



New South Wales

Bankstown Local Environmental Plan 2001 (Amendment No 46)

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning and Infrastructure, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*.

NEIL McGAFFIN

As delegate for the Minister for Planning and Infrastructure

Bankstown Local Environmental Plan 2001 (Amendment No 46)

under the

Environmental Planning and Assessment Act 1979

1 Name of Plan

This Plan is *Bankstown Local Environmental Plan 2001 (Amendment No 46)*.

2 Commencement

This Plan commences on the day on which it is published on the NSW legislation website.

3 Land to which Plan applies

- (1) This Plan applies to all land within the City of Bankstown.
- (2) To the extent that this Plan rezones land, changes permissible floor space ratios, the maximum height of buildings or the level of biodiversity protection and classifies or reclassifies public land, this Plan applies to land in the Bankstown Central Business District, as shown edged heavy black on Sheet 1 of the map marked “Bankstown Local Environmental Plan 2001 (Amendment No 46)” deposited in the office of Bankstown City Council.

Schedule 1 Amendment of Bankstown Local Environmental Plan 2001

[1] Clause 7A

Insert after clause 7:

7A Savings and transitional provision

A development application made (but not finally determined) before the commencement of *Bankstown Local Environmental Plan 2001 (Amendment No 46)* may be determined and have effect as if that plan had not been made.

[2] Clause 8 Zones in this plan

Insert in appropriate order in clause 8 (1):

2 (c)—Residential C

[3] Clause 11 Development that is allowed or prohibited within a zone

Insert a column headed “2 (c)” in the Table to the clause, to the right of the column headed “2 (b)” in the grouping relating to Residential zones.

[4] Clause 11, Table

Insert “Multi dwelling housing” and “Secondary dwellings” in alphabetical order in the first column of the Table.

[5] Clause 11, Table

Insert “✓” in the column for Zone 2 (c) (as inserted by Schedule 1 [3]) opposite each of the following kinds of development listed in the first column of the Table (as amended by Schedule 1 [4]):

Bed and breakfast establishments
Car parks
Centre based child care centres
Community facilities
Dams
Dwelling houses
Educational establishments
Family day care centres
Family housing
Health consulting rooms
Home based child care centres
Home businesses
Home offices
Hospitals
Housing for older people or people with a disability
Landfilling
Multi dwelling housing

Places of public worship
Public buildings
Recreation areas
Sanctuaries
Secondary dwellings
Utility installations

[6] Clause 11, Table

Omit “✓” from the column for Zone 3 (a) opposite each of the following kinds of development listed in the first column of the Table:

Dual occupancies
Dwelling houses
Home offices
Rowhouses
Villas

[7] Clause 18

Omit the clause. Insert instead:

18 Biodiversity protection

- (1) The objective of this clause is to maintain terrestrial and aquatic biodiversity by:
 - (a) protecting native flora and fauna, and
 - (b) protecting the ecological processes necessary for the continued existence of native flora and fauna, and
 - (c) encouraging the conservation and recovery of native flora and fauna and its habitats.
- (2) This clause applies to land identified as “Biodiversity” on the Biodiversity Protection Map.
- (3) In determining whether to grant development consent to development on land to which this clause applies, the consent authority must consider whether or not the development:
 - (a) will cause any adverse impact on the condition, ecological value and significance of the flora and fauna on the land, and
 - (b) will cause any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and
 - (c) has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and
 - (d) will cause any adverse impact on the habitat elements providing connectivity on the land.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or

- (b) if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact.

[8] Clause 23 Development adjacent to residential zones

Omit “or 2 (b)” wherever occurring. Insert instead “, 2 (b) or 2 (c)”.

[9] Clause 30 Floor space ratios

Insert after clause 30 (4):

- (5) *State Environmental Planning Policy No 1—Development Standards* does not apply to the standards in this clause in connection with development on land within Zone 3 (a) if the proposed floor space ratio exceeds 3:1.

[10] Clauses 30A–30C

Insert after clause 30:

30A Additional gross floor area for more sustainable development in Bankstown CBD commercial core

