



New South Wales

# **Canada Bay Local Environmental Plan 2013 (Amendment No 21)**

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*.

**AMANDA HARVEY**

As delegate for the Minister for Planning

## **Canada Bay Local Environmental Plan 2013 (Amendment No 21)**

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### **1 Name of Plan**

This Plan is *Canada Bay Local Environmental Plan 2013 (Amendment No 21)*.

### **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 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 5.1 Relevant acquisition authority

Insert at the end of the table to clause 5.1(2)—

|   |                   |
|---|-------------------|
| Zone B4 Mixed Use and marked “Classified Transport for NSW Road”                  | Transport for NSW |
| Zone R3 Medium Density Residential and marked “Classified Transport for NSW Road” | Transport for NSW |
| Zone RE1 Public Recreation and marked “Classified Transport for NSW Road”         | Transport for NSW |

### [2] Clause 5.1A

Insert after clause 5.1—

#### 5.1A Development on land intended to be acquired for public purposes

- (1) The objective of this clause is to limit development on certain land intended to be acquired for a public purpose.
- (2) This clause applies to land—
  - (a) identified on the Land Reservation Acquisition Map and specified in Column 1 of the table to this clause, and
  - (b) that has not been acquired by the relevant authority of the State specified for the land in the table to clause 5.1.
- (3) Development consent must not be granted to development on land to which this clause applies other than development for a purpose specified opposite the land in Column 2 of the table.

| Column 1<br>Land  | Column 2<br>Development |
|---|-------------------------|
| Zone B4 Mixed Use and marked “Classified Transport for NSW Road”                  | Roads                   |
| Zone R3 Medium Density Residential and marked “Classified Transport for NSW Road” | Roads                   |
| Zone RE1 Public Recreation and marked “Classified Transport for NSW Road”         | Roads                   |

### [3] Clause 6.5 Active street frontages

Omit “in Zone B4 Mixed Use and Zone R4 High Density Residential” from clause 6.5(1).

### [4] Clause 6.9 Arrangements for designated State public infrastructure

Omit clause 6.9(3). Insert instead—

- (3) This clause does not apply to development on—
  - (a) land in an intensive urban development area if all or part of the land is in a special contributions area, or

- (b) land identified as “Burwood-Concord Precinct”, “Homebush North Precinct” or “Kings Bay Precinct” on the Key Sites Map.

**[5] Clause 6.9(4)**

Omit the definitions of *designated State public infrastructure* and *Intensive Urban Development Area Map*.

**[6] Part 6**

Insert at the end of Part 6, with appropriate clause numbering—

**Design excellence**

- (1) The objective of this clause is to deliver the highest standard of sustainable architecture and urban design.
- (2) This clause applies to development—
  - (a) on land identified as “Design Excellence Area” on the Design Excellence Map, and
  - (b) involving the erection of a new building, or external alterations to an existing building, that—
    - (i) is higher than 12m or 3 storeys, or both, or
    - (ii) will be as a result of the development.
- (3) Development consent must not be granted to development to which this clause applies unless the consent authority considers that the development exhibits design excellence.
- (4) In considering whether the development exhibits design excellence, the consent authority must have regard to the matters specified in clause 7.2(3).
- (5) Development consent must not be granted to development to which this clause applies that involves a building higher than 28m or 8 storeys, or both, unless—
  - (a) an architectural design competition is held in relation to the development, and
  - (b) the consent authority takes into account the results of the architectural design competition.
- (6) Subclause (5) does not apply if—
  - (a) the NSW Government Architect certifies in writing that an architectural design competition is not required, and
  - (b) a design review panel reviews the development, and
  - (c) the consent authority takes into account the findings of the design review panel.
- (7) In this clause—

*architectural design competition* means a competitive process conducted in accordance with the draft *Government Architect’s Design Excellence Competition Guidelines* published by the NSW Government Architect in May 2018.

*design review panel* means a panel of 3 or more persons—

  - (a) established by the consent authority for the purposes of this clause, and
  - (b) approved by the NSW Government Architect.

