



New South Wales

Gosford Local Environmental Plan No 460

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (C03/00051/S69)

FRANK SARTOR, M.P.,
Minister for Planning

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Clause 1 Gosford Local Environmental Plan No 460

Gosford Local Environmental Plan No 460

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Gosford Local Environmental Plan No 460*.

2 Aims of plan

This plan aims:

- (a) to encourage the conservation of heritage items within the City of Gosford, and
- (b) to include in the planning instruments of Gosford City Council certain heritage items currently listed in the Council's *Environmental Heritage Conservation Development Control Plan* and new items identified in Stage 2 of the Council's *Heritage Study Review*.

3 Land to which plan applies

This plan applies to all land in the City of Gosford to which the following instruments apply:

- (a) the *Gosford Planning Scheme Ordinance*,
- (b) *Interim Development Order No 122—Gosford*,
- (c) *Gosford Local Environmental Plan No 22*.

4 Amendment of Gosford Planning Scheme Ordinance

The *Gosford Planning Scheme Ordinance* is amended as set out in Schedule 1.

5 Amendment of Interim Development Order No 122—Gosford

Interim Development Order No 122—Gosford is amended as set out in Schedule 2.

6 Amendment of Gosford Local Environmental Plan No 22

Gosford Local Environmental Plan No 22 is amended as set out in Schedule 3.

Schedule 1 Amendment of Gosford Planning Scheme Ordinance

(Clause 4)

[1] Clause 3 Interpretation

Omit the definitions of *Item of environmental heritage* and *Relic* from clause 3 (1).

[2] Clause 3 (1)

Insert in alphabetical order:

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Archaeological site means the site (as listed in Schedule 8) of one or more relics.

Cemetery means a building or place for the interment of deceased persons or pets or their ashes, and includes a funeral chapel or crematorium.

Curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, which contributes to its heritage significance.

Demolish, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

Heritage conservation area means:

- (a) an area of land that is shown as a heritage conservation area on the Heritage Map (including any heritage items situated on or within that conservation area), or
- (b) a place of Aboriginal heritage significance shown on the Heritage Map.

Note. At the commencement of *Gosford Local Environmental Plan No 460* there were no heritage conservation areas on land under the *Gosford Planning Scheme Ordinance*.

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Heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

Heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

Heritage item means a building, work, archaeological site, tree, place or Aboriginal object specified in an inventory of heritage items that is available at the office of the Council and the site and nature of which is described in Schedule 8.

Heritage Map

Note. There is no Heritage Map for the purposes of this Ordinance.

Heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

Local heritage significance, in relation to a place, building, work, historical archaeological site, tree or precinct, means its heritage significance to an area.

Maintenance, in relation to a heritage item or a building, work, historical archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

Place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or

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- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

Relic means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of the City of Gosford, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

[3] Clauses 45A–45C

Omit the clauses.

[4] Clause 49T

Insert after clause 49S:

49T Heritage conservation

(1) **Objectives**

The objectives of this clause are:

- (a) to conserve the environmental heritage of the area of the City of Gosford, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building, by making structural changes to its interior,

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- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) **When consent not required**

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) **Heritage impact assessment**

The consent authority may, before granting consent to any development on land on which a heritage item is situated or that is within a heritage conservation area, require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(5) **Heritage conservation management plans**

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(6) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(7) **Places of Aboriginal heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

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(8) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 8 as being of State heritage significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received within 28 days after the notice is sent.

(9) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Ordinance if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

[5] **Schedule 8**

Omit the heading to the Schedule. Insert instead:

Schedule 8 Environmental heritage

(Clauses 3 (1) and 49T)

[6] Schedule 8

Insert after the Schedule heading:

Heritage items of State significance

* Hawkesbury River rail bridge, Brooklyn (includes 3 pylons of the former Hawkesbury River Railway Bridge).

* House, Mulhollands Farm, No 9 Pixie Avenue, Green Point.

* Foreshore land and structures, No 9 Pixie Avenue, Green Point.

* House, "Rosemount", No 36 Steyne Road, Saratoga.

* House, "Wyoming Cottage", Pacific Highway, Wyoming.

* Hely's Grave, Pacific Highway, Wyoming.

* House, "The Grange", Renwick Street, Wyoming.

