



New South Wales

Gosford City Centre Local Environmental Plan 2007

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. (9043214/PC)

FRANK SARTOR, M.P.,
Minister for Planning

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Clause 1 Gosford City Centre Local Environmental Plan 2007

Part 1 Preliminary

Gosford City Centre Local Environmental Plan 2007

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

Note. The *Standard Instrument (Local Environmental Plans) Order 2006* sets out matters to be included in standard local environmental plans. While this Plan is not a standard local environmental plan, standard clauses have been included in this Plan and the clause numbering from that Order has been retained. This means that the numbering in this Plan may contain some gaps. Additional provisions have been inserted and are numbered accordingly.

1 Name of Plan

This Plan is *Gosford City Centre Local Environmental Plan 2007*.

2 Aims of Plan

- (1) This Plan aims to make local environmental planning provisions for land in the Gosford city centre that are generally in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
 - (a) to promote the revitalisation of the Gosford city centre,
 - (b) to reinforce Gosford city centre's position as an eminent regional centre for commerce, education, health care, culture and the arts, while creating a highly livable urban place, having design excellence in all elements of its built and natural environments,
 - (c) to protect and enhance the vitality, identity and diversity of the Gosford city centre,
 - (d) to promote employment, residential, recreational and tourism opportunities within the Gosford city centre,
 - (e) to facilitate the development of building design excellence appropriate to a regional city,
 - (f) to encourage responsible management, development and conservation of natural and man-made resources and to ensure that the Gosford city centre achieves sustainable social, economic and environmental outcomes,

- (g) to protect and enhance the environmentally sensitive areas and natural and cultural heritage of the Gosford city centre for the benefit of present and future generations,
- (h) to help create a mixed use place, with activity during the day and throughout the evening, so the Gosford city centre is safe, attractive, inclusive and efficient for its local population and visitors alike.

3 Land to which Plan applies

This Plan applies to the land identified on the Land Application Map.

4 Definitions

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

5 Notes

Notes in this Plan are provided for guidance and do not form part of this Plan.

6 Consent authority

The consent authority for the purposes of this Plan is (subject to the Act) Gosford City Council.

7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended from time to time by maps declared by environmental planning instruments to amend that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

Note. The maps adopted by this Plan are the Floor Space Ratio Map, Height of Buildings Map, the Heritage Map, the Key Sites Map, the Land Application Map and the Land Zoning Map.

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Clause 8 Gosford City Centre Local Environmental Plan 2007

Part 1 Preliminary

8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.
- (3) If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application is to be determined as if this Plan had been exhibited but had not commenced.

8A Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
 - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) any property vegetation plan within the meaning of the *Native Vegetation Act 2003*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

9 Application of SEPPs and REPs

- (1) This Plan is subject to the provisions of any State environmental planning policy and any regional environmental plan that prevail over this Plan as provided by section 36 of the Act.

Note. Section 36 of the Act generally provides that SEPPs prevail over REPs and LEPs and that REPs prevail over LEPs. However, a LEP may (by an additional provision included in the Plan) displace or amend a SEPP or REP to deal specifically with the relationship between this Plan and the SEPP or REP.

- (2) The following State environmental planning policies and regional environmental plans (or provisions) do not apply to the land to which this Plan applies:

State Environmental Planning Policy No 1—Development Standards

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6)

State Environmental Planning Policy No 9—Group Homes

State Environmental Planning Policy No 60—Exempt and Complying Development

State Environmental Planning Policy No 71—Coastal Protection

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Clause 10 Gosford City Centre Local Environmental Plan 2007

Part 2 Permitted or prohibited development

Part 2 Permitted or prohibited development

10 Land use zones

The land use zones under this Plan are as follows:

Residential Zones

R1 General Residential

Business Zones

B3 Commercial Core

B4 Mixed Use

B6 Enterprise Corridor

Special Purpose Zones

SP1 Special Activities

SP2 Infrastructure

Recreation Zones

RE1 Public Recreation

Waterway Zones

W2 Recreational Waterways

11 Zoning of land to which Plan applies

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

12 Zone objectives and land use table

- (1) The Table at the end of this Part specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Part:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of

building or other thing referred to separately in the Table in relation to the same zone.

- (4) This clause is subject to the other provisions of this Plan.

13 Unzoned land

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
- (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
 - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

14 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
- (a) with consent, or
 - (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

15 Subdivision—consent requirements

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
- (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,
 - (f) creating a public reserve,

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Part 2

Land Use Table

- (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.

Note. If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

Land Use Table

Zone R1 General Residential

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To allow some diversity of activities and densities if:
 - the scale and height of proposed buildings is compatible with the character of the locality, and
 - traffic generation can be managed in a way that avoids adverse impacts on the local road system, and
 - there will be no significant adverse impact on the amenity of any existing or proposed development nearby.
- To encourage increased population levels in locations which will support the viability of the Gosford city centre, where any new development:
 - has regard to the desired future character of the Gosford city centre described within the *Gosford City Centre Development Control Plan 2007*, and
 - does not significantly detract from the amenity of any existing or proposed development nearby.
- To allow development along the coastline to take advantage of view corridors while avoiding a continuous built edge along the waterfront.

2 Permitted without consent

Nil.

3 Permitted with consent

Bed and breakfast accommodation; Boarding houses; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Educational establishments; Group homes; Health consulting rooms;

Home-based child care; Home industries; Hostels; Multi dwelling housing; Neighbourhood shops; Places of public worship; Residential care facilities; Residential flat buildings; Roads; Seniors housing; Shop top housing.

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Zone B3 Commercial Core

1 Objectives of zone

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of the Gosford city centre as the regional business, retail and cultural centre of the Central Coast.
- To provide for land uses of a higher order and density within the Commercial Core zone than those located within the Mixed Use zone.
- To encourage a diverse and compatible range of activities, including the following:
 - commercial and retail development,
 - cultural and entertainment facilities,
 - tourism, leisure and recreation facilities,
 - social, education and health services.
- To provide for residential uses where compatible with neighbouring uses and employment opportunities in the zone.
- To create opportunities to improve the public domain and pedestrian links throughout the Gosford city centre.
- To provide for the retention and creation of view corridors.
- To protect and enhance the unique qualities and character of special areas within the Gosford city centre.

2 Permitted without consent

Nil.