**[7] Part 8**

Insert after Part 7—

**Part 8 Burwood-Concord, Homebush North and Kings Bay Precincts**

**8.1 Application of Part**

- (1) This Part applies to land identified as “Burwood-Concord Precinct”, “Homebush North Precinct” or “Kings Bay Precinct” on the Key Sites Map.
- (2) A reference in this Part to a numbered Area is a reference to the Area with that number on the Key Sites Map.

**8.2 Concurrence of Planning Secretary**

- (1) Development consent must not be granted to development for the following purposes unless the consent authority has obtained the concurrence of the Planning Secretary—
  - (a) commercial premises,
  - (b) mixed use development,
  - (c) residential accommodation.
- (2) In deciding whether to grant concurrence, the Planning Secretary must consider the following—
  - (a) the impact of the development on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (b) the cumulative impact of the development with other development that has, or is likely to be, carried out in surrounding areas on—
    - (i) existing designated State public infrastructure, and
    - (ii) the need for additional designated State public infrastructure,
  - (c) the steps taken to address those impacts, including whether a planning agreement has been, or will be, entered into contributing to designated State public infrastructure.
- (3) In deciding whether to grant concurrence, the Planning Secretary must also consult the public authorities that the Planning Secretary considers relevant to the development.
- (4) This clause does not apply to development if—
  - (a) all or part of the land on which the development will be carried out is in a special contributions area to which a determination under the Act, section 7.23, applies, or
  - (b) the development does not result in an increase in the gross floor area used for the purposes of—
    - (i) commercial premises, or
    - (ii) mixed use development, or
    - (iii) residential accommodation.

### 8.3 Additional floor space ratio and building heights for Areas 1–35

- (1) This clause applies to development involving the erection of a building in Areas 1–35 if the consent authority is satisfied the requirements specified in clauses 8.4–8.8 will be met in relation to the development.
- (2) The maximum floor space ratio for a building is the floor space ratio shown on the Incentive Floor Space Ratio Map for the land.
- (3) The maximum height of a building is the height shown on the Incentive Height of Buildings Map for the land.

### 8.4 Minimum site area requirements

Column 2 of the following table specifies the minimum site area for each Area specified in Column 1—

| <b>Column 1</b> | <b>Column 2</b>          |
|-----------------|--------------------------|
| <b>Area</b>     | <b>Minimum site area</b> |
| Area 1          | 3,620m <sup>2</sup>      |
| Area 2          | 130m <sup>2</sup>        |
| Area 3          | 570m <sup>2</sup>        |
| Area 4          | 5,600m <sup>2</sup>      |
| Area 5          | 1,830m <sup>2</sup>      |
| Area 6          | 2,260m <sup>2</sup>      |
| Area 7          | 3,560m <sup>2</sup>      |
| Area 8          | 2,000m <sup>2</sup>      |
| Area 9          | 13,080m <sup>2</sup>     |
| Area 10         | 7,530m <sup>2</sup>      |
| Area 11         | 4,660m <sup>2</sup>      |
| Area 12         | 10,690m <sup>2</sup>     |
| Area 13         | 8,680m <sup>2</sup>      |
| Area 14         | 2,130m <sup>2</sup>      |
| Area 15         | 6,260m <sup>2</sup>      |
| Area 16         | 7,150m <sup>2</sup>      |
| Area 17         | 4,180m <sup>2</sup>      |
| Area 18         | 870m <sup>2</sup>        |
| Area 19         | 4,860m <sup>2</sup>      |
| Area 20         | 13,930m <sup>2</sup>     |
| Area 21         | 4,790m <sup>2</sup>      |
| Area 22         | 4,310m <sup>2</sup>      |
| Area 23         | 2,100m <sup>2</sup>      |
| Area 24         | 1,845m <sup>2</sup>      |
| Area 25         | 9,200m <sup>2</sup>      |
| Area 26         | 1,940m <sup>2</sup>      |

| <b>Column 1</b> | <b>Column 2</b>          |
|-----------------|--------------------------|
| <b>Area</b>     | <b>Minimum site area</b> |
| Area 27         | 1,940m <sup>2</sup>      |
| Area 28         | 1,525m <sup>2</sup>      |
| Area 29         | 1,800m <sup>2</sup>      |
| Area 30         | 1,780m <sup>2</sup>      |
| Area 31         | 1,780m <sup>2</sup>      |
| Area 32         | 31,420m <sup>2</sup>     |
| Area 33         | 3,070m <sup>2</sup>      |
| Area 34         | 2,680m <sup>2</sup>      |
| Area 35         | 18,620m <sup>2</sup>     |

