

Ms Katie King  
Company Secretary  
UrbanGrowth NSW  
Level 16, 227 Elizabeth Street  
Sydney NSW 2000

6 June 2016

Dear Katie,

### **OCM Report: Scrutineer Role to UrbanGrowth NSW for the landowner vote on the Draft Development Plan for Riverstone Scheduled Lands**

In accordance with our engagement by UrbanGrowth NSW (UrbanGrowth) as the Scrutineer for the Riverstone Scheduled Lands Development Plan Consent Ballot, O'Connor Marsden & Associates Pty Ltd (OCM) has outlined below our report in relation to this process.

This report is provided in accordance with the Scope of Engagement dated 12 January 2016.

### **Scope of Services**

As noted above, UrbanGrowth undertook a Consent Ballot on the Draft Development Plan for the Riverstone Schedule Lands. The Consent Ballot closed on 31 March 2016. The consent ballot was undertaken in accordance with Part 16C, Division 3 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation). As part of this process, UrbanGrowth engaged KPMG to undertake the Returning Officer role as per Clause 268ZC (2) (c) of the Regulation. OCM was engaged to provide probity oversight and undertake the Scrutineer Role for the Consent Ballot, which, in accordance with the Australian Electoral Committee *Scrutineers Handbook*, has as its role to "confirm the integrity of election processes".

On the basis of the above, our engagement had as its objective to an oversight role of the consent ballot process to confirm that it adheres to the requirements under Part 16C, Division 3 of the *Environmental Planning and Assessment Regulation 2000* (the Regulation) and the following probity principles:

- accountability of the participants and transparency of the process
- fairness, impartiality and honesty in carrying out the process
- management of actual, potential and perceived conflicts of interest
- maintenance of confidentiality and security of documentation and information.

We also provided oversight of the consent ballot to confirm, consistent with the role of a Scrutineer described in the *Scrutineers Handbook*, the integrity of the ballot and counting process.

### **Methodology**

As part of the oversight process, we undertook the following tasks:

- Reviewed and documented as part of this report the relevant legislative framework for the consent ballot process, specifically the *Environmental Assessment and Planning Regulation 2000*

- Reviewed the process for the advertisement of the proposed Development Plan and notice provided to landowners, including the information provided to landowners in the draft Development Plan and as part of the ballot process to ensure the landowners participating in the process are fully informed
- Reviewed the voting roll to confirm that appropriate notification has been provided to all landowners who have a right to vote in the consent ballot for the draft Development Plan
- Reviewed the procedures in place for the receipting of ballot papers and security arrangements for these papers
- Observed the ballot opening process to ensure this is undertaken in accordance with the established methodology
- Observed the process for the counting of the ballot papers and review of relevant records
- Prepared this probity report on the consent ballot process.

## Work performed

During the engagement, we undertook the following tasks to confirm the process followed by KPMG for the Consent Ballot for the Riverstone Scheduled Lands revised Development Plan:

1. Reviewed the correspondence received from the Office of the Secretary, Planning & Environment dated providing approval under Clause 268ZC (3) and 268ZD (5)(e) of the Regulation with regard to the form of the Ballot Paper. The correspondence notes that approval is provided for the Ballot Paper as well as the statement relating to the Ballot, which is to be provided to Landowners.
2. Reviewed the Landowner Consent Ballot statement provided to landowners with the Ballot Paper and observed that it contained the following information:
  - a. Confirmation that UrbanGrowth NSW is the Relevant Authority for the Riverstone Scheduled Lands and that, prior to the Minister making a subdivision order, there is a requirement for the Consent Ballot to be held for the proposed Development Plan
  - b. Details of KPMG being appointed as the returning officer for the Consent Ballot
  - c. Confirmation that the Consent Ballot relates to all landowners within Precinct A Stages 1-3
  - d. The time period allowed for the Consent Ballot, being greater than the 28 days required in the Regulation
  - e. Details regarding the documentation which forms part of the Ballot and enclosed as part of the correspondence, including a copy of the Development Plan
  - f. Instructions on how to submit a valid vote
  - g. The process for undertaking the counting of the Ballots
  - h. Details of the Development Plan included where the Plan is exhibited
  - i. Contact details for any enquiries in relation to the Ballot process.
3. Reviewed an example Ballot Paper issued to landowners and confirmed that it contained the following details:
  - a. Reference to Schedule 5 of the Environmental Planning and Assessment Act 1979 under which the paper subdivision was being undertaken
  - b. Confirmation that the Consent Ballot related to the revised Riverstone Scheduled Lands Development Plan (Precinct A (Stages 1-3))
  - c. An area for the landowner to clearly mark if they were providing consent to the granting of the Development Plan or consent to the refusal of the Development Plan
  - d. Details of the landowners name, landholding description and other co-owners for the lot (we understand from discussions with KPMG and observation of the Ballot counting process that this information was pre-populated on the Consent Ballots prior to issuing)