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Gosford City Centre Local Environmental Plan 2007

Part 2

Land Use Table

3 Permitted with consent

Advertisements; Business premises; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Community facilities; Educational establishments; Entertainment facilities; Food and drink premises; Function centres; Funeral chapels; Funeral homes; Health consulting rooms; Hospitals; Hotel accommodation; Information and education facilities; Medical centres; Medical research and development facilities (but not including residential accommodation); Office premises; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation facilities (indoor); Registered clubs; Residential flat buildings (but only as a component of a development containing other uses permitted in this Zone); Retail premises; Roads; Sex services premises; Temporary structures; Theatres or public halls; Tourist and visitor accommodation.

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support the higher order Commercial Core zone, while providing for the daily needs of the Mixed Use zone.
- To encourage a diverse and compatible range of activities, including the following:
 - commercial and retail development,
 - cultural and entertainment facilities,
 - tourism, leisure and recreation facilities,
 - social, education and health services,
 - higher density residential development.
- To allow development along the eastern edge of The Broadwater to take advantage of and retain view corridors while avoiding a continuous built edge along the waterfront.
- To create opportunities to improve the public domain and pedestrian links within the Mixed Use zone.

- To protect and enhance the unique qualities and character of special areas within the Gosford city centre.

2 Permitted without consent

Nil.

3 Permitted with consent

Any other development not otherwise specified in item 2 or 4.

4 Prohibited

Animal boarding or training establishments; Caravan parks; Car parks (other than as required by this Plan or public car parking provided by or on behalf of the Council); Dual occupancies; Dwelling houses; Extractive industries; Home occupations (sex services); Industries; Mines; Multi dwelling housing; Recreation facilities (major); Warehouses or distribution centres (but only if related to distribution of machinery).

Zone B6 Enterprise Corridor

1 Objectives of zone

- To promote businesses along main roads and to encourage a mix of compatible uses.
- To enable a mix of employment (including business, office, retail and light industrial uses) and residential uses.
- To maintain the economic strength of centres by limiting the retailing of food and clothing.

2 Permitted without consent

Nil.

3 Permitted with consent

Bulky goods premises; Business premises; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Community facilities; Educational establishments; Food and drink premises; Hotel accommodation; Landscape and garden supplies; Light industries; Multi dwelling housing (but only as a component of a development containing other uses permitted in this Zone); Office premises (but only if a component of development containing other uses permissible in this zone); Passenger transport facilities; Places of public worship; Public administration buildings; Residential flat buildings (but only as a component of a development containing other uses permitted in this Zone); Retail premises; Roads;

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Part 2 Land Use Table

Sex services premises; Timber and building supplies; Warehouse or distribution centres.

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Zone SP1 Special Activities

1 Objectives of zone

- To provide for special land uses not provided for in other zones.
- To provide for sites with special natural characteristics that are not provided for in other zones.
- To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.
- To provide for development that is compatible with the special land use or uses shown on the Land Zoning Map.
- To prevent development that is not compatible with or that may detract from the special characteristics of the site or its existing or intended special use.

2 Permitted without consent

Nil.

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Boarding houses; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council or by or on behalf of the public authority that carries out the purpose shown on the Land Zoning Map in this zone); Child care centres; Community facilities; Educational establishments; Entertainment facilities; Food and drink premises; Neighbourhood shops; Places of public worship; Recreation facilities (indoor); Recreation facilities (outdoor); Residential care facilities; Roads; Seniors housing.

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Zone SP2 Infrastructure

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil.

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Environmental protection works; Flood mitigation works; Roads; Telecommunications facilities.

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Zone RE1 Public Recreation

1 Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To identify areas suitable for development for recreation, leisure and cultural purposes on the eastern and northern shores of The Broadwater.

2 Permitted without consent

Environmental facilities; Environmental protection works.

3 Permitted with consent

Boat sheds; car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Community facilities; Kiosks; Marinas; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Restaurants; Roads; Water recreation structures.

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Gosford City Centre Local Environmental Plan 2007

Part 2 Land Use Table

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Zone W2 Recreational Waterways

1 Objectives of zone

- To protect the ecological, scenic and recreation values of recreational and natural waterways.
- To allow for water-based recreation and related uses.

2 Permitted without consent

Environmental facilities; Environmental protection works.

3 Permitted with consent

Boat sheds; Car parks (as required by this Plan or public car parking provided by or on behalf of council); Food and drink premises; Function centres; Kiosks; Marinas; Markets; Moorings; Recreation facilities (outdoor); Water recreation structures.

4 Prohibited

Any other development not otherwise specified in item 2 or 3.

Part 3 Exempt and complying development

16 Exempt development

Note. Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
 - (3) To be exempt development:
 - (a) the development must:
 - (i) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (ii) if it relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9, the building must have a current fire safety certificate or fire safety statement or the building must be a building for which no fire safety measures are currently implemented, required or proposed, and
 - (b) the development must not:
 - (i) if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, or
 - (ii) create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, grit or oil, or
 - (iii) be designated development, or
 - (iv) be development on land that comprises, or on which there is, an item of environmental heritage that is listed on the State Heritage Register under the *Heritage Act 1977* or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*.

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Clause 17 Gosford City Centre Local Environmental Plan 2007

Part 3 Exempt and complying development

17 Complying development

Note. Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Conservation in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*)).
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Schedule 3 that is carried out in compliance with the applicable development standards listed in that Schedule and that complies with the requirements of section 76A (6) of the Act and the requirements of this Part is complying development.
 - (3) To be complying development, the development must:
 - (a) be permissible, with consent, in the zone in which it is carried out, and
 - (b) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land.

18 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:
environmentally sensitive area for exempt or complying development means any of the following:
 - (a) the coastal waters of the State,

-
- (b) a coastal lake,
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies,
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*,
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention,
 - (f) land within 100 metres of land to which paragraph (c), (d) or (e) applies,
 - (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance,
 - (h) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*,
 - (i) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes,
 - (j) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*.

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Clause 21 Gosford City Centre Local Environmental Plan 2007

Part 4 Principal development standards

Part 4 Principal development standards

21 Height of buildings

- (1) The objectives of this Plan for the control of the height of buildings are as follows:
 - (a) to ensure that taller development occurs on sites capable of permitting height while protecting the natural environmental setting of the Gosford city centre,
 - (b) to ensure taller buildings are located appropriately in relation to view corridors and view impacts and in a manner that is complementary to the natural topography of the area,
 - (c) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,
 - (d) to provide high quality urban form for all buildings,
 - (e) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of higher buildings and to public areas, including parks, streets and lanes,
 - (f) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
 - (g) to ensure an appropriate height transition between new buildings and heritage items.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map, except as provided by clause 21B, 22B or 33A.
- (3) Despite the provisions of this clause, heights in the John Whiteway Drive Precinct, as shown edged bold on the Height of Buildings Map, are not to exceed the AHD height levels specified in the Special Area provisions of the *Gosford City Centre Development Control Plan 2007*.