### **8.5 Public open space**

The requirements for public open space are as follows—

- (a) for Area 4—at least 2,280m<sup>2</sup> of public open space at 40, 42 and 44 Burton Street, Concord,
- (b) for Area 10—at least 2,276m<sup>2</sup> of public open space at 12, 14, 14A and 16 Burton Street, Concord and 19 Parramatta Road, Concord,
- (c) for Area 13—at least 1,170m<sup>2</sup> of public open space on land that fronts Regatta Road, Five Dock,
- (d) for Area 16—at least 1,115m<sup>2</sup> of public open space at 24–28 Spencer Street, Five Dock,
- (e) for Area 32—at least 2,290m<sup>2</sup> of public open space on land at 57 Queens Street, Five Dock that fronts William Street, Five Dock,
- (f) for Area 35—at least 2,090m<sup>2</sup> of public open space on land that fronts Queens Road, Five Dock.

### **8.6 Setback requirements**

The minimum setback requirements are as follows—

- (a) for Areas 4 and 8—a 4.5m wide setback on land that fronts Burwood Road, Concord,
- (b) for Areas 5–9, 11, 12, 19, 20, 32, 34 and 35—a 6m wide setback from the “Building Setback Outline” identified on the Building Setback Map,
- (c) for Area 5—a 3m wide setback on land that fronts Broughton Street, Concord,
- (d) for Area 9—a 5m wide setback on land that fronts Burwood Road, Concord,
- (e) for Areas 13, 14, 25 and 29–32—a 3m wide setback on land that fronts Queens Road, Five Dock,
- (f) for Areas 15 and 16—a 3m wide setback on land that fronts Queens Road, Five Dock and land that fronts Spencer Street, Five Dock,
- (g) for Area 17—
  - (i) an 8m wide setback on land that fronts William Street, Five Dock, and

- (ii) a 3m wide setback on land that fronts Queens Road, Five Dock and land that fronts Spencer Street, Five Dock,
- (h) for Areas 18 and 19—a 3m wide setback on land that fronts Spencer Street, Five Dock,
- (i) for Area 20—
  - (i) an 8m wide setback on land that fronts William Street, Five Dock, and
  - (ii) a 3m wide setback on land that fronts Spencer Street, Five Dock.

### 8.7 Pedestrian link and road requirements

- (1) The pedestrian link and road requirements are as follows—
  - (a) for Area 6—a 9m wide pedestrian link along the eastern boundary of Area 6 that connects Burton Street Park and Parramatta Road, Concord,
  - (b) for Area 7—a 3m wide pedestrian link along the western boundary of Area 7 that connects Burton Street Park and Parramatta Road, Concord,
  - (c) for Area 9—
    - (i) a 12m wide pedestrian link that connects Burton Street, Concord and Parramatta Road, Concord, and
    - (ii) a 6m wide pedestrian link that connects the access way referred to in clause 8.8(c)(i) and Parramatta Road, Concord,
  - (d) for Area 11—the service access way,
  - (e) for Area 12—
    - (i) the service access way, and
    - (ii) a 6m wide pedestrian link that connects the service access way and Parramatta Road, Five Dock,
  - (f) for Area 13—
    - (i) the service access way, and
    - (ii) a 6m wide pedestrian link that connects the rear of 3 Regatta Road and Queens Road, Five Dock,
  - (g) for Area 16—a 12m wide pedestrian link along the western boundary of Area 16 that connects the rear of 24–28 Spencer Street and Queens Road, Five Dock,
  - (h) for Area 20—a 12m wide pedestrian link that connects Spencer Street and Parramatta Road, Five Dock,
  - (i) for Area 25—a 6m wide pedestrian link along the eastern boundary of Area 25 that connects Queens Road and Kings Road, Five Dock,
  - (j) for Area 32—
    - (i) an 18m wide road connecting Spencer Street, Five Dock to the eastern boundary of Area 32 (the *Spencer Street extension*), and
    - (ii) a 12m wide pedestrian link along the eastern boundary of Area 32 that connects the Spencer Street extension and Parramatta Road, Five Dock, and
    - (iii) an 18m wide road along the eastern boundary of Area 32 that connects the Spencer Street extension and Queens Road, Five Dock,
  - (k) for Area 35—a 6m wide pedestrian link that connects Kings Bay East Park and Parramatta Road, Five Dock.
- (2) In this clause—