- e. An area for the landowner's signature.
4. Reviewed the process established by KPMG for the counting of the Ballots and confirmed that they are consistent with the process and requirements as described in the Regulation.
5. Attended the KPMG offices on 1 April 2016 for the counting of the Ballots and confirmed the following:
  - a. OCM advised that its role as the Scrutineer of the Ballot process was to observe and report on the process and to inspect the Ballots in the secure suitcase
  - b. OCM confirmed that it was not the role of the Scrutineer to determine the validity of any Ballots
  - c. The opening of the Ballot envelopes and the counting of the received Ballots was undertaken in accordance with the relevant legislation
  - d. The Voting Roll was updated to reflect the Ballot counting process, including the Ballots received, the outcome of the Ballots and the details of the vote counted for the landholding.
6. Reviewed the completed Voting Roll for the Consent Ballot counting process and confirmed that it contained a record of the following:
  - a. The property identification number
  - b. The name of the landowner and details of whether the owner was part of a group of co-owners including a unique identifier
  - c. The lot number for each of the landholdings
  - d. The lot area and total land areas
  - e. A description of the Ballot received (such as received, not received, informal or invalid)
  - f. Details of the vote cast by each individual person as well as the vote counted for the landholding
  - g. The total land area included in the 'yes' vote.
7. Reviewed the Statement of Ballot Results prepared by KPMG dated 8 April 2016 and confirmed that it contained the following information:
  - a. Background to the Consent Ballot process including the number (51) of owners who were eligible to vote.
  - b. The number (41) of formal votes by those owners consenting to the development plan.
  - c. The number (6) of formal votes by those owners against consent to the development plan.
  - d. The number (Nil) of informal votes by those owners.
  - e. The number (Nil) of envelopes marked "rejected".
  - f. The number (4) of lots of land in respect of which no votes were cast.
  - g. The proportion (80%) of the total number of owners of lots subject to the proposed development plan who cast formal votes in favour of consent to the plan.
  - h. The proportion (88.52%) of the total area of the land subject to the proposed development plan that is owned by sole owners and groups of co-owners who have cast formal votes in favour of consent to the plan.
  - i. A statement that the proposed development plan had been consented to by the majority as determined in accordance with the Environmental Planning and Assessment Act 2000 and Environmental Planning and Assessment Regulation 2000.

## Conclusion

OCM is not aware of any matter to indicate that the Consent Ballot process undertaken by KPMG on behalf of UrbanGrowth NSW for the Riverstone Scheduled Lands Development Plan were not compliant with the probity principles described in the Scope in all material respects.

OCM has based this conclusion upon the review of UrbanGrowth NSW and KPMG documentation and activities, as described in the Work Performed section below and includes the observation of the Consent Ballot counting process completed on 1 April 2016.

If you require further information regarding this report, please contact Sarah Mullins or us on (02) 9252 2565.