- (1) The objectives of this clause are:
 - (a) to encourage building design (namely the built form and layout) of large-scale commercial development and mixed use development in Zone 3 (a) that minimises the consumption of energy and water, and
 - (b) to provide increased amenity to occupants over the long term, and
 - (c) to ensure the increase in gross floor area is compatible with surrounding buildings in terms of bulk, height and amenity.
- (2) This clause applies to development if:
 - (a) the development is on land within Zone 3 (a), and
 - (b) the development site is at least 18 metres wide at the front building line and has a permissible floor space ratio of no more than 3:1 as shown on the Floor Space Ratio Map, and
 - (c) the development includes the erection of one or more buildings for the purposes of commercial premises or mixed use development.
- (3) Despite any other provision of this plan, the consent authority may grant consent to development to which this clause applies if the gross floor area of the buildings on the development site exceeds the gross floor area otherwise permitted by this plan by up to 0.5:1.
- (4) Before granting development consent to development under this clause, the consent authority must be satisfied that:
 - (a) the part of any buildings used for the purposes of commercial premises (whether or not for the purposes of mixed use development) complies with the following standards:
 - (i) the energy target is a maximum 135 kg/m² per year (equivalent to a 5-star NABERS rating for commercial buildings),
 - (ii) the water target is a maximum 0.47 kL/m² per year for business premises and office premises (equivalent to a 4.5-star NABERS rating for commercial buildings) and a maximum 1.68 kL/m² per year for shops, restaurants and function centres, and

- (b) the part of any building that is a dwelling used for the purposes of mixed use development complies with the following standards:
 - (i) the energy target is a minimum 10-point increase in the BASIX score compared to current requirements,
 - (ii) the water target is a minimum BASIX 60, and
 - (c) any increase in the gross floor area referred to in subclause (3):
 - (i) does not result in the building exceeding the maximum building height shown for the land on the Height of Buildings Map, and
 - (ii) does not adversely impact on adjoining and neighbouring land in terms of visual bulk and overshadowing, and
 - (d) a report prepared by a qualified consultant to the satisfaction of the Council verifies that, if all of the commitments relating to the building design (namely the built form and layout) listed in the report are fulfilled, the development will comply with both the energy and water targets.
- (5) This clause does not apply to land on which development to which clause 13 of *State Environmental Planning Policy (Affordable Rental Housing) 2009* applies is to be carried out.
- (6) *State Environmental Planning Policy No 1—Development Standards* does not apply to the standards in this clause in connection with development to which this clause applies.
- (7) In this clause:
BASIX means a rating under the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.
mixed use development means a building or place comprising commercial premises and dwellings.
NABERS rating means a rating under the National Australian Built Environment Rating System.

30B Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to ensure that the height of development is compatible with the character, amenity and landform of the area in which the development is located,
 - (b) to maintain the prevailing suburban character and amenity in the low density residential environment by limiting the height of development to a maximum of 2 storeys in Zone 2 (a),
 - (c) to provide appropriate height transitions between development, particularly at zone boundaries,
 - (d) to define focal points by way of nominating greater building heights in certain locations.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.
- (3) Despite subclause (2), the following height restrictions apply to particular types of development within Zone 2 (a):
 - (a) for outbuildings, the building height must not exceed 4.8 metres and the wall height must not exceed 3 metres,

- (b) for secondary dwellings that are separate from the principal dwellings, the building height must not exceed 6 metres and the maximum wall height must not exceed 3 metres,
- (c) for dwelling houses and dual occupancies, the wall height must not exceed 7 metres,
- (d) for villas:
 - (i) the maximum building height of any dwellings facing the street must not exceed 9 metres and the maximum wall height must not exceed 7 metres, and
 - (ii) the maximum building height for all other dwellings at the rear of the lot must not exceed 6 metres and the maximum wall height must not exceed 3 metres.

30C Architectural roof features

- (1) The objectives of this clause are as follows:
 - (a) to enable minor architectural roof features to exceed the maximum building height,
 - (b) to provide opportunities for architectural roof features that form an integral part of a building's design.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 30B may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
 - (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

[11] Clause 44 Objectives of the residential zones

Insert after clause 44 (2):

- (3) The objectives of Zone 2 (c) are:
 - (a) to provide for the housing needs of the community within a medium density residential environment, and
 - (b) to provide a variety of housing types within a medium density residential environment, and
 - (c) to allow for the development of medium density housing that has regard to local amenity and provides a suitable visual transition between high density residential areas and low density residential areas, and
 - (d) to require landscape as a key characteristic in the medium density residential environment, and

- (e) to enable other land uses that provide facilities or services to meet the day-to-day needs of residents, and
- (f) to allow for certain non-residential development that is compatible with residential development and does not adversely affect the living environment or amenity of the area.

[12] Clause 45 General restrictions on development

Omit “or 2 (b)” wherever occurring in clause 45 (1) and (3). Insert instead “, 2 (b) or 2 (c)”.

[13] Clause 46 Core residential development standards

Insert “, multi dwelling housing” after “development” in clause 46 (1) (a).

[14] Clause 46 (7) (a)

Omit “and” where secondly occurring.

[15] Clause 46 (7) (b)

Omit the paragraph.

