



New South Wales

## **Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)**

under the

**Environmental Planning and Assessment Act 1979**

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (SRW0000430/PC)

FRANK SARTOR, M.P.,  
Minister for Planning

## 2007 No 148

Clause 1 Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)

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# Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)*.

### 2 Aims of plan

This plan aims to amend *Baulkham Hills Local Environmental Plan 2005 (the Principal Plan)*:

- (a) to replace the definition of **child care centre** in the Principal Plan with the respective definition set out in the *Standard Instrument (Local Environmental Plans) Order 2006 (the Order)*, and
- (b) to introduce into the Principal Plan the definition of **home-based child care** or **family day care home** as set out in the Order and:
  - (i) to allow development for that purpose without consent on land within the Rural 1 (a), 1 (b), 1 (c) or 1 (d) Zone, the Residential 2 (a), 2 (a1), 2 (a2), 2 (a3), 2 (a4), 2 (b), 2 (b1), 2 (c) or 2 (d) Zone, the Business 3 (a) (Retail) or 3 (b) (Commercial) Zone or the Environmental Protection 7 (a) (Wetlands) Zone, and
  - (ii) to prohibit development for that purpose on land in all other zones under the Principal Plan, and
- (c) to prohibit child care centres on all land along a classified road, except for land within the Rural 1 (a), 1 (b) or 1 (c) Zone, and
- (d) to introduce a savings and transitional provision that provides that a development application lodged, but not finally determined by Baulkham Hills Council, before the commencement of this plan is to be assessed and determined as if this plan had been exhibited but had not been made.

### 3 Land to which plan applies

This plan applies to all land within the Baulkham Hills local government area under *Baulkham Hills Local Environmental Plan 2005*.

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**4 Amendment of Baulkham Hills Local Environmental Plan 2005**

*Baulkham Hills Local Environmental Plan 2005* is amended as set out in Schedule 1.

## 2007 No 148

Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)

Schedule 1 Amendments

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### Schedule 1 Amendments

(Clause 4)

#### [1] Clause 5 Definitions

Omit the definition of *child care centre* from clause 5 (1). Insert instead:

*child care centre* means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a home-based child care or family day care home, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
  - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
  - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

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**[2] Clause 5 (1)**

Insert in alphabetical order:

*home-based child care* or *family day care home* means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and which satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

**[3] Clause 11A**

Insert after clause 11:

**11A Savings and transitional**

- (1) A development application lodged with the Council, but not finally determined by the Council before the commencement of a relevant amending plan, is to be assessed and determined under the provisions of this plan as if the relevant amending plan had been exhibited under the Act but had not been made.
- (2) In this clause, *relevant amending plan* means any of the following local environmental plans:  
*Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)*

**[4] Clause 13 Zoning objectives and zone controls**

Insert “; home-based child care or family day care homes” in alphabetical order in item 2 (Development allowed without consent) of the matter relating to Zones 1 (a), 1 (b), 1 (c), 1 (d), 2 (a), 2 (a1), 2 (a2), 2 (a3), 2 (a4), 2 (b), 2 (b1), 2 (c), 2 (d), 3 (a), 3 (b) and 7 (a) in the Table to the clause.

**[5] Clause 13, Table**

Insert “home-based child care or family day care homes;” in alphabetical order in item 4 (Prohibited development) of the matter relating to Zones 3 (c), 4 (b) and 10 (a).

## **2007 No 148**

Baulkham Hills Local Environmental Plan 2005 (Amendment No 2)

Schedule 1 Amendments

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### **[6] Clause 53 Development that is prohibited along classified roads**

Insert at the end of the clause:

- (d) child care centres, unless on land in Zone 1 (a), 1 (b) or 1 (c).

BY AUTHORITY

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