



New South Wales

Canada Bay Local Environmental Plan 2013 (Amendment No 18)

under the

Environmental Planning and Assessment Act 1979

The following local environmental plan is made by the local plan-making authority under the *Environmental Planning and Assessment Act 1979*.

LAURA LOCKE

As delegate for the Minister for Planning and Public Spaces

Canada Bay Local Environmental Plan 2013 (Amendment No 18)

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1 Name of Plan

This Plan is *Canada Bay Local Environmental Plan 2013 (Amendment No 18)*.

2 Commencement

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

3 Land to which Plan applies

This Plan applies to all the land to which *Canada Bay Local Environmental Plan 2013* applies.

4 Maps

The maps adopted by *Canada Bay Local Environmental Plan 2013* are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

Schedule 1 Amendment of Canada Bay Local Environmental Plan 2013

[1] Clause 1.2 Aims of Plan

Omit “that allows detailed provisions to be made in any development control plan made by the Council,” from clause 1.2(2)(a).

Insert instead—

that—

- (i) allows detailed provisions to be made in any development control plan made by the Council, and
- (ii) is consistent with the Canada Bay Local Strategic Planning Statement adopted by the Council on 15 October 2019,

[2] Land Use Table

Insert at the end of item 1 of the matter relating to Zone B1 Neighbourhood Centre—

- To provide for services and employment opportunities within walking distance of residential housing.

[3] Clause 4.1A

Omit the clause. Insert instead—

4.1A Minimum lot sizes for certain dwellings

- (1) The objective of this clause is to achieve planned residential density in certain zones.
- (2) Development consent may be granted to development on a lot in a zone shown in Column 2 of the Table to this clause for a purpose shown in Column 1 if—
 - (a) the area of the lot is equal to or greater than the area specified in Column 3, and
 - (b) the width of the lot at the front building line is equal to or greater than the width specified in Column 4.

Column 1	Column 2	Column 3	Column 4
Dual occupancies (attached)	Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential	450 square metres	n/a
Dual occupancies (detached)	Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential	800 square metres	n/a
Multi dwelling housing	Zone R1 General Residential, Zone R3 Medium Density Residential	800 square metres	n/a
Multi dwelling housing	Zone R4 High Density Residential	1,500 square metres	n/a

Column 1	Column 2	Column 3	Column 4
Residential flat buildings	Zone R1 General Residential, Zone R3 Medium Density Residential	800 square metres	n/a
Residential flat buildings	Zone R4 High Density Residential	1,500 square metres	n/a
Boarding houses (other than development involving the change of use to a boarding house)	Zone R2 Low Density Residential	800 square metres	20 metres

[4] Clause 4.3 Height of buildings

Omit clause 4.3(1)(a) and (b). Insert instead—

- (a) to ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality and positively contribute to the streetscape and public spaces,
- (b) to protect the amenity of residential accommodation, neighbouring properties and public spaces in terms of—
 - (i) visual and acoustic privacy, and
 - (ii) solar access and view sharing,
- (c) to establish a transition in scale between medium and high density centres and adjoining lower density and open space zones to protect local amenity,
- (d) to ensure that buildings respond to the natural topography of the area.

[5] Clause 4.4 Floor space ratio

Omit clause 4.4(1)(a)–(c). Insert instead—

- (a) to ensure that buildings are compatible with the bulk, scale, streetscape and desired future character of the locality,
- (b) to provide a suitable balance between landscaping and built form,
- (c) to minimise overshadowing of, and loss of privacy to, neighbouring properties,
- (d) to maximise solar access and amenity for public places,
- (e) to manage the visual impact of development when viewed from public places, including the Parramatta River.

[6] Clause 6.3, heading

Omit the heading. Insert instead—

6.3 Environmentally sensitive land

[7] Clause 6.3(1)

Omit “maintain terrestrial biodiversity”.

Insert instead “protect environmentally sensitive land”.

[8] Clauses 6.11–6.13

Insert after clause 6.10—

6.11 Mix of dwelling sizes in residential flat buildings and mixed use development

- (1) The objectives of this clause are as follows—
 - (a) to ensure the provision of a mix of dwelling types in residential flat buildings and provide housing choice for different demographics, living needs and household budgets,
 - (b) to promote development that accommodates a range of household sizes.
- (2) This clause applies to development for the following purposes that results in at least 10 dwellings—
 - (a) residential flat buildings,
 - (b) mixed use development that includes shop top housing.
- (3) Development consent must not be granted to development to which this clause applies unless—
 - (a) at least 20% of the dwellings, to the nearest whole number of dwellings, in the development will be studio or 1 bedroom dwellings, and
 - (b) at least 20% of the dwellings, to the nearest whole number of dwellings, in the development will have at least 3 bedrooms.

