



New South Wales

Baulkham Hills Local Environmental Plan 1991 (Amendment No 85)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Urban Affairs and Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.
(P99/00587)

ANDREW REFSHAUGE, M.P.,

Minister for Urban Affairs and Planning

2001 No 869

Clause 1 Baulkham Hills Local Environmental Plan 1991 (Amendment No 85)

Baulkham Hills Local Environmental Plan 1991 (Amendment No 85)

1 Name of plan

This plan is *Baulkham Hills Local Environmental Plan 1991 (Amendment No 85)*.

2 Aims of plan

This plan aims:

- (a) to rezone land at Castle Hill, Baulkham Hills, Carlingford, Northmead, North Rocks, Oatlands and Dural that is currently zoned Residential 2 (a) under *Baulkham Hills Local Environmental Plan 1991* into 3 new zones, being Residential 2 (a1), Residential 2 (a2) and Residential 2 (a3), and
- (b) to replace the definition of *apartment building* in that plan, to remove the definition of *medium density housing* and to introduce definitions of *town house* and *villa*, and
- (c) to prescribe minimum site area standards for the development of land for apartment buildings, town houses and villas in the Baulkham Hills local government area, and
- (d) to maximise the efficient use of land by preventing the isolation of undersized allotments in that area, and
- (e) to encourage public transport use and minimise private traffic generation in that area.

3 Land to which plan applies

This plan applies:

- (a) in relation to the aim specified in clause 2 (a)—to the land shown edged heavy black on the map marked “Baulkham Hills Local Environmental Plan 1991 (Amendment No 85)” deposited in the office of the Council of the Shire of Baulkham Hills, and
- (b) in relation to the aims specified in clause 2 (b)–(e)—to all land within the Baulkham Hills local government area.

4 Relationship to other environmental planning instruments

This plan amends *Baulkham Hills Local Environmental Plan 1991* as set out in Schedule 1.

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Schedule 1

Amendment of Baulkham Hills Local Environmental Plan 1991

Schedule 1 Amendment of Baulkham Hills Local Environmental Plan 1991

(Clause 4)

[1] Clause 5 Definitions

Omit the definition of *apartment building* from clause 5 (1).

Insert instead:

apartment building means a building containing 3 or more dwellings where each dwelling does not necessarily have direct access to private open space at natural ground level.

[2] Clause 5 (1), definition of “medium density housing”

Omit the definition.

[3] Clause 5 (1), definition of “the map”

Insert in numerical order of amendments:

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[4] Clause 5 (1)

Insert in alphabetical order:

town house means one of a group of 3 or more two-storey dwellings, which may or may not be attached, on a single allotment of land or on adjacent allotments that constitute a single site, where each dwelling has a separate entrance accessible from an outside area and direct access to private open space at natural ground level.

villa means one of a group of 3 or more single-storey dwellings, which may or may not be attached, on a single allotment of land or on adjacent allotments that constitute a single site, where each dwelling has a separate entrance accessible from an outside area and direct access to private open space at natural ground level.

[5] Clause 8 Zones indicated on the map

Insert in appropriate order:

Residential 2 (a1) Zone (Zone No 2 (a1))—coloured light scarlet, edged red and lettered “2 (a1)”.

Residential 2 (a2) Zone (Zone No 2 (a2))—coloured light scarlet, edged red and lettered “2 (a2)”.

Residential 2 (a3) Zone (Zone No 2 (a3))—coloured light scarlet, edged red and lettered “2 (a3)”.

[6] Clause 9 Zone objectives, development control table and related special provisions

Insert “apartment buildings,” after “(including” in paragraph (b) of item 1 of the matter relating to Zone No 2 (a) in the Table to the clause.

[7] Clause 9, Table

Omit “medium density housing;” from item 3 of the matter relating to Zone No 2 (a).

[8] Clause 9, Table

Insert “; town houses; villas” after “telecommunications facilities” in item 3 of the matter relating to Zone No 2 (a).

