorisation for Council to exercise delegation to make the plan.

The amending LEP is to be finalised within 18 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Commission may take action under s54(2)(d) of the Act if the timeframes outlined in this determination are not met.

If you have any queries in regard to this matter, please contact Mr Daniel Gorgioski, of the Department's regional office on 9860 1538.

Yours sincerely



**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**

*23/09/2016*  
**Delegate of the Greater Sydney Commission**

Encl:  
Gateway determination

**30 - 46 Auburn Road, Regents Park**

Proposal Title : **30 - 46 Auburn Road, Regents Park**

Proposal Summary : **The proposal seeks to increase the maximum height of buildings (to part 19m and part 25m) and increase the maximum floor space ratio (to 1.75:1 if nominated public benefits be delivered, or otherwise to 1.5:1) for land at 30 to 46 Auburn Road, Regents Park.**

PP Number : **PP\_2016\_CBANK\_001\_00**

Dop File No : **16/10419**

**Proposal Details**

Date Planning : **27-Jul-2016**

LGA covered : **Canterbury-Bankstown**

Proposal Received :

Region : **Metro(CBD)**

RPA : **Canterbury-Bankstown Council**

State Electorate : **BANKSTOWN**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

**Location Details**

Street : **30 to 46 Auburn Road**

Suburb : **Regents Park**

City : **Sydney**

Postcode : **2143**

Land Parcel :

**DoP Planning Officer Contact Details**

Contact Name : **Tessa Parameter**

Contact Number : **0298601555**

Contact Email : **tessa.parmeter@planning.nsw.gov.au**

**RPA Contact Details**

Contact Name : **Mauricio Tapia**

Contact Number : **0297079923**

Contact Email : **mauricio.tapia@bankstown.nsw.gov.au**

**DoP Project Manager Contact Details**

Contact Name : **Terry Doran**

Contact Number : **0298601579**

Contact Email : **Terry.Doran@planning.nsw.gov.au**

**Land Release Data**

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

## 30 - 46 Auburn Road, Regents Park

MDP Number :

Date of Release :

Area of Release (Ha)

Type of Release (eg

Residential /

Employment land) :

No. of Lots : 0

No. of Dwellings 0

(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes

Lobbyists Code of

Conduct has been

complied with :

If No, comment :

Have there been No

meetings or

communications with

registered lobbyists? :

If Yes, comment :

### Supporting notes

Internal Supporting

Notes :

External Supporting

Notes :

## Adequacy Assessment

### Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

A statement of objectives is provided. The intended outcome of this planning proposal is to enable an increase of residential development within a reasonable walking distance of the Regents Park railway station; and provide an appropriate mechanism to ensure that the development of the site delivers certain public improvement works, and to realise these improvement works in a timely manner.

### Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment :

The site at 30-46 Auburn Road in Regents Park is currently zoned R4 High Density Residential. The maximum building height is 13 metres (plus attic), and the maximum floor space ratio is 0.6:1.

To achieve the intended outcome of this planning proposal, the proposed amendments to Bankstown Local Environmental Plan 2015 are:

- Enable an increase in height to 19 metres to the part of the site that fronts Auburn Road, and a maximum building height of 25 metres to the remainder of the site;
- enable and increase the maximum floor space ratio to 1.75:1.

This is subject to a clause that only permits development to achieve the maximum floor space ratio of 1.75:1 if the development delivers the following public benefits to the satisfaction of Council:

- The highest standard of architectural, urban and landscape design;
- The embellishment of Magney Reserve to support the increased residential

development on the site;

- The construction of footpaths on both sides of Auburn Road and the streets surrounding Magney Reserve to complete the footpath network, and the installation of kerb build-outs, pedestrian crossings and traffic calming measures at certain locations;
- The embellishment of Auburn Road and local streets with street trees to create a pleasant place to walk and cycle;
- The construction of a north-south cycle link along Auburn Road.

It was proposed that if the development did not deliver these public benefits to the satisfaction of Council, then a maximum floor space ratio of 1.5:1 should apply to the site. This is addressed below.

### Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

**3.1 Residential Zones**

\* May need the Director General's agreement

**4.3 Flood Prone Land**

**6.3 Site Specific Provisions**

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 55—Remediation of Land**

e) List any other matters that need to be considered :

#### **FLOOR SPACE RATIO**

##### **(a) Public Benefits**

The proposal seeks to increase the maximum permissible floor space ratio (FSR) from 0.6:1 to 1.75:1 if the development delivers specified public benefits to the satisfaction of Council. The public benefits sought include:

- embellishment of Magney Reserve;
- construction of footpaths on both sides of Auburn Road and the streets surrounding Magney Reserve;
- planting of street trees on Auburn road and local streets; and
- construction of a cycle link along Auburn Road.