21B Architectural roof features

- (1) A person may, with development consent, carry out development that includes an architectural roof feature that exceeds, or causes a building to exceed, 24 metres and the height limits set by clause 21 or 33A.
- (2) Development consent must not be granted to any such development unless the consent authority is satisfied that the architectural roof feature:
 - (a) comprises a decorative element on the uppermost portion of a building, and
 - (b) is not a structure for advertising, and

- (c) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (d) will have a minimum overshadowing impact.
- (3) If the architectural roof feature contains or supports building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like), the signage or equipment must, to the satisfaction of the consent authority, be fully integrated into the design of the roof feature.

22 Floor space ratio

- (1) The floor space ratio of a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.
- (2) Despite subclause (1), the maximum floor space ratio for a building on land within a zone specified in Column 1 of the Table to this clause:
- (a) with a site area or street frontage specified in that Column for that zone, and
 - (b) having a floor space ratio (as indicated on the Floor Space Ratio Map) shown opposite that site area or street frontage in Column 2 of the Table,

is the floor space ratio specified opposite the site area or street frontage in Column 3 of the Table.

- (3) Despite subclauses (1) and (2), the floor space ratio of a building on land zoned B3 Commercial Core that is used partly for residential purposes is to be calculated as follows:

$$(\text{MaxFSR} \times \text{NR} / 100) + (2.5 \times \text{R} / 100):1$$

where:

MaxFSR is the maximum floor space ratio permitted for the building under subclause (1) or (2).

NR is the percentage of the floor space of the building used for purposes other than residential purposes.

R is the percentage of the floor space of the building used for residential purposes.

- (4) Despite subclauses (1) and (2), for sites on land zoned SP1 Special Activities that are to be used for the purposes of hospitals, medical centres, medical support facilities, medical research and development facilities or other like uses, or a combination of any such uses, the maximum floor space ratio is 3:1.

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Clause 22A Gosford City Centre Local Environmental Plan 2007

Part 4 Principal development standards

Column 1	Column 2	Column 3
Land Use Zone	Floor space ratio shown on Floor Space Ratio Map	Maximum floor space ratio
Commercial Core		
Site area less than 1,000m ² or street frontage less than 24m	greater than 4:1	4:1
Mixed Use; Enterprise Corridor; Special Activities		
Site area less than 1,000m ² or all street frontages less than 24m	2:1 or less	1:1
Site area less than 1,000m ² or all street frontages less than 24m	greater than 2:1 but less than 3:1	1.5:1
Site area less than 1,000m ² or all street frontages less than 24m	greater than 3:1	2:1
Site area equal to or greater than 1,000m ² and less than 2,500m ² with a street frontage equal to or greater than 24m	greater than 3:1	3:1
General Residential		
Site area less than 1,000m ² or all street frontages less than 24m	2:1 or less	0.75:1
Site area less than 1,000m ² or all street frontages less than 24m	greater than 2:1	1:1
Site area equal to or greater than 1,000m ² and less than 2,000m ² with a street frontage equal to or greater than 24m	2:1 or greater but less than 2.25:1	1.5:1
Site area equal to or greater than 1,000m ² and less than 2,000m ² and with a street frontage equal to or greater than 24m	2.25:1 or greater	2:1

22A Minimum building street frontage

- (1) Development consent must not be granted to the erection of a building on land zoned B4 Mixed Use or B6 Enterprise Corridor that does not have at least one street frontage of 24 metres or more.

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- (2) Despite subclause (1), the consent authority may grant consent to the erection of a building on land referred to in that subclause if it is of the opinion that:
- (a) it is not physically possible, due to the physical constraints of the site, for the building to be erected with at least one street frontage of 24 metres or more, and
 - (b) the development is consistent with the aims and objectives of this Plan.

22B Design excellence

- (1) This clause applies to development involving the construction of a new building or external alterations or additions to an existing building.
- (2) Consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.
- (3) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
 - (c) whether the proposed development detrimentally impacts on view corridors,
 - (d) whether the proposed development detrimentally overshadows Kibble Park, William Street Plaza, Burns Park and the waterfront open space adjoining The Broadwater,
 - (e) the requirements of the *Gosford City Centre Development Control Plan 2007*,
 - (f) how the proposed development addresses the following matters:
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) heritage issues and streetscape constraints,
 - (iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,

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- (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (viii) the achievement of the principles of ecologically sustainable development, with particular emphasis on water saving and recycling,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (x) the impact on, and any proposed improvements to, the public domain.
- (4) Consent must not be granted to the following development to which this Plan applies unless an architectural design competition that is consistent with the *Gosford City Centre Development Control Plan 2007* has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act,
 - (b) development in respect of a building that is, or will be, greater than 36 metres in height,
 - (c) development having a capital value of more than \$5,000,000 on a key site, being a site shown edged heavy black and distinctively coloured on the Key Sites Map,
 - (d) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of up to 10% greater than that allowed by clause 22 or a height of up to 10% greater than that allowed by clause 21, but only if:
- (a) the design of the building or alteration is the result of an architectural design competition, and
 - (b) the development application is lodged before 30 June 2010, and
 - (c) the concurrence of the Director-General has been obtained to the development application.
- (7) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of up

to 15% greater than that allowed by clause 22 or a height of up to 15% greater than that allowed by clause 21, but only if:

- (a) the requirements of subclause (6) (a)–(c) are satisfied, and
 - (b) additional water conservation measures proposed in connection with the development are likely to achieve a significant reduction in the annual consumption of potable water that would otherwise result if the development complied with this plan.
- (8) In determining whether to provide his or her concurrence to the development application, the Director-General is to take into account the results of the architectural design competition.
- (9) In this clause:
architectural design competition means a competitive process conducted in accordance with procedures approved by the Director-General from time to time.