[9] Clause 9, Table

Insert at the end of item 5 of the matter relating to Zones Nos 2 (a), 2 (c), 3 (a) and 3 (b):

Clause 41—Minimum site area for apartment buildings, town houses and villas

Clause 42—Variations to minimum site area provisions for apartment buildings, town houses and villas

Clause 43—Sites adjoining apartment buildings, town houses and villas

Clause 44—Access to a classified road—Urban

Clause 45—Savings and transitional provision

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[10] Clause 9, Table

Insert in appropriate order:

Residential 2 (a1) Zone

1 Objectives of zone

The objectives are:

- (a) to promote a range of housing choices and associated facilities, and
- (b) to identify those localities which are capable of supporting an increase in housing density and population, and
- (c) to increase housing density in locations adjacent to the main activity centres of the Shire, and
- (d) to promote development that encourages public transport use and minimises private traffic generation, and
- (e) to ensure that building form (including alterations and additions) is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and
- (f) to ensure that any development carried out:
 - (i) is compatible with adjoining structures in terms of elevations to the street and building height, and
 - (ii) has regard to the privacy of existing and future residents, and
 - (iii) has regard to the transmission of noise between dwellings, and
 - (iv) minimises energy consumption and utilises passive solar design principles, and
 - (v) retains significant vegetation, and
 - (vi) incorporates landscaping within building setbacks and open space areas, and
 - (vii) incorporates adaptable housing to meet the needs of people with disabilities, and

- (g) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
- (h) to allow a range of development, ancillary to residential uses, which:
 - (i) is capable of visual integration with the surrounding environment, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) does not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Development for the purpose of the following:
home activities.
Exempt development.

3 Development allowed only with consent

Development for the purpose of the following (which is *advertised development*):

apartment buildings; attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; telecommunication facilities; town houses; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with not more than 1 metre cut or 0.6 metre fill; erection of single-storey dwelling-houses with not more than 1 metre cut or 0.6 metre fill.

5 Prohibited development

Development for the purposes of the following:
home industries; places of assembly; purposes specified in Schedule 2.

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6 Related special provisions

Clause 10—Subdivision generally

Clause 11—Services

Clause 15—Minor variations to zone boundaries

Clause 17—Land subject to bushfire hazards

Clauses 18–23—Conservation of heritage items

Clause 30—Preservation of trees

Clause 33—Restricted development areas

Clause 41—Minimum site area for apartment buildings, town houses and villas

Clause 42—Variations to minimum site area provisions for apartment buildings, town houses and villas

Clause 43—Sites adjoining apartment buildings, town houses and villas

Clause 44—Access to a classified road—Urban

Clause 45—Savings and transition provision

Residential 2 (a2) Zone

1 Objectives of zone

The objectives are:

- (a) to provide for development for town houses, villas and the like in locations close to established public transport routes and the main activity centres of the Shire, and
- (b) to ensure that building form (including alterations and additions) is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and
- (c) to ensure that any development carried out:
 - (i) is compatible with adjoining structures in terms of elevations to the street and building height, and
 - (ii) has regard to the privacy of existing and future residents, and

- (iii) has regard to the transmission of noise between dwellings, and
 - (iv) minimises energy consumption and utilises passive solar design principles, and
 - (v) retains significant vegetation, and
 - (vi) incorporates landscaping within building setbacks and open space areas, and
 - (vii) incorporates adaptable housing to meet the needs of people with disabilities, and
- (d) to encourage a diversity of dwelling types, and
 - (e) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
 - (f) to allow a range of development, ancillary to residential uses, which:
 - (i) is capable of visual integration with the surrounding environment, and
 - (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
 - (iii) does not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Development for the purpose of the following:

home activities.

Exempt development.

3 Development allowed only with consent

Development for the purpose of the following (which is *advertised development*):

attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; telecommunication facilities; town houses; villas.

Any other development not included in item 2 or 4.

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Included in this item is the following *complying development*:
additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with not more than 1 metre cut or 0.6 metre fill; erection of single-storey dwelling-houses with not more than 1 metre cut or 0.6 metre fill.