Yours sincerely,



**Andrew Marsden**  
Director



**George Bawtree**  
Scrutineer

# Appendix A: Compliance table against the Regulation

Requirements under the Regulation	Confirmation	Notes
<b>Clause 268Z: Additional matters to be included in Development Plan</b>		
<b>Include the land valuation</b>	Yes	Included in Schedule 2: Schedule of Land (which includes a table of the Value of the Land and the Market Value of each Lot) of the revised Development Plan which is available on the UrbanGrowth NSW website relating to the Riverstone Scheduled Lands Development.
<b>Description of the proposed stages</b>	Yes	Included in Schedule 1: Timetable of the Development Plan which is available on the UrbanGrowth NSW website relating to the Riverstone Scheduled Lands Development.
<b>Timetable for the subdivision</b>	Yes	Included in Schedule 1: Timetable of the Development Plan which is available on the UrbanGrowth NSW website relating to the Riverstone Scheduled Lands Development.
<b>Clause 268ZB: Notice of proposed development plan and consent ballots</b>		
<b>14 day notification period</b>	Yes	The UrbanGrowth NSW website notes that the Minister for Planning announced on 29 October 2015 a revised Development Plan and notes that the Riverstone Scheduled Lands would ne put to landowner vote via the Ballot.
<b>Advertisement in local and daily newspaper</b>	Yes	OCM confirmed that the Ballot was advertised in the Blacktown Sun on 9 February 2016 and the Daily Telegraph on 10 February 2016.

Requirements under the Regulation	Confirmation	Notes
<b>Written notice to any local Council in the area</b>	Yes	Blacktown City Council is a landowner in the area and was issued with a Consent Ballot to participate in the Ballot process and therefore notified of the ballot. We also note advice from UrbanGrowth NSW that Blacktown City Council was provided with advance notification of the Ballot.
<b>Exhibition of the Development Plan for 28 days prior to the ballot closing</b>	Yes	The Consent Ballot was open for (31 full days and closed on the 32nd day) longer than the 28 day (minimum) requirement under the Regulation. The revised Development Plan was on exhibition on the Riverstone Scheduled Lands part of the UrbanGrowth NSW website during the Ballot period.
<b>Name of the Authority that proposes to adopt the Development Plan</b>	Yes	The Ballot Paper states that UrbanGrowth NSW is the "Relevant Authority" for the Riverstone Scheduled Lands.
<b>Details regarding the exhibition of the Development Plan</b>	Yes	The information provided to landowners states that the revised Development Plan is available for inspection up to 31 March 2016 on the UrbanGrowth NSW website or at the UrbanGrowth NSW offices in Parramatta.
<b>Date of the ballot closing</b>	Yes	The Ballot Paper states that the Consent Ballot ends on 31 March 2016.
<b>Contact details for the relevant Authority</b>	Yes	Ballot Paper includes the contact details for KPMG who was engaged to undertake the Consent Ballot on UrbanGrowth NSW's behalf.
<b>Clause 268ZC: Consent ballot to be held</b>		
<b>Form of the Ballot Paper must be approved by the relevant Director General</b>	Yes	Sighted the correspondence from the Secretary of Planning and Environment, Ms Carolyn McNally, dated 25 February 2016 providing approval of the Ballot Paper and the form of the statement relating to the Ballot submitted by UrbanGrowth NSW.

Requirements under the Regulation	Confirmation	Notes
<b>Name of the lot owner, details of the lot and the deposited plan details</b>	Yes	Confirmation was received from KPMG that the Ballot Papers issued to the landowners were pre-populated with the name of the lot owners and the details of the lot prior to being issued to the landowners. The Ballot Papers also included pre-populated information relating to any co-owners of land holdings.
<b>Particulars of all land held that is the subject to the Development Plan</b>	Yes	Confirmation was received from KPMG that the Ballot Papers issued to the landowners were pre-populated with the name of the lot owners and the details of the lot prior to being issued to the landowners. The Ballot Papers also included pre-populated information relating to any co-owners of land holdings.
<b>Name of any co-owner</b>	Yes	Confirmation was received from KPMG that the Ballot Papers issued to the landowners were pre-populated with the name of the lot owners and the details of the lot prior to being issued to the landowners. The Ballot Papers also included pre-populated information relating to any co-owners of land holdings.
<b>Clause 268ZD: Voting roll and ballot papers</b>		
<b>Names and addresses of all owners of each lot</b>	Yes	Voting Roll includes the name of the landowner as well as whether the landowner is part of a co-owner group.
<b>Unique identifier for each group or co-owners of land</b>	Yes	Voting Roll includes specific identified if the landowners is a member of a co-owner group - e.g. CG1
<b>Lot and deposited plan numbers and areas of the lots of land owned by each owner and each group of co-owners</b>	Yes	As above
<b>Initialed by the Returning Officer</b>	Yes	Each Ballot Paper included initials in red pen to identify the Ballot Paper as a genuine paper.
<b>Bear a mark to identify it as a</b>	Yes	As above.