22C Car parking

- (1) Consent must not be granted for development on land zoned B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration or addition to an existing building that increases the gross floor area of the building unless:
 - (a) at least one car parking space is provided for every 75 square metres of the gross floor area of the building that is to be used for commercial activities, and
 - (b) at least one car parking space is provided for every 40 square metres of the gross floor area of the building that is to be used for the purposes of retail premises.
- (2) Car parking required to be provided by this plan must be provided on site unless the consent authority is satisfied that the provision of car parking is adequately provided elsewhere.
- (3) For the purposes of this clause, the following are to be included as part of a building's gross floor area:
 - (a) any area of the building that is used for car parking and is at or above existing ground level, except to the extent permitted by the *Gosford City Centre Development Control Plan 2007*,
 - (b) any area of the building that is used for car parking below ground level, except where the car parking is provided as required by this clause.
- (4) Council owned public car parking is not to be included as part of a building's gross floor area.

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- (5) In this clause:
commercial activities, in relation to the use of a building, means the use of the building for the purposes of office premises, business premises, hotel accommodation (but not hotel accommodation that is subdivided under a strata scheme), food and drink premises or other like uses or a combination of such uses.

22D Ground floor development within Zone B3 Commercial Core

- (1) The ground floor of any development that is a building on land zoned B3 Commercial Core must have active street frontages consistent with the *Gosford City Centre Development Control Plan 2007*.
- (2) Despite subclause (1), an active street frontage is not required in respect of any part of a building facing a back lane, unless identified as a pedestrian link in the *Gosford City Centre Development Control Plan 2007*.

22E Building separation

Buildings on land to which this Plan applies must be erected so that the separation distance:

- (a) from neighbouring buildings, and
- (b) between separate towers or other separate raised parts of the same building,

is not less than that provided for in the *Gosford City Centre Development Control Plan 2007*.

22F Ecologically sustainable development

Before granting consent for development, the consent authority must have regard to the principles of ecologically sustainable development as they relate to the proposed development based on a “whole of building” approach by considering each of the following:

- (a) greenhouse gas reduction,
- (b) embodied energy in materials and building processes,
- (c) building design and orientation,
- (d) passive solar design and day lighting,
- (e) natural ventilation,
- (f) energy efficiency and energy conservation,
- (g) water conservation and water reuse,
- (h) waste minimisation and recycling,

- (i) reduction of car dependence,
- (j) potential for adaptive reuse.

22G Serviced apartments

Development consent must not be granted to development for the purpose of the strata subdivision of a building or part of a building that is or has been used for serviced apartments, unless the consent authority is satisfied that the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* and the design principles of the *Residential Flat Design Code* (a publication of the Department of Planning, September 2002) are achieved for the development as if it were a residential flat development.

24 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause or of *State Environmental Planning Policy No 1—Development Standards*.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

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- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene any of the following:
 - (a) a development standard for complying development,
 - (b) a development standard for development in the coastal zone, (except those standards contained in this Plan).

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25 Land acquisition within certain zones

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

Note. If the landholder will suffer hardship or if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land (or, if none is specified, the authority designated or determined under those provisions).

Zone	Authority of the State
Zone RE1 Public Recreation and marked "Local open space"	Council
Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted by section 8 of the Act
Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority

- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

26 Development on proposed classified road

- (1) Consent for development on land reserved for the purposes of a classified road may, before the land becomes a classified road, be granted only if:
- the development is carried out with the concurrence of the Roads and Traffic Authority (**the RTA**), and
 - the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone.

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- (2) In deciding whether to grant concurrence to proposed development under this clause, the RTA must take the following matters into consideration:
- (a) the need to carry out development on the land for the purposes of a classified road or a proposed classified road,
 - (b) the imminence of acquisition of the land by the RTA,
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.

27 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council, by means of this Plan, to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.
- Note.** Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.
- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
- (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant classification Plan and, by the operation of that Plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and

- (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).
- (6) In this clause, the ***relevant classification Plan***, in relation to land described in Part 2 of Schedule 4, means this Plan or, if the description of the land is inserted into that Part by another environmental planning instrument, that instrument.
- (7) Before the relevant classification Plan inserted a description of land into Part 2 of Schedule 4, the Governor approved of subclause (5) applying to the land.

29 Community use of educational establishments

- (1) The objective of this clause is to allow the use of educational establishments, including their site and facilities, for other community purposes.
- (2) An educational establishment (including the site and facilities) may, with consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires consent to carry out development on any land if that development could, but for this clause, be carried out on that land without consent.

30 Classified roads

- (1) The objectives of this clause are:
 - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads (within the meaning of the *Roads Act 1993*), and
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (2) Consent must not be granted to the development of land that has a frontage to a classified road unless the consent authority is satisfied that:
 - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the proposed development, or

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- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the proposed development.

31 Development in proximity to a rail corridor

- (1) The objective of this clause is to ensure that development for the purpose of residential accommodation, places of public worship, hospitals, educational establishments or other noise sensitive buildings in the proximity of operating or proposed railways is not adversely affected by rail noise or vibration.
- (2) This clause applies to land comprising, or within 60 metres of, an operating railway line or land reserved for the construction of a railway line (referred to in this clause as a *rail corridor*).
- (3) Development consent must not be granted to development:
 - (a) that is within a rail corridor, and
 - (b) that the consent authority considers is, or is likely to be, adversely affected by rail noise or vibration,unless the consent authority is satisfied that the proposed development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

32 Development within the coastal zone

- (1) The objectives of this clause are as follows:
 - (a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,
 - (b) to implement the principles in the *NSW Coastal Policy*, and in particular to:
 - (i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and
 - (ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and
 - (iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and

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- (iv) recognise and accommodate coastal processes and climate change, and
 - (v) protect amenity and scenic quality, and
 - (vi) protect and preserve beach environments and beach amenity, and
 - (vii) protect and preserve native coastal vegetation, and
 - (viii) protect and preserve the marine environment, and
 - (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and
 - (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment.
- (2) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:
- (a) existing public access to and along the coastal foreshore for pedestrians or persons who are less mobile, with a view to:
 - (i) maintaining existing public access and, where possible, improving that access, and
 - (ii) identifying opportunities for new public access, and
 - (b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:
 - (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and
 - (ii) the location, and
 - (iii) the bulk, scale, size and overall built form design of any building or work involved, and
 - (c) the impact of the proposed development on the amenity of the coastal foreshore, including:
 - (i) any significant overshadowing of the coastal foreshore, and
 - (ii) any loss of views from a public place to the coastal foreshore, and
 - (d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and

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- (e) how biodiversity and ecosystems, including:
 - (i) native coastal vegetation and existing wildlife corridors, and
 - (ii) rock platforms, and
 - (iii) water quality of coastal water bodies, and
 - (iv) native animals, fish, plants and marine vegetation, and their habitats,can be conserved, and
 - (f) the effect of coastal processes and coastal hazards and potential impacts, including sea level rise:
 - (i) on the proposed development, and
 - (ii) arising from the proposed development, and
 - (g) the cumulative impacts of the proposed development and other development on the coastal catchment.
- (3) Consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:
- (a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and
 - (b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and
 - (c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform.