Note. Items marked with an asterisk (*) are items listed on the State Heritage Register and subject to the provisions of the *Heritage Act 1977*.

[7] Schedule 8

Insert at the end of the matter relating to heritage items of State significance:

Heritage items

[8] Schedule 8

Omit:

3 pylons of old Hawkesbury River Railway Bridge.

House, "Mulhollands", 9 Pixie Avenue, Green Point.

House, "Rosemount", 36 Steyne Road, Saratoga.

House, "The Grange", former farm Building, Renwick Street, Wyoming.

Grave of F. A. Hely, Pacific Highway, Wyoming.

House, "Wyoming Cottage", corner Pacific Highway and Wyoming Road, Wyoming.

[9] Schedule 8

Insert at the end of the matter relating to heritage items:

Hastings Wharf, Kallaroo Road, Bensville.

Former house, now part of Orange Grove Private Hospital, Lot 3, DP 861482, No 380 Orange Grove Road, Blackwall.

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Booker Bay Store, Lot A, DP 338628, No 72 Booker Bay Road, Booker Bay.

Shop "Kings Store", Lot 119A, DP 416609, No 78 Booker Bay Road, Booker Bay.

Davistown Store, Lot 1, DP 12932, No 1 McCauley Street, Davistown.

Davistown Baths, Pine Avenue, Davistown.

House, "Stonehurst", Lot 6, DP 227878, No 64 George Street, East Gosford.

House, "Nettville", Lot 52, DP 715094, No 2 York Street, East Gosford.

House, Lot 44, DP 614225, No 100 Lushington Street, East Gosford.

House, former boarding house, "Empire House", Lot B, DP 102620, No 8 Sorrento Road, Empire Bay.

Empire Bay Store and Residence, Lot B, DP 320140, No 12 Sorrento Road, Empire Bay.

Anglican Church, Lot 201, DP 7029, No 47 Rosella Road, Empire Bay.

War Memorial, Road Reserve, intersection of Sorrento and Kendall Roads, Empire Bay.

Merrett's Wharf, off Rickard Road, Empire Bay.

Vietnam Veterans Memorial, Ettalong Foreshore Reserve, The Esplanade, Ettalong Beach.

House, Lot 1, DP 302414, No 21 Pacific Highway (8 Wilhelmina Street), Gosford.

Dwyer Pavilion, Gosford Showground, Showground Road, Gosford.

Farmhouse, "Kenmare", Lot 9, DP 236432, No 4 Roslyn Gardens, Green Point.

House, "Capri", Lot 49, DP 302278, No 40 Araluen Drive, Hardys Bay.

House, "Bayview", Lot 1, DP 171147, No 42 Araluen Drive, Hardys Bay.

Killcare Store, Lot 43, DP 8830, No 54 Araluen Drive, Hardys Bay.

Killcare Marina site, Lot 495, DP 822113, opposite No 46 Araluen Drive, Killcare.

Rickards Wharf, Araluen Drive, Killcare.

Post and rail fence, Lot 1, DP 603464 and Lot 1, DP 781105, No 168–170 Avoca Drive, Kincumber.

House, George Frost House, Lot 1, DP 603464, No 168 Avoca Drive, Kincumber.

Post and rail fence, Lots 11 and 12, DP 635510, Avoca Drive, Kincumber.

House, “The Lavender Patch”, Lot 1, DP 870536, Joseph Place, Kincumber.

Wards Wharf, Public Reserve adjacent Sewage Treatment Works, Kincumber.

House, Lot 1, DP 25265, No 15 Brisbane Water Drive, Koolewong.

House and wharf, “Glenrock”, Lot 2, DP 387962, No 12 Couche Crescent, Koolewong.

House, “Sunny Haven”, Lot 181, DP 204140, No 154 Glenrock Parade, Koolewong.

House, Lot 4, DP 332224, No 30 Lara Street, Koolewong.

Two houses, Lot 412, DP 833320, Parks Bay, Koolewong.

Shop and outbuilding, Post Office Store (Pryor Brothers), Lot 1, DP 590606, Lisarow.

Grave of Frances Peat, Public Reserve, Mooney Mooney Point.

House, “White Gates”, Lot 1, DP 565029, No 18 Hanlan Street, Narara.

House, “Valley View”, Lot 4, DP 612752, No 95 Hanlan Street North, Narara.