Requirements under the Regulation	Confirmation	Notes
genuine paper		
Returning officer must, at least 28 days before the date fixed for the closing of the ballot, send by post or otherwise, every owner entitled to a ballot paper one set of the following:	Yes	The opening / counting of the Ballot Papers was undertaken on 1 April 2016 the day after the closing of the Ballot on 31 March 2016 and 32 days after the dispatch of the Ballot to landowners.
Ballot paper	Yes	Ballot Paper notes that included in the package of information the Ballot Paper, the Riverstone Scheduled Lands Development Plan, a return envelope (inner envelope) and the Ballot Paper envelope outer envelope)
Statement regarding the location of the Development Plan for inspection - physical or website location	Yes	As above.
Outer envelope (containing the name and address of the owner as well as the lots and deposited plan numbers)	Yes	As above.
Inner envelope (ballot paper to be enclosed)	Yes	As above.
A statement relating to the ballot in a form approved by the relevant Director General	Yes	
Clause 268ZE: Voting		
An owner casts a vote in a consent ballot by:		
Completing the ballot paper according to the instructions on the	Yes	



Requirements under the Regulation	Confirmation	Notes
ballot paper		
Sending the ballot paper in the envelopes provided to the Returning Officer	Yes	All Ballots received pre 31 March 2016 were received in the envelopes provided by KPMG as part of the Ballot process.
<b>Clause 268ZF: Safe keeping of ballot papers</b>		
Secure ballot box to be provided and remained secured until the opening of the Ballots	Yes	All Ballots received up to the close of the Ballot on 31 March 2016 were kept in a secure box maintained by the Returning Officer. The box was opened at the time of the Ballot count on 1 April 2016.
The returning officer must place the outer envelopes in the ballot box not later than the time and date fixed on the ballot paper for the closing of the ballot.	Yes	As above.
<b>Clause 268ZG: Counting of votes</b>		
Examine the outer envelopes	Yes	All Ballots were received in the envelopes provided. One Ballot was delivered by hand, but received in the envelope provided.
Mark the owners name on the roll by drawing a line through the name and the lots	Yes	Notation made on the Voting Roll when Ballot received
Remove the inner envelopes from the outer	Yes	
Returning Officer must count as informal any ballot paper that:	None	<ul style="list-style-type: none"> <li>• Not identified as a genuine</li> </ul>

Requirements under the Regulation	Confirmation	Notes
<p>ballot paper</p> <ul style="list-style-type: none"> <li>• Not clear regarding the intention of the vote</li> <li>• Not completed as prescribed on the ballot paper</li> </ul>		
<b>Clause 268ZH: Result of ballot</b>		
<b>Total number of owners who are eligible to vote</b>	Yes	<p>A Statement of Ballot Result was provided by KPMG dated 8 April 2016 outlining the following:</p> <ul style="list-style-type: none"> <li>• Background to the Consent Ballot process including the number (51) of owners who were eligible to vote.</li> <li>• The number (41) of formal votes by those owners consenting to the development plan.</li> <li>• The number (6) of formal votes by those owners against consent to the development plan.</li> <li>• The number (Nil) of informal votes by those owners</li> <li>• The number (Nil) of envelopes marked “rejected”.</li> <li>• The number (4) of lots of land in respect of which no votes were cast.</li> <li>• The proportion (80%) of the total number of owners of lots subject to the proposed development plan who cast formal votes in favour of consent to the plan.</li> <li>• The proportion (88.52%) of the total area of the land subject to the proposed development plan that is owned by sole owners and groups of co-owners who have cast formal votes in favour of consent to the plan.</li> <li>• A statement that the proposed development plan had been consented to by the majority as determined in accordance with the Environmental Planning and Assessment Act 2000 and Environmental Planning and Assessment Regulation 2000.</li> </ul>
<b>Number of formal votes consenting</b>	Yes	As above.
<b>Number of formal votes against</b>	Yes	As above.