6.12 Affordable housing

- (1) This clause applies to development on land in an affordable housing contribution area that involves—
 - (a) the erection of a new building with a gross floor area of more than 200 square metres, or
 - (b) alterations to an existing building that will result in the creation of more than 200 square metres of gross floor area that is intended to be used for residential purposes, or
 - (c) the demolition of existing floor area and the subsequent creation, whether for the same or a different purpose, of more than 100 square metres of gross floor area.
- (2) The consent authority may, when granting development consent to development to which this clause applies, impose a condition requiring a contribution equivalent to the applicable **affordable housing levy contribution** for the development specified in subclauses (3)–(6).
- (3) The affordable housing levy contribution for development in the following affordable housing contribution areas is 4% of the relevant floor area—
 - (a) the Burwood affordable housing contribution area,
 - (b) the Homebush affordable housing contribution area, except for 3 King Street, Concord West and 176–184 George Street, Concord West,
 - (c) the Kings Bay affordable housing contribution area.
- (4) The affordable housing levy contribution for development on land at 3 King Street, within the Homebush affordable housing contribution area, is 5% of the relevant floor area that exceeds the floor space achieved by applying a floor space ratio of 0.5:1.
- (5) The affordable housing levy contribution for development on land at 176–184 George Street, Concord West, within the Homebush affordable housing

- contribution area, is 5% of the relevant floor area that exceeds the floor space achieved by applying a floor space ratio of 1.0:1.
- (6) The affordable housing levy contribution for development in the following affordable housing contribution areas is 5% of the relevant floor area—
- (a) the 160 Burwood Road Concord affordable housing contribution area,
 - (b) the Rhodes East affordable housing contribution area.
- (7) A condition imposed under this clause must provide for the affordable housing levy contribution to be satisfied—
- (a) by dedication in favour of the Council of land comprising—
 - (i) 1 or more dwellings, each having a gross floor area of not less than 50 square metres, with any remainder paid as a monetary contribution to the Council, or
 - (ii) other land approved by the Council in accordance with the Affordable Housing Contributions Scheme, with any remainder paid as a monetary contribution to the Council, or
 - (b) if the person chooses, by monetary contribution paid to the Council.
- (8) The rate at which a dedication of land or monetary contribution is taken to be equivalent to the relevant floor area for the purposes of the affordable housing levy contribution is to be calculated in accordance with the Affordable Housing Contributions Scheme.
- (9) To avoid doubt—
- (a) it does not matter whether the floor area, to which a condition under this clause relates, was in existence before, or is created after, the commencement of this clause, or whether the floor area concerned replaces an existing area, and
 - (b) the demolition of a building, or a change in the use of land, does not give rise to a claim for a refund of an affordable housing contribution.
- (10) In this clause—
- affordable housing contribution area*** means the following areas shown on the Affordable Housing Contribution Scheme Map—
- (a) Burwood affordable housing contribution area,
 - (b) 160 Burwood Road Concord affordable housing contribution area,
 - (c) Homebush affordable housing contribution area,
 - (d) Kings Bay affordable housing contribution area,
 - (e) Rhodes East affordable housing contribution area.
- Affordable Housing Contributions Scheme*** means the Affordable Housing Contributions Scheme adopted by the Council on 18 August 2020.
- relevant floor area*** of a building means the gross floor area of the building that is to be used for residential purposes excluding the floor area that is—
- (a) to be used to provide affordable housing or public housing, or
 - (b) to be used for community facilities, schools, public roads or public utility undertakings, or
 - (c) on land in Zone IN1 General Industrial.