Venus Wharf site, Maliwa Road, Narara.

House, “Holcombes”, Lot 1, DP 700106, corner of Manns and Showground Roads, Narara.

House, Lot A, DP 420450, No 39 Pearsons Street, Narara.

Patonga Store, Lot 5, DP 23839, No 8 Patonga Drive, Patonga.

War Memorial, Road Reserve, intersection of Patonga Drive, Bay Street and Jacaranda Avenue, Patonga.

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House, "Yamba", Lot 480, DP 14592, No 13 Crystal Avenue, Pearl Beach.

Pearl Beach Hall and Memorial, Lot 324, DP 14592, No 9 Diamond Road, Pearl Beach.

Phegans Walking Track, Lots 40–46, DP 8421, Nos 80–92 Monastir Road, Phegans Bay.

House, "Katie Dawsons", Lot 5, DP 4090, No 15 Alukea Avenue, Point Clare.

House, Lot 1, DP 38240, No 27 Brisbane Water Drive, Point Clare.

House, "Keiraville", Lot 4, DP 613722, No 156 Brisbane Water Drive, Point Clare.

Goodawang Wharf and Langley House footings, Kurrawa Avenue, Point Clare.

House, "Corra-Lynn", Lot 9, DP 38586, No 3 Lynn Avenue, Point Frederick.

House, "Weona", Lot 35, Section 2, DP 6552, No 66 Highview Road, Pretty Beach.

Former Pretty Beach Store, Lot 12, Section 1, DP 6552, No 38 Pretty Beach Road, Pretty Beach.

House, former "Buena Vista" Boarding House, Lot 15, DP 561989, No 76 Steyne Road, Saratoga.

Graves of Scott family, Lot 33, DP 27767, No 15 Melaleuca Crescent, Tascott.

House, "The Gunyah", Lot B, DP 347541, No 168 Terrigal Drive, Terrigal.

House, "Seville", Lot 1, DP 348393, No 374 Terrigal Drive, Terrigal.

War Memorial, Terrigal Foreshore, Terrigal Esplanade, Terrigal.

St Peter's Church, Lot 682, DP 737089, No 12 Wagstaffe Avenue, Wagstaffe.

Wagstaffe Store, Lots 1 and 2, DP 7041, Nos 46–48 Wagstaffe Avenue, Wagstaffe.

Boatshed and Norfolk Island Pines, Lot 222, DP 514964, Wagstaffe Avenue, Wagstaffe.

Wagstaffe Memorial Hall, Lot 17, DP 4961, Wagstaffe Avenue, Wagstaffe.

Former Uniting Church, Lot 5, DP 959078, No 600 The Entrance Road, Wamberal.

Two shops, "Noonans", Lot 2, DP 204415 and Lot 10, DP 235753, Nos 8–10 Blackwall Road, Woy Woy.

Part of former "Alecia" Tea Rooms, Lot C, DP 400718, Blackwall Road, Woy Woy.

Woy Woy Memorial Park and Wall, Brickwharf Road, Woy Woy.

Former shop, "Mrs Wilsons", Lot 12, DP 1009830, corner of Charlton and Railway Streets, Woy Woy.

Woy Woy Masonic Hall, Lot 331, DP 547025, No 42 Railway Street, Woy Woy.

House, Lot 13, Section 1, DP 5099, No 146 Railway Street, Woy Woy.

House, Lot 26, DP 19469, No 6 Taylor Street, Woy Woy Bay.

House, Lot 5, Section 4, DP 1905, No 10 Akora Road, Wyoming. Yattalunga Baths, Mundoora Avenue, Yattalunga.

[10] Schedule 10 Exempt development

Omit "an item of environmental heritage" wherever occurring under the Column heading "**Limit**" and heading "**Heritage**" in the matter relating to Item 1 (a).

Insert instead "a heritage item".

[11] Schedule 10, item 2 (g)

Omit "not on land affected by *Gosford Local Environmental Plan No 183, Development Control Plan No 34—Items of Environmental Heritage*," under the Column heading "**Limit**" and heading "**Heritage**".

Insert instead "not on the site of a heritage item or on land affected by".

[12] Schedule 10, items 2 (n), 4 and 5

Omit "not on properties affected by *Gosford Local Environmental Plan No 183, Development Control Plan No 34—Items of Environmental Heritage*," wherever occurring under the Column heading "**Limit**" and heading "**Heritage**".

