

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Pre-lodgement stage – Department of Planning and Environment comments to Canterbury-Bankstown Council

Location: Numerous sites in Canterbury Bankstown LGA.

Nature of Request: Canterbury-Bankstown Council has requested feedback on a proposed housekeeping planning proposal for the Canterbury Bankstown Local Environmental Plan 2023 (CBLEP 2023). It is understood this feedback will be used to inform a future planning proposal.

Broad Scope of the proposal – Housekeeping amendments to the CBLEP 2023.

DPE Reference No.: N/A

Scoping Report attached: No

DPE point of contact: Alexander Galea, Manager Infrastructure and Planning (DPE)

Sutherland Shire Council: Mauricio Tapia, 02 9707 9923, Mauricio.TAPIA@cbc.city.nsw.gov.au

Department of Planning and Environment: Alexander Galea, 8289 6793, alexander.galea@planning.nsw.gov.au

Please note: Any planning proposal for the site must be prepared in accordance with the NSW Department of Planning and Environment's (the Department) Local Environmental Plan Making Guidelines (August 2023)

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Feedback

Issue and assessment requirements

1. General comments on flooding

Council will need to review all the proposed amendments and address the requirements of Ministerial Direction 4.1 Flooding where a site or amendment is impacted by flooding.

The Direction is currently being updated to include the release of the new [Flood Risk Management Manual 2023](#) and its associated [flood risk management guidelines](#) and they must be adequately addressed in the planning proposal. These replace the Floodplain Development Manual 2005. The assessment should clearly address the probable maximum flood (PMF) as well as the 1% annual exceedance probability (AEP).

Please note further advice concerning the proposed amendment at 30-31 Webster Street, Milperra have been provided under Point 10 below (pp10-11).

2. Refine Childcare Centre Permissibilities in the RE2 Private Recreation (RE2) Zone

Existing Instrument:

RE2 zone permits ‘early education and care facilities’.

Early education and care facility means *‘a building or place used for the education and care of children, and includes any of the following—*

- (a) a centre-based child care facility,*
- (b) home-based child care,*
- (c) school-based child care.’*

Proposed Change:

Replace ‘early education and care facilities’ with ‘centre-based childcare facilities’.

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Issue and assessment requirements

Council justification:

Drafting error never intended by the CBLEP 2023 planning proposal.

Department Comment:

Removing the broad term ‘early education and care facility’ with ‘centre-based child care facility’ will remove the possibility of home and school based child care facilities.

The proposal will need to provide detail and justification of why limiting childcare uses aligns with the objectives of the zone and **addressed the actions of Council’s LSPS.**

It is noted that ‘residential accommodation’ and ‘educational establishments’ are prohibited in the RE2 zone.

3. Minimum lot width for Schools

Existing Instrument:

No minimum lot width applies to ‘schools’ in the CBLEP 2023.

School **means** ‘a government school or non-government school within the meaning of the Education Act 1990’.

Proposed Change:

Include a 40m minimum lot width for ‘schools’ in the R2 Low Density Residential Zone.

Council Justification:

It is understood this provision provides for adequate amenity impacts from schools to surrounding residential development.

Department Comment:

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Issue and assessment requirements

The amendment will need to demonstrate consistency with relevant State Environmental Planning Policies (**SEPP's**), including State Environmental Planning Policy (Transport and Infrastructure) 2021 (T & I SEPP).

Justification will need to be provided demonstrating that the inclusion of a minimum lot width provision in the LEP resolves amenity impacts arising from schools in low density residential areas.

This should include analysis of how the provision **facilitates compliance with Council's** planning controls and provisions of the T & I SEPP.

The Department will require consultation with Schools Infrastructure NSW as part of a Gateway determination if supported to proceed.

4. Stormwater management and water sensitive urban design not required in RE1 Public Recreation (RE1) zone

Existing Instrument:

This clause applies to land several zones, including the R2, R3, R4, B1, B2, B4, B5, B6, B7, IN1, IN2, SP1, SP2, RE1 and RE2.

Proposed Change:

Remove the application of this clause to the RE1 zone.

Council Justification:

Drafting error. Not proposed nor exhibited by CBLEP 2023 planning proposal.

Department Comment:

Justify why stormwater management and water sensitive urban design should not apply to development in the RE1 zone within the planning proposal report.

The RE1 zone includes several forms of development which are permitted in other zones where this clause would continue apply, including:

- Recreation facilities (indoor);

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Issue and assessment requirements

- Recreation facilities (major);
- Recreation facilities (outdoor);
- Community facilities; and
- Centre-based child care facilities.