The proposal seeks to apply a maximum FSR of 1.5:1 should the above benefits not be provided to the satisfaction of Council.

Enabling a bonus FSR on the basis of satisfactory provision of public benefits is more aligned with development contributions, which can only be required via a Section 94 Contributions Plan or other measures within the Act (e.g. Voluntary Planning Agreement).

Although several Councils have expanded or are seeking to expand the scope of "bonus" clauses (e.g. value uplift sharing in Parramatta CBD), there is not a clear Department policy regarding this issue.

##### **(b) Pre Gateway Review**

This planning proposal has been the subject of a pre Gateway review (PGR\_2014\_BANKS\_002\_00) with the Sydney West Joint Regional Planning Panel recommending a maximum FSR of 1.75:1, whilst recognising the need for improvement works (to be realised via an appropriate mechanism) to establish links to Regents Park Village.

The Department's pre Gateway review assessment of all relevant technical and urban design studies supported the Panel's recommendation that the planning proposal proceed without being subject to the provision of public benefits.

The Department agrees with the Panel recommendation that there is a need for improvement works to establish links to Regents Park Village. The Panel further recommended that the proponent and Council engage in discussion regarding an



appropriate mechanism to realise these improvement works in a timely manner.

**(c) North Central Local Area Plan**

One day prior to the creation of the new city of Canterbury-Bankstown Council, the former Bankstown Council at a meeting held on 11 May 2016 decided to amend the North Central Local Area Plan by increasing the FSR indicated for the site within the Plan from 1.75:1 to 2.25:1 subject to traffic and public domain works.

Therefore the planning proposal as submitted is inconsistent with a Council's resolution regarding the North Central Local Area Plan. On the 26 July 2016, the Council resolved to agree to be the relevant planning authority and submit a planning proposal to the Department which adopts an FSR of 1.75:1. The supporting Council report notes a review of the proposed 2.25:1 FSR will be undertaken during the exhibition and a report on the review presented to Council

Given the above considerations, it is recommended that a Gateway condition be applied that the FSR for the site is confirmed prior to exhibition, and that this FSR is not subject to the provision of public benefits.

**TRAFFIC**

A Traffic assessment undertaken as part of the pre Gateway review application concluded that the upgraded rail overbridge will alleviate existing traffic issues regarding the local road network. Traffic is therefore not considered to be a constraint to rezoning of the site at a density enabled by an FSR of 1.75:1. The Gateway determination has been conditioned to consult with the RMS and Transport NSW (Sydney Trains) prior to exhibition.

This will confirm whether traffic is a constraint to rezoning the site.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

**117 Directions**

**Direction 3.1-Residential Zones:** This planning proposal is inconsistent with clause 10 of this direction, which does not permit residential development until the site is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it). In response the Joint Regional Planning Panel and the North Central Local Area Plan identified the need for certain public improvement works to service the site and to establish linkages to the Regents Park Small Village Centre for the benefit of the site.

In accordance with clause 11 of this direction, the inconsistency is justified provided there is a site specific provision to realise the improvements works in a timely manner. The Department supports this recommendation. The intended outcome is to establish better links to the Regents Park Small Village Centre, and to improve the amenity and public domain of the locality for the benefit of residents. The proposed improvement works include (but are not limited to) the following actions:

- Embellish Magney Reserve to support the growing population resulting from the increased residential development on the site.
- Construct footpaths on both sides of Auburn Road and the streets surrounding Magney Reserve to complete the footpath network, and install kerb build-outs, pedestrian crossings and traffic calming measures at certain locations.
- Embellish Auburn Road and local streets with street trees to create a pleasant place to walk and cycle.
- Formalise a north-south cycle link along Auburn Road.

These matters could be provided for under a voluntary planning agreement.

**Direction 4.3-Flood Prone Land:** This planning proposal is inconsistent with clause 6(c) of this direction as it would permit a significant increase in the development of land within a flood planning area.

In accordance with clause 9(a) of this direction, Council adopted the Duck River



Floodplain Risk Management Plan. The Risk Management Plan combined with the development controls of Bankstown Local Environmental Plan 2015 and Bankstown Development Control Plan 2015 indicate the proposed increase in the development of the land is possible.