5 Prohibited development

Development for the purposes of the following:
apartment buildings; home industries; places of assembly;
purposes specified in Schedule 2.

6 Related special provisions

Clause 10—Subdivision generally

Clause 11—Services

Clause 15—Minor variations to zone boundaries

Clause 17—Land subject to bushfire hazards

Clauses 18–23—Conservation of heritage items

Clause 30—Preservation of trees

Clause 33—Restricted development areas

Clause 41—Minimum site area for apartment buildings, town houses and villas

Clause 42—Variations to minimum site area provisions for apartment buildings, town houses and villas

Clause 43—Sites adjoining apartment buildings, town houses and villas

Clause 44—Access to a classified road—Urban

Clause 45—Savings and transitional provision

Residential 2 (a3) Zone

1 Objectives of zone

The objectives are:

- (a) to make provision for villas on land suitable for increased housing densities which is not within proximity to the town centres, facilities or public transport, and
- (b) to ensure that building form (including alterations and additions) is in character with the surrounding built environment and does not detract from the amenity enjoyed by nearby residents or the existing quality of the environment, and
- (c) to ensure that any development carried out:
 - (i) is compatible with adjoining structures in terms of elevations to the street and building height, and
 - (ii) has regard to the privacy of existing and future residents, and
 - (iii) has regard to the transmission of noise between dwellings, and
 - (iv) minimises energy consumption and utilises passive solar design principles, and
 - (v) retains significant vegetation, and
 - (vi) incorporates landscaping within building setbacks and open space areas, and
 - (vii) incorporates adaptable housing to meet the needs of people with disabilities, and
- (d) to allow people to carry out a reasonable range of activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours, and
- (e) to maintain the amenity and low density environment of areas predominantly characterised by detached dwelling-houses, and
- (f) to allow a range of development, ancillary to residential uses, which:
 - (i) is capable of visual integration with the surrounding environment, and

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- (ii) serves the needs of the surrounding population without conflicting with the residential intent of the zone, and
- (iii) does not place demands on services beyond the level reasonably required for residential use.

2 Development allowed without consent

Development for the purpose of the following:
home activities.
Exempt development.

3 Development allowed only with consent

Development for the purpose of the following (which is *advertised development*):

attached dual occupancies; convenience stores; detached dual occupancies; environmentally integrated housing; telecommunication facilities; villas.

Any other development not included in item 2 or 4.

Included in this item is the following *complying development*:

additions and alterations related to an existing dwelling-house, being an addition to the ground floor only, with not more than 1 metre cut or 0.6 metre fill; erection of single-storey dwelling-houses with not more than 1 metre cut or 0.6 metre fill.

5 Prohibited development

Development for the purposes of the following:
apartment buildings; home industries; places of assembly; purposes specified in Schedule 2; town houses.

6 Related special provisions

Clause 10—Subdivision generally

Clause 11—Services

Clause 15—Minor variations to zone boundaries

Clause 17—Land subject to bushfire hazards

Clauses 18–23—Conservation of heritage items

Clause 30—Preservation of trees

Clause 33—Restricted development areas

Clause 41—Minimum site area for apartment buildings, town houses and villas

Clause 42—Variations to minimum site area provisions for apartment buildings, town houses and villas

Clause 43—Sites adjoining apartment buildings, town houses and villas

Clause 44—Access to a classified road—Urban

Clause 45—Savings and transitional provision

[11] Clause 9, Table

Omit “medium density housing;” from item 4 of the matter relating to Zone No 2 (b).

[12] Clause 9, Table

Insert “; town houses; villas” after “places of assembly” in item 4 of the matter relating to Zone No 2 (b).

[13] Clause 9, Table

Insert at the end of item 5 of the matter relating to Zones Nos 2 (b), 2 (d), 4 (b) and 10 (a):

Clause 44—Access to a classified road—Urban.

[14] Clause 9, Table

Omit “medium density housing;” from item 3 of the matter relating to Zone No 2 (c).

[15] Clause 9, Table

Insert “; town houses; villas” after “tourist facilities” in item 3 of the matter relating to Zone No 2 (c).