33 Development below mean high water mark

- (1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.
- (2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such water).

33A Sun access planes and view corridors

- (1) The objective of this clause is to protect specified public open space from overshadowing and to allow views to identified natural topographical features.

- (2) This clause applies to land in the vicinity of Kibble Park and Mann Street between Donnison and Erina Streets, as shown edged with a heavy blue line on the Height of Buildings Map.
- (3) Despite clause 21, development on land to which this clause applies is prohibited if the development results in any part of a building projecting above the height and setback controls specified in the *Gosford City Centre Development Control Plan 2007* for that land.
- (4) This clause does not apply to development resulting only in refurbishment of a building.

34 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.
Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - (a) development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.
- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
 - (a) that is or forms part of a heritage item, or

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(b) that is within a heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent. The heritage provisions of clause 35 will be applicable to any such consent.

- (8) This clause does not apply to or in respect of:
- (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
 - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
 - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

35 Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of Gosford city centre, 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.

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(4) **Heritage impact assessment**

The consent authority may, before granting consent to any development on land:

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

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.

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

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 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.

36 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

37 Development for group homes

- (1) The objective of this clause is to facilitate the establishment of:
 - (a) permanent group homes in which disabled persons or socially disadvantaged persons may live in an ordinary residential household environment instead of an institutional environment, and
 - (b) transitional group homes that provide temporary accommodation for disabled persons or socially disadvantaged persons in an ordinary residential household environment instead of an institutional environment for such purposes as alcohol or drug rehabilitation and half-way rehabilitation for persons formerly

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living in institutions and refuges for men, women or young persons.

- (2) If development for the purpose of a dwelling house or a dwelling in a residential flat building may lawfully be carried out in accordance with this Plan, development for the purposes of a group home may, subject to this clause, be carried out.
- (3) Consent is required to carry out development for the purposes of a transitional group home.
- (4) Consent is required to carry out development for the purposes of a permanent group home that contains more than 5 bedrooms.
- (5) Consent is required to carry out development for the purposes of a permanent group home that contains 5 or less bedrooms and that is occupied by more residents (including any resident staff) than the number equal to the number calculated by multiplying the number of bedrooms in that home by 2.
- (6) Consent may not be refused under this clause unless an assessment has been made of the need for the group home concerned.
- (7) Nothing in this clause requires consent to be obtained by the Department of Housing (or by a person acting jointly with the Department of Housing) to erect or use a transitional group home.

38 Crown development and public utilities

- (1) Nothing in this Plan is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:
 - (a) the carrying out of development of any description specified in subclauses (2)–(12), or
 - (b) the use of existing buildings of the Crown by the Crown.
- (2) The carrying out by persons carrying on railway undertakings, on land comprised in their undertakings, of:
 - (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
 - (b) the erection within the limits of a railway station of buildings for any purpose,but excluding:
 - (c) the construction of new railways, railway stations and bridges over roads, and
 - (d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the

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- limits of a railway station and the reconstruction or alteration, so as materially to affect their design, of railway stations or bridges, and
- (e) the formation or alteration of any means of access to a road, and
 - (f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.
- (3) The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings:
- (a) development of any description at or below the surface of the ground,
 - (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the commencement of this plan of any plant or other structures or erections required in connection with the station or substation,
 - (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housing of stone, concrete or brickworks,
 - (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
 - (e) the erection of service reservoirs on land acquired or in the process of being acquired for the purpose before the commencement of this plan, provided reasonable notice of the proposed erection is given to the consent authority,
 - (f) any other development, except:
 - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (ii) the formation or alteration of any means of access to a road.

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Clause 38 Gosford City Centre Local Environmental Plan 2007

Part 5 Miscellaneous provisions

- (4) The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
 - (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (5) The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
 - (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (6) The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
 - (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (7) The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
 - (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or

- (b) the formation or alteration of any means of access to a road.
- (8) The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except:
 - (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (9) The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.
- (10) The carrying out of any forestry work by the Forestry Commission or Community Forest Authorities empowered under relevant Acts to undertake afforestation, the construction of roads, protection, cutting and marketing of timber, and other forestry purposes under such Acts or on any Crown land temporarily reserved from sale as a timber reserve under the *Forestry Act 1916*.
- (11) The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except:
 - (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purposes, and
 - (b) any development designed to change the use or purpose of any such reserve.
- (12) The carrying out or causing to be carried out by the consent authority, where engaged in flood mitigation works, or by a Government Department, of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Water Management Act 2000*, the *Farm Water Supplies Act 1946* or the *Rivers and Foreshores Improvement Act 1948*, except:
 - (a) the erection of buildings, and installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, and
 - (b) the formation or alteration of any means of access to a road.

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Clause 38A Gosford City Centre Local Environmental Plan 2007

Part 5 Miscellaneous provisions

38A Council development

Development may be carried out by or on behalf of the Council without development consent on any land, except land within a heritage conservation area or containing a heritage item, for the following purposes:

- (a) construction or maintenance of stormwater drainage, water quality treatment devices, water tanks, flood mitigation structures, recreation areas, public amenities and temporary storage facilities,
- (b) installation or maintenance of street furniture, such as seats, Council information signs, street signs, street lights, bus shelters, garbage and recycling containers and bins, bollards, flagpoles, telephone kiosks and the like, but not fixed outdoor vending machines,
- (c) construction or maintenance of roads, footpaths, cycle ways, parking areas, fire trails, walking tracks and other public pedestrian areas, including tree planting and repaving, street surfacing, reconstruction of kerbs, gutters and the like,
- (d) installation or maintenance of park furniture, including seats, picnic tables, barbecue units and shelters, awnings and shade structures, gazebos and pergolas, bollards, playground equipment, flagpoles, bridges, staircases, boardwalks, lighting (excluding ovals, tennis courts and the like) and Council information signs,
- (e) installation or maintenance of goal posts, sight screens, fencing and similar ancillary sporting structures on sporting or playing fields for use in the playing or performance of sporting events (excluding grandstands, dressing sheds and other structures),
- (f) installation or maintenance of temporary structures for special events, including marquees, booth toilets, stages, tents, scaffolds and the like,
- (g) bush regeneration, landscaping, gardening, tree planting, tree maintenance and tree removal,
- (h) other works or activities approved by the Council as part of a plan of management for public land (other than the construction of buildings or activities excluded by paragraphs (a)–(g)).