However the Department recommends further flooding studies should be undertaken prior to the finalisation of the rezoning of the site. This shall ensure that any future development on this site could be developed in accordance with the proposed height and FSR limits.

**Direction 6.3-Site Specific Provisions:** This planning proposal as submitted, was inconsistent with clause 4(c) as it proposed to add a site specific provision in addition to those already contained in Bankstown Local Environmental Plan 2015.

The proposal included a site specific provision to give Council comfort that there would be an appropriate mechanism to realise the improvement works in a timely manner. However, this site specific provision is not supported. The Panel recommended that the proponent and the Council engage in discussion regarding an appropriate mechanism to realise these improvement works.

**SEPPs**

**SEPP 55 (Remediation of Land)**

Council has advised that a contamination study would be required for the proposal to meet the requirements of SEPP 55. Please see environmental assessment section for DPE consideration.

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment :

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment : **the planning proposal must be made publicly available for a minimum of 28 days**

**Additional Director General's requirements**

Are there any additional Director General's requirements? **No**

If Yes, reasons :

**Overall adequacy of the proposal**

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

**Proposal Assessment**

**Principal LEP:**

Due Date : **March 2015**

Comments in relation to Principal LEP : **Bankstown Local Environmental Plan 2015 was finalised on 5 March 2015.**

**Assessment Criteria**

Need for planning proposal : **The objective of this Planning Proposal is to enable the redevelopment of existing industrial development at 30-46 Auburn Road, Regents Park for higher density housing. The intended outcome is the provision of housing in a highly accessible area that will**

Consistency with strategic planning framework :

maximise public transport patronage and encourage walking and cycling.

This planning proposal is consistent with the directions and actions of the Metropolitan Plan, 'A Plan for Growing Sydney, namely:

- Direction 2.1-Accelerate housing supply across Sydney: This planning proposal enables increased residential development close to Regents Park.
- Direction 2.2-Accelerate urban renewal across Sydney: This planning proposal facilitates urban renewal and enables increased residential development within a reasonable walking distance of the Regents Park railway station.

At the Ordinary Meeting of 11 May 2016, Council adopted the North Central Local Area Plan to identify the priority areas where population and housing growth may occur in a sustainable way, and the required public improvement works to keep pace with population growth. In particular, Action L5 outlines the local context, the structure plan, and the detailed urban design and traffic analysis which informed the recommended building envelope for the development of the site (i.e. 6-8 storeys / 1.75:1 FSR). Action L5 also reflects the Joint Regional Planning Panel's pre-gateway review and recommendation for the site dated 9 March 2016.

This planning proposal is consistent with the recommendations of the North Central Local Area Plan.

The proposal is also consistent with the objectives and actions of the former Draft West Central Subregional Strategy, namely:

- Direction C1.3 - Plan for increased housing capacity targets in existing areas: This planning proposal increases the housing capacity in Regents Park.
- Direction C2.1- Focus residential development around centres, town centres, villages and neighbourhood centres: This planning proposal enables increased residential development within a reasonable walking distance of the railway station. This is subject to the development of the site delivering certain public improvement works to improve linkages to the Regents Park Small Village Centre.
- Direction F2.2 - Investigate future options for open space provision and management: This planning proposal promotes the integration of new public domain improvements in new medium and higher density residential developments. This is subject to the development of the site delivering certain public improvement works to improve linkages to the Regents Park Small Village Centre.

DPE comment:

Overall the Department is satisfied that the proposal is consistent with State Government strategies in relation to the provision of supplying new housing. In addition the site is ideally located within walking distance of public transport, shops and services.

Environmental social economic impacts :

Given the location of the site near industrial and residential areas, it is considered that there are no likely environmental impacts of the planning proposal, except potentially for those relating to traffic generation and impact of the proposal's built form upon adjoining and nearby residential properties. However, as the site is located on land that still undertakes industrial activities the issue of contamination will need to be considered and resolved. In addition as the site is located in close proximity to a rail corridor, residential amenity may be impacted by noise, vibration and dust generated from the trains and its operations within an industrial area.

Contamination:

Council has advised that contamination investigations were undertaken in 2005 when the site was rezoned from an industrial zone to a high density residential. The study looked at the suitability of the site for residential purposes and concluded that "the potential for extensive contamination of the site is low and that the site can be practically remediated and rendered suitable for the proposed residential use", and that "it may be prudent to conduct further investigations on the site to fully characterise the site in terms of site contamination".