5. Design excellence for schools

Existing Instrument:

Requires a new school building with a gross floor area (GFA) of 2,000m² or more to demonstrate design excellence.

Proposed Change:

Apply the design excellence provisions to alterations/additions to existing school buildings if the proposed gross floor area is 2,000m² or more.

Council Justification:

Given growth of schools, and ongoing growth of independent schools, important there is design excellence.

Department Comment:

The amendment will need to demonstrate consistency with relevant Ministerial Directions and State Environmental Planning Policies, including the T & I SEPP.

The amend should also clearly identify whether the provision applies to alterations/additions which:

- result in the existing building's GFA being 2,000m² or more; and/or
- just the alteration and addition has a GFA of 2,000m² or more.

Issue and assessment requirements

The Department will require consultation with Schools Infrastructure NSW as part of a Gateway determination if supported to proceed.

6. Front building line definition

Existing Instrument:

‘Front building line’ is not separately defined in the CBLEP 2023.

Proposed Change:

Transfer the definition of **‘front building line’** from the former Bankstown LEP 2015 into the CBLEP 2023, being:

‘front building line means—

(a) for a lot that has only one road frontage— the line the consent authority is satisfied is the minimum setback a building should be from the road alignment, or

(b) for a lot that has more than one road frontage— the shortest of the lines (excluding an access handle or right of way for access) that can be calculated under paragraph (a).’

Council Justification:

Ensure for clarity that the definition is in the LEP, as per the former LEPs. Approved as being in the Bankstown LEP previously.

Department Comment:

Provide **justification for the proposed definition of the ‘front building line’**. This should include clear reasoning for why this needs to be defined in the LEP.

Please note that the inclusion of this definition will be subject to the legal drafting process by Parliamentary Counsel. As such, they may be of a mind to rely upon the ordinary meaning of the term.

Issue and assessment requirements

7. Rezoning 75A-75C Marco Avenue, Revesby

Existing Instrument:

Zoned RE1. No floor space ratio (FSR), building height (HOB), or lot size (LSZ) provisions apply.

Proposed Change:

Rezone to R4 High Density Residential with a:

- maximum 1.75:1 FSR;
- maximum 25m HOB,
- minimum 450m² LSZ,
- **apply** 'Area 4' Special Provisions Map – requiring a 1,700sq.m minimum LSZ and 40m minimum width for residential flat building development; and
- reclassification of land.

Council Justification:

It is understood that Council considers this land both unsuitable for public open space and surplus to the needs of the local area. It is understood the land is currently vacant. Council considers that the proposed provisions are justified in their Local Area Plans.

Department Comment:

The following matters will need to be addressed in the planning proposal:

- the rezoning of this land from RE1 will not undermine open space needs for the area. This should include analysis against **Council's Local Area Plans and Council's Local Strategic Planning Statement;**

Issue and assessment requirements

- analysis should be provided that this rezoning can be supported by the existing infrastructure and services, including the road network and public open spaces. This should also demonstrate how adequate vehicular access can be obtained onto the site.
- any contaminated land can be made suitable for the intended land uses, including residential development;
- that residential development can adequately address relevant planning controls, including SEPP No.65 and the Apartment Design Guide. This should also discuss noise attenuation measures; and
- **address the need to reclassify the land from ‘community’ to ‘operational’ land** and discharging of any trusts. If reclassification is necessary relevant statutory requirements need to be addressed in the planning proposal, including public hearing. See page 65 of the [LEP Making Guidelines](#) for details. Please note Council will not be delegated local plan making authority functions where reclassification of land is part of a planning proposal.

8. Rezoning 6-8 Chapel Road, Bankstown

Existing Instrument:

SP2 **‘Road Infrastructure Facility’** (No FSR or HOB provisions apply).

Proposed Change:

Rezoned to either B1 Neighbourhood Centre (B1) or B2 Local Centre (B2) zoning with:

- a maximum 1.5:1 FSR with application of ‘Area 2’ provisions. ‘Area 2’ provisions result in the maximum FSR reducing to 1:1 if the lot width is less than 18m; and
- a maximum 14m HOB.

Council Justification:

Issue and assessment requirements

It is understood the existing SP2 'Road Infrastructure Facility' zoning is redundant. The proposed B1 zone and associated 1.5:1 FSR (Area 2) / 14m reflect the surrounding land zoning.