Insert instead "not on the site of a heritage item or on land affected by".

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[13] Schedule 10, item 3

Omit “other than a heritage item affected by *Gosford Local Environmental Plan No 183, Development Control Plan No 34—Items of Environmental Heritage*,” under the Column heading “**Type of development**”.

Insert instead “other than demolition of a heritage item, or demolition of a building or structure on land affected by”.

[14] Schedule 10, item 3

Omit “*Management*” under the Column heading “**Type of development**”.

Insert instead “*Management*”.

Schedule 2 Amendment of Interim Development Order No 122—Gosford

(Clause 5)

[1] Clause 3 Interpretation

Omit the definitions of *Aboriginal place*, *Conservation management plan*, *Heritage conservation area*, *Heritage impact statement*, *Heritage maintenance*, *Item of environmental heritage* and *Relic* from clause 3 (1).

[2] Clause 3 (1)

Insert in alphabetical order:

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

Archaeological site means the site (as listed in Schedule 2) of one or more relics.

Cemetery means a building or place for the interment of deceased persons or pets or their ashes, and includes a funeral chapel or crematorium.

Curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, which contributes to its heritage significance.

Demolish, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

Heritage conservation area means:

- (a) an area of land that is shown as a heritage conservation area on Sheet 2 of the Heritage Map (including any heritage items situated on or within that conservation area), or
- (b) a place of Aboriginal heritage significance shown on the Heritage Map.

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Schedule 2 Amendment of Interim Development Order No 122—Gosford

Heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

Heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

Heritage item means a building, work, archaeological site, tree, place or Aboriginal object specified in an inventory of heritage items that is available at the office of the Council and the site and nature of which:

- (a) is described in Schedule 2, or
- (b) in relation to certain land at Mount Penang, Kariong (comprising the Festival Development Site)—described in Schedule 2A and shown edged heavy black and numbered on Sheets 3 (built elements) and 4 (landscape elements) of the map marked “Gosford Local Environmental Plan No 391” deposited in the office of the Council.

Heritage Map means Sheets 2–4 of the map marked “Gosford Local Environmental Plan No 391” deposited in the office of the Council.

Local heritage significance, in relation to a place, building, work, historical archaeological site, tree or precinct, means its heritage significance to an area.

Maintenance, in relation to a heritage item or a building, work, historical archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

Place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

Relic means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of the City of Gosford, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

[3] Clause 38A

Insert after clause 38:

38A Heritage conservation

(1) **Objectives**

The objectives of this clause are:

- (a) to conserve the environmental heritage of the area of the City of Gosford, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,

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- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building, by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) **When consent not required**

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or

(c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or

(d) the development is exempt development.

(4) Heritage impact assessment

The consent authority may, before granting consent to any development on land on which a heritage item is situated or that is within a heritage conservation area, require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

(5) Heritage conservation management plans

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(6) Archaeological sites

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order applies):

(a) notify the Heritage Council of its intention to grant consent, and

(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(7) Places of Aboriginal heritage significance

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and

(b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

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Schedule 2 Amendment of Interim Development Order No 122—Gosford

(8) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 2 as being of State heritage significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received within 28 days after the notice is sent.

(9) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Order if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

[4] **Clauses 39C–39E**

Omit the clauses.

[5] **Clause 103 Planning principles for Mount Penang**

Omit “items of environmental heritage” wherever occurring under the headings “**Heritage**” and “**Urban design**” in the Table to the clause.

Insert instead “heritage items”.

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- [6] **Clause 104 Environmental heritage—former Juvenile Justice Centre, Mount Penang, Kariong**
Omit “items of environmental heritage” wherever occurring.
Insert instead “heritage items”.
- [7] **Clause 104 (2) (e)**
Insert “heritage” after “Aboriginal”.
- [8] **Clause 105 Protection of heritage items, heritage conservation areas and relics at former Juvenile Justice Centre, Mount Penang, Kariong**
Omit “an item of environmental heritage” wherever occurring.
Insert instead “a heritage item”.
- [9] **Clause 105 (2) (a)**
Omit “item or”. Insert instead “or”.
- [10] **Clause 105 (2) (b) and (4)**
Omit “item of environmental heritage” wherever occurring.
Insert instead “heritage item”.
- [11] **Clause 105 (5) (b) and (6)**
Insert “heritage” before “conservation” wherever occurring.
- [12] **Clause 106 Development of places of Aboriginal heritage significance or of known potential archaeological sites of Aboriginal cultural significance at Mount Penang**
Omit “an Aboriginal place”.
Insert instead “a place of Aboriginal heritage significance”.
- [13] **Clause 106 (a)**
Omit “relic”. Insert instead “Aboriginal object”.
- [14] **Schedule 2**
Omit the heading to the Schedule. Insert instead:

Schedule 2 Environmental heritage

(Clauses 3 (1) and 38A)

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[15] Schedule 2

Insert after the Schedule heading:

Heritage items of State significance

* Lower Hawkesbury Wesleyan Chapel and site, Wisemans Ferry Road, Gunderman.

* HMAS Parramatta shipwreck, Cascade Gully, Hawkesbury River.

* Mount Penang Parklands, Pacific Highway, Somersby.

* The Great North Road, between Devine's Hill and Mount Manning, Wisemans Ferry.

Note. Items marked with an asterisk (*) are items listed on the State Heritage Register and subject to the provisions of the *Heritage Act 1977*.

[16] Schedule 2

Insert after the matter relating to heritage items of State significance:

Heritage items

[17] Schedule 2

Omit:

Roadworks, Great North Road, Wisemans Ferry to Bucketty.

Wesleyan Chapel, Wisemans Ferry Road, Gunderman.

[18] Schedule 2

Insert at the end of the Schedule:

House, "Alpha", Lot 4, DP 382701, No 42 Palmers Lane, Bensville.

Palmers Wharf site, Palmers Lane, Bensville.

House, "Laythams", Lot 116, DP 805652, Erina Valley Road, Erina.

Grave of John Donovan, Lot 37, DP 755253 Wisemans Ferry Road, Greengrove.

Ruins of mill, Lot 18, DP 24303, Mill Creek, Wisemans Ferry Road, Gunderman.

House, Lot 1, DP 1032271, 59 Humphreys Road, Kincumber South.

Ruins of house, Lot 17, DP 755253, Mangrove Creek Road, Mangrove Creek.

Site of Inn, Lot 37, DP 755239, Ten Mile Hollow Road, Mangrove Creek.

“Waratah House”, Lot 1, DP 245129, Waratah Road, Mangrove Mountain.

House, “Bundeena”, Lot 72, DP 755235, Waratah Road, Mangrove Mountain.

Mangrove Mountain Union Church, Lot 78, DP 755235, No 220 Wisemans Ferry Road, Mangrove Mountain.

Mt Elliot House, Lot 7, DP 833975, Toomeys Road, Mount Elliot.

Niagara Park Weir, behind No 130 Siletta Road, Niagara Park.

House and gardens, Lot 79, DP 665343, Peats Ridge Road, Peats Ridge.

Peats Ridge Public School, No 660 Peats Ridge Road, Peats Ridge.

House, “Glenworth Valley”, Lot 89, DP 755221, Glenworth Valley Road, Popran Creek.

Remains of stone walling, Lot 37, DP 755221, Glenworth Valley Road, Popran Creek.

Ruins of house, Lot 19, DP 604064, Rileys Bay.

“Ploddy the Dinosaur”, Pacific Highway, Somersby.

House, “Belbourie”, Lot 162, DP 543099, Vittasalos Road, Somersby.

House, “Woodlands”, Lot 1, DP 135540, No 691 Wisemans Ferry Road, Somersby.

House and gardens, “Linton Park”, Lot 3, DP 1027884, Wisemans Ferry Road, Somersby.

Somersby Public School, Wisemans Ferry Road, Somersby.

House, Lot 4, DP 377437, Collington Road, Spencer.

Woodbury's House, Lot 113, DP 1082966, Wisemans Ferry Road, Spencer.

Wisemans Ferry Road Well, Wisemans Ferry Road, Spencer.

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Wondabyne Quarry, Wondabyne.

Nine huts at Mullet Creek, Brisbane Water National Park,
opposite Wondabyne Railway Station, Wondabyne.

[19] Schedule 2A Heritage Items—former Mount Penang Juvenile Justice Centre

Omit “Items of environmental heritage” wherever occurring.