*pedestrian link* includes the following—

- (a) a footpath,
- (b) a shared cycle and pedestrian pathway,
- (c) a shared zone within the meaning of the *Road Rules 2014*.

*service access way* means—

- (a) for Area 11—an 18m wide road on the northern boundary of Area 11 that connects the rear of 225 Parramatta Road and Walker Street, Five Dock, and
- (b) for Area 12—an 18m wide road on the northern boundary of Area 12 that connects the rear of 235 Parramatta Road and 15–17 Regatta Road, Five Dock, and
- (c) for Area 13—an 18m wide road that connects the rear of 3 Regatta Road and Regatta Road, Five Dock.

### **8.8 Service access way requirements**

The service access way requirements are as follows—

- (a) for Area 5—
  - (i) a 40m<sup>2</sup> extension of Frankie Lane, Concord that connects to 49 Parramatta Road, Concord, and
  - (ii) a 146m<sup>2</sup> expansion of Frankie Lane, Concord for a truck turning bay that is 7m by 26m,
- (b) for Area 8—a 32m<sup>2</sup> expansion of Neichs Lane, Concord with a minimum turning radius of 8m,
- (c) for Area 9—
  - (i) an access way in Concord, at the rear of 3, 7 and 13 Parramatta Road and through 19 Parramatta Road, that connects Loftus Street to Burton Street and is at least 12m wide, and
  - (ii) an access way in Concord, at the southern boundary of 1 Loftus Street, that connects Loftus Street to 3 Parramatta Road and is at least 3.6m wide, and
  - (iii) an access way in Concord, at the northern boundary of 1 Parramatta Road, that connects Loftus Street to 3 Parramatta Road and is at least 8.4m wide.

### **8.9 Additional floor space for BASIX buildings**

- (1) A BASIX building on land to which this Part applies may exceed the maximum permissible FSR by up to 5% if the building—
  - (a) exceeds the BASIX commitment for energy for the building by at least 15 points, and
  - (b) exceeds the BASIX commitment for water for the building by at least 20 points.
- (2) Development consent must not be granted under subclause (1) unless the consent authority is satisfied that—
  - (a) the development will not adversely impact adjoining land or the amenity of the neighbourhood, considering visual bulk and overshadowing, and
  - (b) the additional floor space will not be used for the purposes of car parks.
- (3) In this clause—

**BASIX building** has the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**BASIX commitment** means a commitment listed on a BASIX certificate, within the meaning of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

**maximum permissible FSR**, for a building on land—

- (a) means the maximum floor space ratio shown on the Floor Space Ratio Map or the Incentive Floor Space Ratio Map for the land, and
- (b) includes further floor space permitted under clause 4.6.

#### 8.10 Other development standards

- (1) Development consent must not be granted to development on land to which this Part applies unless the consent authority—
  - (a) is satisfied that planning and design measures are incorporated to reduce the urban heat island effect, and
  - (b) considers whether the development will improve the quality and amenity of the public domain, for example, by including landscaped areas, pedestrian walkways or cycleways, and
  - (c) for the erection of a new building—is satisfied the building has a dual water reticulation system containing pipes for potable water and recycled water for all internal and external water uses.