[16] Clause 46 (12)

Insert after clause 46 (11):

- (12) The consent authority must not grant consent to development for the purposes of multi dwelling housing on a lot within Zone 2 (c) if the lot has an area less than 1,000 square metres or a width of less than 20 metres at the front building line.

[17] Clause 46A

Insert after clause 46:

46A Business premises

- (1) The objective of this clause is to permit business premises as part of live-work enterprises, to encourage home-based, small-scale businesses on the fringe of the Bankstown central business district as a way to promote local job opportunities.
- (2) This clause applies to land identified as “Area 1” on the Special Provisions Map.
- (3) The consent authority must not grant consent to development for the purposes of business premises on land to which this clause applies unless the consent authority is satisfied that the development is part of a mixed use development that is comprised of business premises on the ground floor with access from the principal street frontage and where all business premises are connected internally to a dwelling.

[18] Clause 49 Restricted premises

Omit “or 2 (b)” from clause 49 (1). Insert instead “, 2 (b) or 2 (c)”.

[19] Clause 50B

Insert after clause 50A:

50B Restrictions on development in Zone 3 (a)

- (1) The objectives of this clause are as follows:
 - (a) to reinforce the status of the Bankstown central business district (**CBD**) as the major centre for the City of Bankstown and a place for employment,
 - (b) to encourage the economic growth of the Bankstown CBD by having commercial floor space in the commercial core,
 - (c) to promote active street frontages in the commercial core.
- (2) This clause applies to land identified as “Area 2” on the Special Provisions Map.
- (3) Development consent must not be granted to the erection of a building, or a change of use of a building, on land to which this clause applies unless the consent authority is satisfied that the ground floor and first floor of the building are to be used for the purposes of commercial premises or other non-residential purposes after the erection or change of use.

[20] Schedule 1 Dictionary

Insert in alphabetical order:

Biodiversity Protection Map means the series of maps marked “Biodiversity Protection Map”.

building height (or ***height of building***) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of the building, and a logo or other symbol but does not include general advertising of products, goods or services.

commercial premises means any of the following:

- (a) business premises,
- (b) office premises,
- (c) shops,
- (d) restaurants,
- (e) function centres.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

ground level (existing) means the existing level of a site at any point.

Height of Buildings Map means the series of maps marked “Height of Buildings Map”.

kiosk means premises that are used for the purposes of selling food, light refreshments and other small convenience items such as newspapers, films and the like.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level.

secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the *principal dwelling*), and
- (b) is on the same lot of land as the principal dwelling, and
- (c) is located within, is attached to, or is separate from, the principal dwelling.

Special Provisions Map means the series of maps marked “Special Provisions Map”.

wall height means the vertical distance between ground level (existing) and the underside of the eaves at the wall line, or the top of the parapet, or the flat roof (whichever is the highest).

[21] Schedule 1, definition of “Floor Space Ratio Map”

Insert in appropriate order:

Bankstown Local Environmental Plan 2001 (Amendment No 46)—Sheet 3

[22] Schedule 1, definition of “residential flat building”

Insert “or multi dwelling housing” after “occupancy”.

[23] Schedule 1, definition of “the map”

Insert in appropriate order:

Bankstown Local Environmental Plan 2001 (Amendment No 46)—Sheet 2

[24] Schedule 2 Additional uses

Omit the matter relating to item 20.

[25] Schedule 4 Classification or reclassification of public land

Insert in alphabetical order of street name in the matter relating to Bankstown in Part 2:

4Z Fetherstone Street Lots 1 and 2, DP 1117024 and Lot 21, DP 1118201, as shown edged heavy blue on Sheet 6 of the map marked “Bankstown Local Environmental Plan 2001 (Amendment No 46)”—Right of way (A440915, A444326, A466726 and A482660).

4A Olympic Parade Part of Lot 12, DP 861164, as shown edged heavy blue on Sheet 6 of the map marked “Bankstown Local Environmental Plan 2001 (Amendment No 46)”—Easement for electricity purposes and right of way (DP530743), easement for sewerage (F292701) and easement for railway purposes (C166693).

33A Sir Joseph Banks Street Lot 101, DP 606381, as shown edged heavy blue on Sheet 6 of the map marked “Bankstown Local Environmental Plan 2001 (Amendment No 46)”—Easement for drainage (AB785986).

33B Sir Joseph Banks Street Lot 102, DP 606381, as shown edged heavy blue on Sheet 6 of the map marked “Bankstown Local Environmental Plan 2001 (Amendment No 46)”—Easement for drainage (M26134).

[26] Schedule 9 Special requirements for particular sites

Omit all matter in the first 5 items that relate to land in Bankstown.