Insert instead “Heritage items”.

[20] Schedule 3 Exempt development

Omit “an item of environmental heritage” wherever occurring under the Column heading “**Limit**” and heading “**Heritage**” in the matter relating to item 1 (a).

Insert instead “a heritage item”.

[21] Schedule 3, item 2 (g)

Omit “not on land affected by *Gosford Local Environmental Plan No 183 or Development Control Plan No 34—Items of Environmental Heritage*,” under the Column heading “**Limit**” and heading “**Heritage**”.

Insert instead “not on the site of a heritage item or on land affected by”.

[22] Schedule 3, items 2 (n), 4 and 5

Omit “not on properties affected by *Gosford Local Environmental Plan No 183 or Development Control Plan No 34—Items of Environmental Heritage*,” wherever occurring under the Column heading “**Limit**” and heading “**Heritage**”.

Insert instead “not on the site of a heritage item or on land affected by”.

[23] Schedule 3, item 3

Omit “affected by *Gosford Local Environmental Plan No 183, Development Control Plan No 34—Items of Environmental Heritage*” under the Column heading “**Type of development**”.

Insert instead “or demolition of a building or structure on land affected by”.

[24] Schedule 3A Exempt development—Festival development site

Omit “items of environmental heritage” wherever occurring under the Column heading “**Limit**” in the matter relating in items 2a (f), 2b (g) and 6 (a).

Insert instead “heritage items”.

[25] Schedule 3A, item 2b (j)

Omit “an Aboriginal place” under the Column heading “**Limit**”.

Insert instead “a place of Aboriginal heritage significance”.

[26] Schedule 3A, items 3 (c), 4 (d) and 8 (c)

Omit “an item of environmental heritage” wherever occurring under the Column heading “**Limit**”.

Insert instead “a heritage item”.

[27] Schedule 4A Complying development—Festival development site

Omit “an item of environmental heritage” wherever occurring under the Column heading “**Limit**” in the matter relating in items 1 (e) and 3 (d).

Insert instead “a heritage item”.

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Schedule 3 Amendment of Gosford Local Environmental Plan No 22

Schedule 3 Amendment of Gosford Local Environmental Plan No 22

(Clause 6)

[1] Clause 5 Definitions

Insert in alphabetical order in clause 5 (1):

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

archaeological site means the site (as listed in Schedule 2) of one or more relics.

cemetery means a building or place for the interment of deceased persons or pets or their ashes, and includes a funeral chapel or crematorium.

curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, which contributes to its heritage significance.

demolish, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

heritage conservation area means:

- (a) an area of land that is shown as a heritage conservation area on the Heritage Map (including any heritage items situated on or within that conservation area), or
- (b) a place of Aboriginal heritage significance shown on the Heritage Map.

Note. At the commencement of *Gosford Local Environmental Plan No 460* there were no heritage conservation areas on land under *Gosford Local Environmental Plan No 22*.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means a building, work, archaeological site, tree, place or Aboriginal object specified in an inventory of heritage items that is available at the office of the Council and the site and nature of which is described in Schedule 2.

Heritage Map

Note. There is no Heritage Map for the purposes of this plan.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

local heritage significance, in relation to a place, building, work, historical archaeological site, tree or precinct, means its heritage significance to an area.

maintenance, in relation to a heritage item or a building, work, historical archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

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relic means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of the City of Gosford, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

[2] Part 3 Special Provisions

Insert after Division 2:

Division 2A Heritage conservation

116A Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of the area of the City of Gosford, and
- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
- (c) to conserve archaeological sites, and
- (d) to conserve places of Aboriginal heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building, by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,

- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) When consent not required

However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (d) the development is exempt development.

(4) Heritage impact assessment

The consent authority may, before granting consent to any development on land on which a heritage item is situated or that is within a heritage conservation area, require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

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(5) **Heritage conservation management plans**

The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(6) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(7) **Places of Aboriginal heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(8) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 2 as being of State heritage significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received within 28 days after the notice is sent.

(9) **Conservation incentives**

The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this plan if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

[3] **Schedule 2**

Insert after Schedule 1:

Schedule 2 Environmental heritage

(Clauses 5 (1) and 16A)

Heritage items

Remains of house, "Belltrees", Lot 5, DP 207951, Wisemans Ferry Road, Somersby.