- (2) In this clause—

**green infrastructure** means the network of green spaces, natural systems and semi-natural systems that support sustainable communities and includes waterways, bushland, tree canopy and green ground cover, parks and open spaces.

**urban heat island effect** means the effect resulting from conditions that contribute to higher temperatures in urban areas, including—

- (a) use of roads, car parks, pavements, roofs, walls and other hard and dark surfaces, and
- (b) activities that generate heat, including waste air from mechanical cooling systems, and
- (c) reduction in green infrastructure.

#### 8.11 Maximum number of car parking spaces

- (1) Development consent must not be granted to development that results in the number of car parking spaces exceeding the maximum specified in this clause.
- (2) The maximum number of car parking spaces is as follows—
  - (a) for commercial premises other than retail premises—1 space per 100m<sup>2</sup> of gross floor area,
  - (b) for retail premises—1 space per 70m<sup>2</sup> of gross floor area,
  - (c) for dual occupancies, multi dwelling housing, residential flat buildings and shop top housing—
    - (i) 0.3 spaces per studio dwelling, and
    - (ii) 0.5 spaces per dwelling with 1 bedroom, and
    - (iii) 0.9 spaces per dwelling with 2 bedrooms, and
    - (iv) 1.2 spaces per dwelling with 3 or more bedrooms, and
    - (v) 0.1 visitor car parking spaces per dwelling.

- (3) If the total number of car parking spaces under this clause is not a whole number, the total must be rounded down to the next whole number.
- (4) In this clause—  
*car parking space* has the same meaning as in clause 7.8.  
*visitor car parking space* has the same meaning as in clause 7.8.

**[8] Schedule 1 Additional permitted uses**

Omit clauses 14A and 15A.

**[9] Schedule 1**

Insert at the end of the Schedule, with appropriate clause numbering—

**Use of certain land at Kings Bay Precinct**

- (1) This clause applies to land that—
  - (a) is in Zone R3, and
  - (b) is on land identified as “Kings Bay Precinct” on the Key Sites Map, and
  - (c) fronts Parramatta Road.
- (2) Development for the purposes of commercial premises and light industries is permitted with development consent on the ground floor of a residential flat building.

**Use of certain land at 28–30 and 32–40 Burton Street, Concord**

- (1) This clause applies to Lots 1–4, DP 10928, 28–30 and 32–40 Burton Street, Concord if the land fronts Burwood Road or Neichs Lane.
- (2) Development for the purposes of commercial premises is permitted with development consent on the ground floor of a residential flat building.

**Use of certain land at 7 and 15–17 Regatta Road, Five Dock**

- (1) This clause applies to the following land at Five Dock—
  - (a) Lot 1, DP 172956, 7 Regatta Road,
  - (b) Lots 12 and 13, DP 826063, 15–17 Regatta Road.
- (2) Development for the purposes of depots is permitted with development consent.

**[10] Dictionary**

Insert in alphabetical order—

***Building Setback Map*** means the Canada Bay Local Environmental Plan 2013 Building Setback Map.

***Design Excellence Map*** means the Canada Bay Local Environmental Plan 2013 Design Excellence Map.

***designated State public infrastructure*** means public facilities or services that are provided or financed by the State, or if provided or financed by the private sector, to the extent of any financial or in-kind contribution by the State, of the following kinds—

- (a) State and regional roads,
- (b) bus interchanges and bus lanes,
- (c) land required for regional open space,

- (d) social infrastructure and facilities, such as schools, hospitals, emergency services and justice purposes.

***Incentive Floor Space Ratio Map*** means the Canada Bay Local Environmental Plan 2013 Incentive Floor Space Ratio Area Map.

***Incentive Height of Buildings Map*** means the Canada Bay Local Environmental Plan 2013 Incentive Height of Buildings Map.

***Intensive Urban Development Area Map*** means the Canada Bay Local Environmental Plan 2013 Intensive Urban Development Area Map.

***special contributions area*** has the same meaning as in the Act, section 7.1.