6.13 Development in areas subject to aircraft noise

- (1) The objectives of this clause are as follows—

- (a) to prevent certain noise sensitive developments from being located near the Kingsford Smith Airport and its flight paths,
 - (b) to assist in minimising the impact of aircraft noise from the airport and its flight paths by requiring appropriate noise attenuation measures in noise sensitive buildings,
 - (c) to ensure that land use and development in the vicinity of the airport do not hinder or have other adverse impacts on the ongoing, safe and efficient operation of that airport.
- (2) This clause applies to development that—
- (a) is on land near the Kingsford Smith Airport and in an ANEF contour of 20 or greater, and
 - (b) the consent authority considers is likely to be adversely affected by aircraft noise, and
 - (c) involves one or more of the following—
 - (i) the erection of a new building,
 - (ii) a substantial alteration or addition to an existing building,
 - (iii) an alteration or addition to a building that is required by a development consent to be compliant with AS 2021:2015,
 - (iv) the change of use of part of a building to a centre-based child care facility, educational establishment, entertainment facility, health services facility, place of public worship, public administration building or residential accommodation,
 - (v) the change of use of part of a building on land that is in an ANEF contour of 25 or greater to business premises, a hostel, office premises, retail premises or tourist and visitor accommodation,
 - (vi) the change of use of part of a building on land that is in an ANEF contour of 30 or greater to light industry.
- (3) Before determining a development application for development to which this clause applies, the consent authority—
- (a) must consider whether the development will result in the creation of a new dwelling, or an increase in the number of dwellings or people, affected by aircraft noise, and
 - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021:2015, and
 - (c) must be satisfied the development will meet the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015.
- (4) In this clause—
- ANEF contour* means a noise exposure contour shown as an ANEF contour on the Noise Exposure Forecast Contour Map for the Kingsford Smith Airport prepared by the Department of the Commonwealth responsible for airports.
- AS 2021:2015* means AS 2021:2015, *Acoustics—Aircraft noise intrusion—Building siting and construction*.

[9] Schedule 1 Additional permitted uses

Omit the heading to clause 2. Insert instead—

2 Use of certain land at 123 Peninsula Drive, Breakfast Point

[10] Schedule 1, clause 2(1)

Omit the subclause. Insert instead—

- (1) This clause applies to land at 123 Peninsula Drive, Breakfast Point, being Lot 46, DP 270347.

[11] Schedule 1, clause 4, heading

Insert “**8 Gipps Street,**” after “**Concord Oval,**”.

[12] Schedule 1, clause 4(1)

Omit the subclause. Insert instead—

- (1) This clause applies to land at Concord Oval, 8 Gipps Street, Concord, being Lots 10–17, DP 1226181.

[13] Schedule 1, clause 8

Omit the clause. Insert instead—

8 Use of certain land at 162–166 Victoria Road, Drummoyne

- (1) This clause applies to land at 162–166 Victoria Road, Drummoyne, being SP 95173.
- (2) Development for the purpose of a car park on land in Zone R2 Low Density Residential is permitted with development consent, but only in association with development on land in Zone B4 Mixed Use.
- (3) Subclause (2) applies only in association with a development on land to which this clause applies that is Zone B4 Mixed Use.

[14] Schedule 1, clause 9(1)

Omit “Lot 66, DP 3859, Lot 1, DP 869786, Lot 1, DP 864334 and Lot 1, DP 1018805”.
Insert instead “Lot 1, DP 864334, SP 93695 and Lot 2, DP 1213145.”

[15] Schedule 1, clause 11, heading

Omit “**Bevin Avenue**”. Insert instead “**13 Bevin Avenue**”.

[16] Schedule 1, clause 11(1)

Omit the subclause. Insert instead—

- (1) This clause applies to land at 13 Bevin Avenue, Five Dock, being Lot 1, DP 1204491.

[17] Schedule 1, clause 13, heading

Omit “**104 William Street**”. Insert instead “**104 and 104A William Street**”.

[18] Schedule 1, clause 13(1)

Omit the subclause. Insert instead—

- (1) This clause applies to land at 104 and 104A William Street, Five Dock, being SP 73162, SP 73163 and SP 75689.

[19] Schedule 1, clause 14(1)

Omit “Lot 1, DP 607226 and Lot 1, DP 738950”. Insert instead “SP 83068”.

[20] Schedule 1, clause 14(2)

Omit the subclause. Insert instead—

(2) Development for the following purposes is permitted with development consent—

(a) medical centres,

(b) office premises.

[21] Schedule 2 Exempt development

Omit subclause (2) from the matter relating to “**Signage—business identification signs**”.

[22] Schedule 2

Omit the matters relating to “**Signage—public notices**” and “**Signage—real estate signs**”.

[23] Schedule 5 Environmental heritage

Omit “19–21 Tennyson Road” from item I545 in Part 1.

Insert instead “15 Woodlands Avenue”.

[24] Schedule 5, Part 1, item I545

Omit “Lot 91, DP 270347”. Insert instead “Lot 6, DP 280052”.

[25] Schedule 5, Part 1, item I23

Omit “54A Blackwall Point Road”. Insert instead “54 Blackwall Point Road”.

[26] Schedule 5, Part 1, item I23

Omit “Part Lots 100 and 101, DP 1158696”. Insert instead “SP 91803”.

[27] Schedule 5, Part 1, item I353

Omit “Lots 52 and 53”. Insert instead “Lot 53”.

[28] Dictionary

Insert in alphabetical order—

Affordable Housing Contribution Scheme Map means the Canada Bay Local Environmental Plan 2013 Affordable Housing Contribution Scheme Map.