

## Patrick Lebon

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**From:** Donna KERR <Donna.Kerr@infrastructure.gov.au>  
**Sent:** Tuesday, 7 February 2023 12:01 PM  
**To:** Kris Walsh  
**Cc:** Patrick Lebon; David Binskin; Flysafe; SCHOB Jurgen; DANIEL Grace  
**Subject:** DITRDCA advice - Bankstown Airport Referral - Bankstown Central Planning Proposal - public consultation [SEC=OFFICIAL]

### OFFICIAL

Hi Kris

Thank you for your email, I sincerely apologise for the delay in getting back to you.

As discussed in our phone call of 2 February 2023, we recognise that the proposed building height changes in this precinct may result in some future development proposals intruding into prescribed airspace for Bankstown Airport. Bankstown Airport previously advised that prescribed airspace height varies across the site however, at the lowest point commences at 51 metres above the Australian Height Datum (AHD). Hence, new development in the precinct that exceeds a height of 51 metres AHD will require an aviation safety impact assessment and application to be submitted to Bankstown Airport for consideration under the *Airports Act 1996* (Airports Act) and Airports (Protection of Airspace) Regulations 1996 (APARs). If the development is determined to be a controlled activity, the proponent will require an approval from our Department under the APARs.

As you would be aware, the Airports Act and the APARs establish a framework for the protection of airspace at and around the Federal Leased Airports, including Bankstown Airport. Please note, applications for controlled activities are subject to rigorous assessment processes that are separate and in addition to development approvals that are issued by the NSW or Local governments. The Airports Act and APARs are administered by the Australian Government's Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department); decisions under the APARs are only issued by an authorised delegate and should not be pre-empted.

In response to your recent email, the Bankstown Central Planning Proposal (PP) could be released for public consultation in advance of any controlled activity application submitted under the APARs however, we would recommend wording be included in the PP to state *"that any development proposal with a height more than 51 metres AHD will be subject to a controlled activity assessment and require approval under the Airports (Protection of Airspace) Regulations 1996 that is administered by the Australian Government"*. Inclusion of this information in the PP will support Council in providing developers with a clear picture of planning requirements for the precinct.

As discussed, to enable consideration of airspace protection or National Airport Safeguarding Framework (NASF) related issues in more detail, I encourage Council continue to engage with Bankstown Airport and our Department during any subsequent design/development application stages of the planning process, prior to any building approvals being issued under NSW or Local government processes. Airservices Australia and CASA should also be included in future consultations that involve potential airspace matters.

Further information on airspace protection and airport safeguarding matters are available on the Department website via [Aviation | Department of Infrastructure, Transport, Regional Development, Communications and the Arts](#) and our team can be contacted on 02 6274 6125 or via [flysafe@infrastructure.gov.au](mailto:flysafe@infrastructure.gov.au) for airspace protection matters or [safeguarding@infrastructure.gov.au](mailto:safeguarding@infrastructure.gov.au) for airport safeguarding matters.

Thank you again for providing the Department the opportunity to comment. If you require any further information please contact Grace Daniel, Director, Airspace Protection & Airport Safeguarding on 02 6274 7650 or via email [grace.daniel@infrastructure.gov.au](mailto:grace.daniel@infrastructure.gov.au).

Regards,

**Donna Kerr** (she/her)

Assistant Director • Airspace Protection & Airport Safeguarding  
Airports Branch • Domestic Aviation & Reform Division

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*I would like to acknowledge the traditional custodians of this land on which we meet, work and live.  
I recognise and respect their continuing connection to the land, waters and communities.  
I pay my respects to Elders past and present and to all Aboriginal and Torres Strait Islanders.*

## OFFICIAL

**From:** Kris Walsh <Kris.Walsh@planning.nsw.gov.au>

**Sent:** Friday, 27 January 2023 10:39 AM

**To:** Donna KERR <Donna.Kerr@infrastructure.gov.au>

**Cc:** Dean Spanos <Dean.Spanos@dpie.nsw.gov.au>

**Subject:** RE: F2 -Draft response - Bankstown Airport Referral - Bankstown Central Planning Proposal [SEC=OFFICIAL]

Hi Donna

I hope you're well and you've had a good start to the year.

I'm getting in touch with you regarding the correspondence below with Canterbury Bankstown Council regarding a planning proposal currently under consideration in the Bankstown CBD. My role is at the NSW Department of Planning and Environment and we are responsible for ensuring that Council's planning proposal addresses all Ministerial Directions issued under Section 9.1 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) which includes Direction 5.3 Development Near Regulated Airports and Defence Airfields. This is referenced under the original email sent from Camille in the email chain below.

Direction 5.3 requires that *in the preparation of a planning proposal that sets controls for development of land near a core regulated airport, the relevant authority must:*

*(d) obtain permission from that Department of the Commonwealth, or their delegate, where a planning proposal seeks to allow, as permissible with consent, development that would constitute a controlled activity approval as defined in section 182 of the Airports Act 1996. This permission must be obtained prior to undertaking community consultation in satisfaction of Schedule 1 to the EP&A Act.*

I note that you have confirmed that the planning proposal intends to introduce building heights that would constitute a controlled activity and that further consideration of this will need to occur prior to any building approvals being issued. I am seeking some clarity on the requirements of Direction 5.3 and whether this constitutes "permission" in accordance with Section 5.3(d) noted above for the purposes of the planning proposal? The permission is not a controlled activity approval but permission in relation the intended building heights being proposed for the purposes of the planning proposal.