Schedule 1 Additional permitted uses

(Clause 14)

1 Central Coast Radio site

Lot 1, DP 616594, 49 Henry Parry Drive, Gosford—development for the purposes of a licensed broadcast facility.

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Schedule 2 Exempt development

Schedule 2 Exempt development

(Clause 16 (2))

Air conditioning units

- (1) Must be attached to external walls or ground mounted involving fully integrated systems.
- (2) All mechanical components and their enclosures must be at least 6m from any property boundary and behind building line to any street frontage.

Barbecues (for domestic use only)

- (1) Maximum size—2m².
- (2) Maximum height—1.8m.
- (3) 1 per dwelling.
- (4) Must be at ground level only.
- (5) If on bush fire prone land, must be constructed in accordance with any guidelines issued from time to time by the Rural Fire Service.

Business signs

- (1) Suspended under awning sign:
 - (a) maximum size—1.5m² in area,
 - (b) minimum height of 3m above any public road,
 - (c) 1 per premises,
 - (d) must be securely fixed by metal supports.
- (2) Vertical or horizontal projecting wall signs:
 - (a) maximum size—2.5m² in area,
 - (b) minimum height of 3m above any public road,
 - (c) must be securely fixed.
- (3) Flush wall signs:
 - (a) maximum size—2.5m² in area,
 - (b) must be minimum height of 3m above any public road,
 - (c) 1 per premises.

Carrying out of minor public works in public areas—erection and use of certain structures

- (1) Access ramps:
 - (a) maximum height—1m,
 - (b) maximum grade of ramp—1:14,
 - (c) must be in accordance with the *Building Code of Australia* and AS 1428.1—2001 *Design for access and mobility—General requirements for access—New building work*.
- (2) Staircases installed in public parks and recreation areas—design, fabrication and installation must be in accordance with AS 4100—1998 *Steel structures* and AS 1720.1—1997 *Timber Structures—Design methods*, AS 1720.2—1990 and AS 1720.4—1990 *Timber structures*.
- (3) Goal posts, sight screens and similar ancillary sporting structures on sporting or playing fields for the use in playing or performance of sporting events (excluding grandstands, dressing sheds and other such structures)—must be constructed by or for a sporting organisation and installed in accordance with relevant standards of Standards Australia.

Children's play equipment (other than cubby houses)

- (1) Maximum height—2.4m (3.5m for basketball backboard and poles).
- (2) Must be behind building line to any street frontage.
- (3) Must be at least 900mm from any property boundary.

Christmas and other decorations located outdoors

- (1) For the Christmas period, limited to an 8 week period which may commence from 15 November in the relevant year (or first Monday after that date).
- (2) For any other festival or event, period is not to exceed 4 weeks.
- (3) Must not involve decorations that have an adverse effect on the structural adequacy of a building or fire safety.
- (4) Intensity and intervals of flashing, and hours of illumination, must not adversely affect the amenity of the area.

Demolition (other than demolition requiring a Waste Management Plan under Gosford City Centre Development Control Plan 2007)

Demolition must be carried out in accordance with AS 2601—2001 *Demolition of structures*.

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Gosford City Centre Local Environmental Plan 2007

Schedule 2 Exempt development

Development for the purpose of recreation sporting facility of minor environmental significance

Must be in accordance with a plan of management prepared by the Council.

Domestic apparatus (including TV aerials, retractable clothes lines and flues)

- (1) Must be structurally stable, with adequate footings.
- (2) All apparatus must be installed in accordance with the manufacturer's instructions.
- (3) Aerials:
 - (a) 1 aerial per building,
 - (b) maximum height of aerial—6m above roof,
 - (c) maximum width of aerial—1.5m.
- (4) Retractable clothes lines:
 - (a) must be located to the rear of Class 1 dwelling (within the meaning of the *Building Code of Australia*), and at ground level,
 - (b) must be screened from view from public places.

Driveways within property boundary (single dwelling)

- (1) Maximum width—3.5m.
- (2) Must be at or near ground level and must not require retaining or filling to depths greater than 600mm.
- (3) Must comply with the requirements of AS 2890.1—1993 *Parking facilities—Off-street car parking*.
- (4) Must incorporate drainage to prevent discharge of surface water to adjoining properties and to provide discharge to appropriate outlets.
- (5) Must not affect the overland flowpath of surface water so as to adversely affect adjoining properties.
- (6) If located within 3m of existing trees, must be constructed of loose paver.

Facade repairs (such as painting, repairs, plastering, cement rendering, cladding, attached fittings and decorative work)

- (1) Repairs must be non-structural.
- (2) Must not involve any change to the external appearance of the building, including colours, material, finishes or glazing (except for Class 1 buildings (within the meaning of the *Building Code of Australia*)).

- (3) Must be no new fittings or attachments to the building.

Fences—front (for single dwellings)

- (1) Maximum height:
 - (a) open style (eg picket, pool fencing)—1.2m,
 - (b) solid (eg decorative brick, timber)—1m.
- (2) Must be in front of the building line.
- (3) Gates must not obstruct pedestrian access along a public roadway.
- (4) Structure:
 - (a) must use materials compatible with streetscape,
 - (b) must not be made of solid metal materials.
- (5) No fences with high flammability on land shown as high bushfire hazard on a map held in the offices of the Council.
- (6) No strip footing construction within 3m of a tree.

Fences—side and rear

- (1) Maximum height—1.8m.
- (2) Must not impede floodways or overland flow paths.
- (3) Must be behind front boundary line.
- (4) Must not interfere with traffic visibility at intersections.
- (5) No strip footing construction where a tree is located within 3m on either private or public property.
- (6) Privacy screens associated with fence—must be open style privacy screens (eg lattice) with a maximum length of 3m and a maximum height above the fence of 450mm and not attached to the fence structure.