Requirements under the Regulation	Confirmation	Notes
Number of informal votes	Yes	As above.
Number of envelopes marked 'rejected'	Yes	As above.
Number of lots where no vote cast	Yes	As above.
Proportion of votes for and against.	Yes	As above.

# Appendix B: Statement of Responsibility

## Management's responsibility for the evaluation process

The management of UrbanGrowth NSW are responsible for the design and implementation of the evaluation process controls in accordance with Government and UrbanGrowth NSW policies. This responsibility includes establishing and maintaining processes relevant to the evaluation process to ensure that the process meets appropriate probity policies, laws and regulations; and leads to selecting the most appropriate proponent or proponents under the prevailing circumstances.

## Assurance practitioner's responsibility

Our responsibility is to express a conclusion on the Evaluation Process based on our review. We conducted our review in accordance with the Australian Auditing Standard on Assurance Engagements ASAE 3000, Assurance Engagements Other than Audits or Reviews of Historical Financial Information issued by the Australian Government Auditing and Assurance Standards Board, in order to state whether or not, on the basis of the procedures described and witnessed where appropriate, we have become aware of any matter that makes us believe that the evaluation process is not in accordance with the principles described above.

A review consists primarily of making enquiries, primarily of persons responsible for undertaking the evaluation process and its underlying documentation, applying analytical and other review procedures, and examination of evidence for a small number of transactions or events. A review is substantially less in scope than a reasonable assurance audit conducted in accordance with ASAE 3000. Accordingly, we do not express an audit opinion. Had we performed a reasonable assurance audit as defined by ASAE 3000 or an audit as defined by the Australian Auditing Standards, additional information may have come to our attention, which would have been reported to UrbanGrowth NSW.

While conducting our review and/or in our report we may provide advice and/or recommendations in relation to the mitigation of risk of challenge to the processes undertaken by UrbanGrowth NSW. In these cases, our responsibility is limited to providing such advice and/or recommendations, based on our experience and knowledge of the subject matter of the project. For the avoidance of doubt, the procedures performed in providing advice and/or recommendations do not constitute an assurance engagement in accordance with the Australian Auditing Standards for Assurance Engagements, nor do they represent any form of audit under the Australian Auditing Standards. We therefore do not express any form of assurance in relation to the advice and/or recommendations, and none should be inferred from any such commentary in this report.

## Inherent limitations

Our Work is subject to the following limitations:

- Owing to the inherent limitations of any internal control structure, it is possible that errors or irregularities may occur and not be detected. Our procedures were not designed to detect all weaknesses in control procedures as they were not performed continuously throughout the period and the tests performed are on a sample basis.
- Any projection of the evaluation of the control procedures to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate.

- The matters raised in this report are only those which came to our attention during the course of performing our procedures and are not necessarily a comprehensive statement of all the weaknesses that exist or improvements that might be made. We cannot, in practice, examine every activity and procedure, nor can we be a substitute for management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities, including fraud. Accordingly, management should not rely on our report to identify all weaknesses that may exist in the evaluation process, or potential instances of non-compliance that may exist.

Advice and/or recommendations for improvement should be assessed by management for their full commercial impact before they are implemented.

### Limitations on use

This report is made solely to the Management of UrbanGrowth NSW in accordance with our engagement letter dated 12 January 2016, for the purpose of providing a report to senior management on the appropriateness and robustness, or not, of the evaluation process and should not be quoted in whole or in part without our prior written consent. We disclaim any assumption of responsibility for any reliance on this report to any person other than the management of UrbanGrowth NSW, or for any purpose other than that for which it was prepared.

We disclaim all liability to any other party for all costs, loss, damages, and liability that the other party might suffer or incur arising from or relating to or in any way connected with the contents of our report, the provision of our report to the other party, or the reliance on our report by the other party.

### Independence, Competence, and Experience

All professional personnel involved in this engagement have met the independence requirements of the Australian professional accounting bodies.