Formal consideration of any controlled activity approval will of course be part of any future development application(s). However, we are simply seeking confirmation of permission for further consideration of the proposed building heights under the planning proposal prior to proceeding to an public exhibition to obtain the views of the community and public agencies.

I'm happy to have a chat to you on the phone to discuss our requirements to ensure we can have a consistent approach to this requirement for all future planning proposals as well. Please contact me on the details below.

Kind regards,

Kris

**Kris Walsh**

**Manager, Eastern and South District**

Greater Sydney Place & Infrastructure | Department of Planning and Environment

T 02 9274 6299 | E [kris.walsh@planning.nsw.gov.au](mailto:kris.walsh@planning.nsw.gov.au)

4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150

[www.dpie.nsw.gov.au](http://www.dpie.nsw.gov.au)



*The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.*

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**From:** Donna KERR <[Donna.Kerr@infrastructure.gov.au](mailto:Donna.Kerr@infrastructure.gov.au)>

**Sent:** Tuesday, 17 January 2023 4:50 PM

**To:** Patrick Lebon <[Patrick.Lebon@cbc.city.nsw.gov.au](mailto:Patrick.Lebon@cbc.city.nsw.gov.au)>

**Cc:** David Binskin <[david.binskin@smairports.com.au](mailto:david.binskin@smairports.com.au)>; DANIEL Grace <[Grace.Daniel@infrastructure.gov.au](mailto:Grace.Daniel@infrastructure.gov.au)>; SCHOB Jurgen <[Jurgen.SCHOB@infrastructure.gov.au](mailto:Jurgen.SCHOB@infrastructure.gov.au)>; Flysafe <[Flysafe@infrastructure.gov.au](mailto:Flysafe@infrastructure.gov.au)>

**Subject:** F2 -Draft response - Bankstown Airport Referral - Bankstown Central Planning Proposal [SEC=OFFICIAL]

**OFFICIAL**

Hi Patrick

Thank you for your email regarding requirements of the *Airports Act 1996* (the Act) and associated Airports (Protection of Airspace) Regulations 1996 (the APARs) in the context of the two proposed towers in the Bankstown CBD area. As outlined by Bankstown Airport in its submission the proposed building height increase will result in the planned towers intruding into the Obstacle Limitation Surface (OLS) for the airport.

The Act and the APARs are administered by the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) and establish a framework for the protection of prescribed airspace at and around the Federal Leased Airports. The potential intrusions identified above constitute a "controlled activity" as defined under the Act. Controlled activities are not permitted without prior approval from the Department.

Applications for controlled activities are required to be referred to the relevant airport and are subject to rigorous aviation safety assessment processes that are separate and in addition to State or Local government issued planning or development approvals. In addition to the towers, I am informed that equipment associated with construction of

the proposed towers (cranes, concrete pumps etc.) may also potentially intrude into the PANS-OPS surface for the airport and that design proposal/s will be prepared for the towers at a later date. In preparing a controlled activity application under the APARs, in accordance with regulation 7(2)(c)(ii), Proponents must include information relating to any temporary structure or equipment intended to be used in the erection of the proposed building (e.g. cranes, concrete pumps, scaffolding etc.) in the application for the building. Please note, the APARs limit intrusions into the into the PANS-OPS to a maximum of 3 months. Decisions under the Regulations may only be issued by an authorised delegate. This Commonwealth process and the Department's decision under the APARs should not be pre-empted by State or Local government development application approvals.

In response to Camille's query of 23 November 2022, the Act and Regulations do not require a controlled activity application to be brought forward prior to the public exhibition process for the Bankstown City Centre Master Plan. However, it would be beneficial for Council to include information relating to the proposed controlled activity in the public exhibition documents and to continue to engage with the airport during this process.

To enable consideration of airspace protection or National Airport Safeguarding Framework (NASF) related issues in more detail it is important that Council continue to engage with Bankstown Airport and the Department during any subsequent design/development application stages of the planning process, prior to any building approvals being issued. The Department also recommends Airservices Australia and CASA be included in future consultations that involve potential airspace or airport safeguarding matters. The initial contact details for these agencies are:

CASA                    [Airspace.Protection@casa.gov.au](mailto:Airspace.Protection@casa.gov.au)  
Airservices           [Airport.Developments@AirservicesAustralia.com](mailto:Airport.Developments@AirservicesAustralia.com)

If you would like to discuss or need any additional information regarding airspace protection or airport safeguarding matters please reach out, I'm happy to assist.

Regards

**Donna Kerr**

Assistant Director • Airspace Protection & Airport Safeguarding  
Airports Branch • Domestic Aviation & Reform Division

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**From:** David Binskin <[david.binskin@aeria.co](mailto:david.binskin@aeria.co)>

**Sent:** Thursday, 22 December 2022 12:09 PM

**To:** Patrick Lebon <[Patrick.Lebon@cbcity.nsw.gov.au](mailto:Patrick.Lebon@cbcity.nsw.gov.au)>; Flysafe <[Flysafe@infrastructure.gov.au](mailto:Flysafe@infrastructure.gov.au)>

**Cc:** Camille Lattouf <[Camille.Lattouf@cbcity.nsw.gov.au](mailto:Camille.Lattouf@cbcity.nsw.gov.au)>; DANIEL Grace <[Grace.Daniel@infrastructure.gov.au](mailto:Grace.Daniel@infrastructure.gov.au)>;

Alan Collins <[alan.collins@aeria.co](mailto:alan.collins@aeria.co)>

**Subject:** RE: Bankstown Airport Referral - Bankstown Central Planning Proposal

Afternoon Patrick