Flagpoles

- (1) Maximum height—6m above existing ground level.
- (2) Must be at least 1m from any boundary.
- (3) 1 per lot.
- (4) Must be structurally adequate.

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Gosford City Centre Local Environmental Plan 2007

Schedule 2 Exempt development

Home occupations

Note. All home occupations are exempt development and no standards have been prescribed at the commencement of this Plan.

Lighting

- (1) Must not be for a tennis court or playing field.
- (2) Must be directed so as to not cause a nuisance to adjoining properties.

Minor internal alterations to, or replacement of, a part of a dwelling or residential unit or associated structure

- (1) Replacement, recladding or repair of existing roof to the dwelling, residential unit, car port or garage:
 - (a) must not change roof line,
 - (b) must use same type of materials as materials prior to the replacement, recladding or repair,
 - (c) external materials must be of low reflectivity,
 - (d) stormwater must be directed to an approved drainage system.
- (2) Replacement of, or repair to, existing walls to dwelling, residential unit or garage:
 - (a) must involve no alteration to existing window or door openings,
 - (b) must use materials other than masonry,
 - (c) external materials must be of low reflectivity.
- (3) Other minor internal alterations to a dwelling, residential unit or associated structure:
 - (a) must not involve structural work,
 - (b) must involve alterations or renovations to previously completed buildings only,
 - (c) must not result in reduced light or ventilation from windows, reduced doorways for egress purposes or enclosure of open areas.

Minor internal or external alterations to a building or work not associated with a dwelling or residential unit

- (1) Must involve only the internal fabric or the appearance of the building or work or alterations to the external fabric or appearance of the building or work (being changes that involve the repair or renovation of painting, plastering or other decoration of the building or work).
- (2) Alteration must not involve the enlargement or extension of the building.

- (3) Must not involve structural work.
- (4) Must not result in reduced light or ventilation from windows, reduced doorways for egress purposes or enclosure of open areas.
- (5) Must not involve alterations or renovations to previously completed buildings.
- (6) Must not change roof line.
- (7) Must not change configuration of rooms, whether by removal of existing walls or partitions or by other means.
- (8) Building before and after alterations must comply with safety provisions of the *Building Code of Australia*.
- (9) Must not use masonry.
- (10) External materials must be of low reflectivity.
- (11) Stormwater must be directed to an approved drainage system.

Moorings

- (1) Must not lead to instability of the bed or banks of the waterway.
- (2) Must not alter the existing tidal regime of the waterway.
- (3) Must not be placed in contravention of *Fisheries Habitat Protection Plan No 2* based on seagrass mapping provided by the former NSW Fisheries and available for inspection at the office of the Council.
- (4) Must not compromise plans made under the *Threatened Species Conservation Act 1995*.
- (5) Must not threaten items of environmental heritage, either indigenous or non-indigenous.
- (6) Must not create the need to construct a new road or dinghy storage facility specifically to provide access between the shore and the mooring.

Navigational aids

Must have approval of the Maritime Authority of NSW.

Rainwater tanks

- (1) Maximum volume—4,500L.
- (2) Maximum height—1.8m above ground level.

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Gosford City Centre Local Environmental Plan 2007

Schedule 2 Exempt development

- (3) Must comply with AS/NZS 2179.1:1994 *Specifications for rainwater goods, accessories and fasteners, Metal shape or sheet rainwater goods, and metal accessories and fasteners* and AS 2180—1986 *Metal rainwater goods—Selection and installation*.
- (4) Must:
 - (a) be at least 900mm from any property boundary,
 - (b) be behind building line to any street frontage,
 - (c) not be over stormwater or sewer pipes,
 - (d) not be resting on the edge of wall footings.
- (5) Must be integrated with existing building design.
- (6) Must be suitably screened.
- (7) Drainage—provision must be made to prevent overflow running onto adjoining properties.
- (8) Support structure must be to manufacturer's specifications or requirements of a qualified practising structural engineer.
- (9) All openings must be sealed or protected to prevent ingress of animals and insects.
- (10) Water connection—must be no connection or cross-connection between the reticulated town water supply and tank water.

Satellite dishes (for domestic use only)

- (1) Maximum diameter—1.2m.
- (2) Maximum height—1.5m above lowest point of roof.
- (3) Must be behind building line and at least 900mm from side boundaries.
- (4) Must be for domestic purposes only.

Skylights (including solar tubes or similar installations)

- (1) Maximum area—1m².
- (2) Must be at least 900mm from a property boundary or any wall separating attached dwellings.
- (3) Must not reduce the structural integrity of the building or involve structural alterations.
- (4) Any openings created by the installation must be adequately weatherproofed.

Solar water heaters

- (1) Must be installed:
 - (a) to manufacturer's specifications and requirements,
 - (b) by the holder of a relevant licence and in accordance with the provisions of the relevant standards of Standards Australia.
- (2) Solar panels must be flush with roof.
- (3) Erection must not reduce the structural integrity of the building.
- (4) Any opening must be sealed by the use of adequate weatherproofing.

Temporary buildings (builders shed, portaloos, scaffold)

- (1) Must be in property boundaries.
- (2) Must be structurally adequate.
- (3) Must be on site for a period of no more than 5 months in any 12 month period.
- (4) Stormwater must not be directed to adjoining properties.

Water heaters

Installation must be carried out by the holder of a relevant licence.

Schedule 3 Complying development

(Clause 17 (2))

Advertising signs

- (1) Illuminated and non-illuminated under awning signs:
 - (a) 1 sign per shop or premises with street frontage, and at least 3m separation between each sign,
 - (b) must not be larger than 0.3m high by 2.5m long,
 - (c) must be at least 2.7m above the footpath level,
 - (d) must be at least 1m from the kerb alignment,
 - (e) must not extend beyond the awning,
 - (f) must be supported by the awning and not from the elevation of the building,
 - (g) must relate to the approved use of the shop or premises,
 - (h) must not display material that a reasonable person would find offensive,
 - (i) must not contain additional advertising promoting products or services other than the approved use of the premises (such as logos or brands of soft drinks, brewers, photographic film or other products or services) irrespective of whether that product or service is sold on the premises,
 - (j) any conduit or cabling supplying power to the sign must be completely concealed from view within the awning or sign.
- (2) Real estate signs:
 - (a) 1 sign per street frontage,
 - (b) must be displayed only on the premises which are for sale or lease,
 - (c) must not exceed 2.5m² for residential premises and 4.5m² for commercial premises,
 - (d) must not cover openings or architectural features of the building,
 - (e) must be flush to the wall (no "A" frame structures),
 - (f) must not be on an awning,
 - (g) must not be in place for longer than 4 months,
 - (h) may only be installed on dates previously notified to the Council.