Department Comment:

The following matters will need to be addressed in the planning proposal:

- Clearly identify the existing and proposed provisions which apply to the site. It appears the site is only zoned SP2 'Road Infrastructure Facility' and immediately surrounding land is zoned B1 Neighbourhood Centre. It is not clear why a B2 zone would be applied to this site;
- demonstrate consistency with relevant SEPP's and Ministerial Directions;
- analysis should be provided that this rezoning can be supported by the existing infrastructure and services, including the road network and open spaces. This should also demonstrate how adequate vehicular access can be obtained onto the site;
- any contaminated land can be made suitable for the intended land uses, including residential development; and
- that residential development can adequately address relevant planning controls, including SEPP No.65 and the Apartment Design Guide.

9. Rezoning 45 Simmons Street, Revesby

Existing Instrument:

B2 / SP2 'Road Infrastructure Facility' (No FSR with a maximum 14m HOB).

Proposed Change:

Zoned B2 with:

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Issue and assessment requirements

- a maximum 3:1 FSR with application of 'Area 1' provisions. 'Area 1' provisions result in the maximum FSR reducing to 2:1 if the lot width is less than 18m; and
- a maximum 26m HOB.

Council Justification:

It is understood the existing SP2 'Road Infrastructure Facility' zoning isn't appropriate because, this zoning is only over part of the existing carpark. The remainder of the car park is zoned B2.

Department Comment:

The following matters will need to be addressed in the planning proposal:

- analysis should be provided that this rezoning can be supported by the existing infrastructure and services, including the road network and open spaces.
- any contaminated land can be made suitable for the intended land uses, including residential development; and
- that residential development can adequately address relevant planning controls, including SEPP No.65 and the Apartment Design Guide.

10. Additional Permitted Uses for 30-31 Webster Street, Milperra

Existing Instrument:

Zoned RE2 Private Recreation. No HOB, FSR, LSZ or APU apply to the site.

Proposed Change:

Add 'function centre' and 'restaurant or café' as an APU to the site.

Issue and assessment requirements

Department Comment:

- Clarify what uses are intended to be additionally permitted with consent – it appears ‘restaurant or café’ are already permitted on the site.

These uses must align with existing standard instrument definitions. Clarification should also be provided if any limitations or standards will be applied to the APUs i.e. a maximum gross floor area etc.

The proposal will also need to clearly identify the extent of the APU – suggested this be clearly mapped.

- Discussion of how impacts from potential future development/redevelopment on the site can be managed, including traffic. This should include identifying all existing LEP provisions which apply to the site and the APUs.
- **Demonstrate consistency with relevant SEPP’s and Ministerial Directions**, including 4.1 Flooding, 4.3 Planning for Bushfire Protection and 4.5 Acid Sulfate Soils.

Notwithstanding any previous and/or recent DA approvals, this amendment must address Ministerial Direction 4.1 Flooding. The Direction is currently being updated to include the release of the new [Flood Risk Management Manual 2023](#) and its associated [flood risk management guidelines](#) and they must be adequately addressed in the planning proposal, including:

- the site’s high flood risk flooding affectation at 1% AEP and the PMF;
- type (i.e. mainstream or overland flow) and category (i.e. floodway, flood storage etc.) of flooding at 1% AEP and PMF;
- comparison of pre and post development flood behaviour at 1% AEP and PMF;
- details of evacuation at 1% AEP and PMF, including how it addresses relevant SES requirements. Evacuation routes need to be considered both within the site and to and from the site;

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Issue and assessment requirements

- period of inundation at 1%AEP and PMF. This should clarify how long inundation is at each flood hazard category (see Figure 6 AIDR 2017b);
- details of any flood mitigation measures at 1% AEP and PMF, including if this includes filling of the site;
- detailed design outcome required to address the flooding hazard, including building materials at 1% AEP and PMF; and
- finished floor levels required to address both 1% AEP and PMF flood events.

11. Additional Permitted Use for 328 Hector Street, Bass Hill

Existing Instrument:

Zoned R2 Low Density Residential with a:

- maximum 9m HOB;
- maximum 0.5:1 FSR;
- minimum 450m² LSZ.

No **APU's** apply to the site.

Proposed Change:

Add 'recreational facility (indoor)' subject to the gross floor area not exceeding 800m².

Department Comment:

Demonstrate the suitability of the proposed APU, including adequately addressing amenity impacts to surrounding residential zoned land, including traffic, built form and noise impacts.

Demonstrate consistency with relevant **SEPP's and Ministerial Directions**.

Department feedback – Canterbury-Bankstown Housekeeping Proposal – December 2023

Agency/Authority point of contact: Alexander Galea, Manager Eastern and South District Team, NSW Department of Planning and Environment

Request by Agency/Authority to attend pre-lodgement meeting: Yes

Request for Agency/Authority to receive formal referral required at exhibition stage: To be addressed by a Gateway determination