However, the contamination investigations are based on a significantly smaller scale residential development compared to the current proposal. Industrial related activities

have also continued to occur on the site since the rezoning. To date, Council's knowledge in relation to the extent of contamination on the site is incomplete.

In its proposal Council did note that further studies are required to further assess whether the proposal is consistent with SEPP 55. This is particularly the case if the capacity, site cover, basement excavation and resident numbers are to increase on the site. This requirement reflects an earlier recommendation of the Joint Regional Planning Panel dated 30 August 2013.

The Department supports this recommendation of further studies to be undertaken as it will ensure the proposed scale of development may occur. These studies should be completed prior to the proposal going on public exhibition to ensure that proposed scale could potentially occur at the subject site.

**Residential amenity:**

The site adjoins the Southern Sydney Freight Line and industrial zoned land. In relation to noise, vibration, dust and the impact on residential amenity, this planning proposal takes into consideration the relevant guidelines under SEPP (Infrastructure) 2007, together with appropriate setback controls. The setback controls will be included in the Development Control Plan and will apply to the development of the site.

It is noted that any future development application would need to be assessed in consultation with relevant public authorities, and against the requirements of the Infrastructure SEPP and all relevant guidelines relating to development near rail corridors.

**Socio economic:**

This planning proposal broadens the choice of building types available in the housing market (in the form of residential flat buildings) to provide for existing and future housing needs.

However, the Joint Regional Planning Panel and the North Central Local Area Plan identify the need for certain public improvement works to service the site and the growing population. This includes establishing linkages to the Regents Park Small Village Centre for the benefit of the site, and to improve the amenity and public domain of the locality for the benefit of residents.

However the Department has considered this issue and believes the improvements to public benefits can be undertaken via a Section 94 Contributions Plan or other measures within the Act (e.g. Voluntary Planning Agreement).

**Assessment Process**

Proposal type : **Minor** Community Consultation Period : **28 Days**

Timeframe to make LEP : **18 months** Delegation :

Public Authority Consultation - 56(2)(d) : **Transport for NSW - Sydney Trains  
Transport for NSW - Roads and Maritime Services  
Sydney Water  
Telstra  
Transgrid  
Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

## 30 - 46 Auburn Road, Regents Park

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

**Other - provide details below**

If Other, provide reasons :

**The planning proposal is to be updated to include a contamination study which addresses State Environmental Planning Policy No 55 - Remediation of Land.**

**The planning proposal is to be updated to include a flood study to comply with S117 Direction 4.3 - Flood Prone Land.**

Identify any internal consultations, if required :

**No internal consultation required**

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

### Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal 30-46 Auburn Road, Regents Park_.pdf	Proposal	Yes
Covering Letter - 30-46 Auburn Road in Regents Park_.pdf	Proposal Covering Letter	Yes

### Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:      **3.1 Residential Zones**  
                                 **4.3 Flood Prone Land**  
                                 **6.3 Site Specific Provisions**

Additional Information :      1. Prior to undertaking public exhibition the planning proposal is to be amended to:

- indicate Council's desired FSR (either 1.75:1 or 2.25:1, or alternative FSR following review), and remove the requirement for the provision of public benefits in exchange for an increase in FSR;
- include a contamination study which addresses the requirements State Environmental Planning Policy No 55 - Remediation of Land; and
- include a flood study which addresses the requirements of section 117 Direction 4.3 - Flood Prone Land.

2. Prior to undertaking public exhibition, consultation is required with the following public authorities under section 56(2)(d) of the Act:

- Transport for NSW - Sydney Trains
- Roads and Maritime Services
- Environment Protection Authority
- Australian Rail Track Corporation
- Ausgrid
- Telstra
- Sydney Water

The public authorities is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment.

If any public authority requires additional information, or specifies any additional matters to be addressed, the planning proposal is to be updated to respond to any such submission.



3. The planning proposal is to be amended to reflect the above conditions and a copy is to be provided to the Director Sydney Region West prior to community consultation under sections 56(2)(c) and 57 of the Act being undertaken

4. Community consultation is required under sections 56(2) and 57 of the Act as follows:

- a) the planning proposal must be made publicly available for 28 days; and
- b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of the Department's 'A Guide to Preparing Local Environmental Plans'.

5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway determination.

Supporting Reasons : The planning proposal is supported in accordance with the recommendations of the Sydney West Joint Regional Planning Panel arising from the pre Gateway review process.

Signature:



Printed Name:

Adrian H. Grogan

Date:

7 / Sept / 2016