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[16] Clause 9, Table

Omit “medium density housing;” from item 3 of the matter relating to Zone No 3 (a).

[17] Clause 9, Table

Insert “; town houses; villas” after “telecommunication facilities” in item 3 of the matter relating to Zone No 3 (a).

[18] Clause 9, Table

Omit “medium density housing;” from item 3 of the matter relating to Zone No 3 (b).

[19] Clause 9, Table

Insert “; town houses; villas” after “telecommunication facilities” in item 3 of the matter relating to Zone No 3 (b).

[20] Clause 9, Table

Omit “medium density housing;” from item 4 of the matter relating to Zone No 4 (b).

[21] Clause 9, Table

Insert “; town houses; villas” after “tourist facilities” in item 4 of the matter relating to Zone No 4 (b).

[22] Clause 9, Table

Omit “medium density housing;” from item 4 of the matter relating to Zone No 10 (a).

[23] Clause 9, Table

Insert “town houses; villas;” after “stock and sale yards;” in item 5 of the matter relating to Zone No 10 (a).

[24] Clauses 41–45

Insert after clause 40:

41 Minimum site area for apartment buildings, town houses and villas

The Council must not consent to the development of land for a purpose specified in Column 1 of the Table to this clause unless the total area of the land the subject of the development application is equal to or greater than the area specified in Column 2 opposite that purpose.

Table

Column 1	Column 2
apartment building	4,000 square metres
town houses	1,800 square metres
villas	1,000 square metres

42 Variations to minimum site area provisions for apartment buildings, town houses and villas

Despite clause 41, the Council may consent to the development, for the purposes of apartment buildings, town houses or villas, of land that is smaller than the area required by that clause if the Council is satisfied that:

- (a) **Streetscape**
The form of the proposed structures is compatible with adjoining structures in terms of its elevation to the street and building height.
- (b) **Visual and acoustic privacy**
The design and location of rooms, windows and balconies of the proposed structures, and the open space to be provided, ensures acceptable noise levels and visual privacy.
- (c) **Solar access and design**
Dwellings are designed to minimise energy needs and utilise passive solar design principles.
- (d) **Landscaping and open space**
Significant existing vegetation will be retained and landscaping is incorporated within setbacks and open space areas.

43 Sites adjoining apartment buildings, town houses and villas

- (1) The Council must not consent to the development of land in the Residential 2 (a1) zone for the purpose of apartment buildings, town houses or villas if the carrying out of the proposed development would, in the opinion of the Council, render any allotment adjoining the site of the proposed development incapable of development for the purpose of town houses because the allotment would not meet the requirements of clause 41.
- (2) The Council must not consent to the development of:
 - (a) land in the Residential 2 (a2) zone for the purpose of town houses or villas, or
 - (b) land in the Residential 2 (a3) zone for the purpose of villas,

if the carrying out of the proposed development would, in the opinion of the Council, render any allotment adjoining the site of the proposed development incapable of development for the purpose of villas because the allotment would not meet the requirements of clause 41.

44 Access to a classified road—Urban

- (1) This clause applies to all land within Zone No 2 (a), 2 (a1), 2 (a2), 2 (a3), 2 (b), 2 (c), 2 (d), 3 (a), 3 (b), 4 (b) or 10 (a).
- (2) A person must not carry out development on land to which this clause applies, being land that adjoins a classified road, unless vehicular access to and from the land is made by way of another road (not being a classified road).
- (3) However, if the proposed development could be carried out on the land concerned but for subclause (2), the Council may, for the purposes of the proposed development, allow permanent vehicular access to and from a classified road, if, in the opinion of Council, alternative access to the site of the proposed development is neither practical nor provided by another road (or a proposed road identified in a development control plan).

45 Savings and transitional provision

An application for consent to develop land for the purpose of an apartment building, medium density housing, town houses or villas, being an application made (but not finally determined) on or before 20 February 2001, may be determined and have effect as if *Baulkham Hills Local Environmental Plan 1991 (Amendment No 85)* had not been made.