- (3) Awning fascia signs:
- (a) 1 sign per shop or premises with a street frontage and an approved awning, and a minimum 3m separation between each sign,
 - (b) must not extend above or below the awning fascia,
 - (c) must not project more than 25mm from the face of the awning,
 - (d) must not be illuminated,
 - (e) must not be longer than 3m or 25% of the length of the awning fascia, whichever is greater,
 - (f) must relate to the approved use of the shop or premises,
 - (g) must not display material that a reasonable person would find offensive,
 - (h) must not contain additional advertising promoting products or services other than the approved use of the premises (such as logos or brands of soft drinks, brewers, photographic film or other products or services) irrespective of whether that product or service is sold on the premises.
- (4) Projecting ground level wall signs:
- (a) must not be on street frontages where there is an awning,
 - (b) 1 sign per shop premises with a street frontage and at least a minimum 3m separation between signs,
 - (c) must relate to the approved use of the shop or premises,
 - (d) must be not less than 0.3m thick with each face no more than 0.75m² in size,
 - (e) must not project more than 1m from the building when orientated vertically or 2.5m when orientated horizontally,
 - (f) must be at least 2.7m above footpath level,
 - (g) must be at least 4.1m above footpath level if projecting within 0.75m of the kerb,
 - (h) must not be illuminated,
 - (i) must not display material that a reasonable person would find offensive,
 - (j) must not contain additional advertising promoting products or services other than the approved use of the premises (such as logos or brands of soft drinks, brewers, photographic film or other products or services) irrespective of whether that product or service is sold on the premises,
 - (k) any supporting structure must be constructed from durable materials that will not stain or damage the supporting wall and be

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Gosford City Centre Local Environmental Plan 2007

Schedule 3 Complying development

identical to the supporting structure of any other approved projecting ground level sign on the building.

- (5) Temporary signs:
- (a) must promote only non-commercial, non-profit social, cultural or recreational events,
 - (b) 1 temporary sign per premises in a calendar year and must not be displayed for more than 40 days,
 - (c) banners must not be more than 3m by 6m in size,
 - (d) may only be installed on dates previously notified to the Council,
 - (e) must comply with the *Gosford City Centre Development Control Plan 2007* in relation to the design and location of the sign,
 - (f) must not display material that a reasonable person would find offensive,
 - (g) must be flush to the wall (no "A" frame structures),
 - (h) must not be located on an awning.

Change of use from light industry to light industry

- (1) Floor space of the building must not exceed 500m².
- (2) Must have either rear service access or access to off-street loading facilities.
- (3) The building must have been lawfully constructed to be used for the purposes of a light industry.
- (4) The curtilage of the building must not be used for storage or display purposes.
- (5) The hours of operation must not extend outside the period between 6am and 6pm.
- (6) Any conditions of consent relating to previous use or construction of the building concerning maintenance, landscaping, the parking of vehicles or the provision of space for the loading or unloading of goods or vehicles are complied with.

Change of use of a shop to a shop or commercial premises to commercial premises

- (1) The building has been lawfully constructed to be used for a shop or commercial premises.
- (2) The new use must not be restricted premises or sex services premises.
- (3) The curtilage of the shop or commercial premises is not intended to be used for storage or display purposes.

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- (4) Must not increase or extend the hours of operation of the shop or commercial premises.
 - (5) Conditions of consent relating to the previous use or construction of the building concerning maintenance, landscaping, the parking of vehicles or the provision of space for the loading or unloading of goods or vehicles must be complied with.

Internal alterations (such as fit out works, partitions etc)

- (1) Must not involve change of use (unless that change of use is permissible as complying development).
- (2) Must be to completed buildings.
- (3) Must not result in windows or other openings being obscured or abutted.
- (4) Must not result in additional floor area.
- (5) Works must be non-structural.
- (6) Work must not adversely impact on fire safety or existing fire safety measures installed in the building, including alternative solutions and fire engineered designs previously accepted for the building.
- (7) Must not involve alterations to the building services for the base of the building.
- (8) Access for persons with disabilities must be provided in accordance with the *Building Code of Australia* and Council's Access Policy adopted on 10 December 1992.
- (9) Must not involve external changes (including alterations to balconies or terrace areas).
- (10) Adequate facilities must be provided for waste storage and recycling either on site or within the building.
- (11) Any fit out work must not relate to premises used for the sale or preparation of food, licensed premises, premises used for medical or other health purposes, premises used for skin penetration procedures (within the meaning of section 51 of the *Public Health Act 1991*) or premises used as a place of public entertainment.
- (12) Must not involve changes to the shopfront or office front of the premises.

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Schedule 4 Classification and reclassification of public land

Schedule 4 Classification and reclassification of public land

(Clause 27)

Part 1 Reclassification of public land

Nil

Part 2 Reclassification of community land as operational land and change of reserve status, trusts etc

Nil

Part 3 Reclassification of public land as community land

Nil

Schedule 5 Environmental heritage

(Clause 35)

Category 1 Buildings, Building Elements and Sites (shown on the Heritage Map)

Map No	Suburb	Name	Address	Significance
1	Gosford	Anglican Rectory	Lot 12, DP 758466, 5 Mann Street	Local
2	Gosford	Old Christ Church Anglican Church	3 Mann Street	State
3	Gosford	Part of Gosford South Post Office	23 Mann Street	Local
4	Gosford	Former School of Arts	Corner Georgiana Terrace and Mann Street (37 Mann Street)	Local
5	Gosford	Creighton's Funeral Parlour	37 Mann Street	Local
6	Gosford	Former Gosford Public School and Residence TAFE Building E	121 Henry Parry Drive	Local
7	Gosford	Conservatorium of Music (former Courthouse and Police Station)	Corner Mann Street and Georgiana Terrace	Local
8	Gosford	Former Brisbane Water County Council	50 Mann Street	Local
9	Gosford	Union Hotel	108 Donnison Street	Local
10	Gosford	The Hotel Gosford	102 Erina Street East, corner Mann Street	Local
29	Point Fredrick	Cora Lynn	3 Lynn Avenue	Local
30	Point Fredrick	Nettville	2 York Street	Local

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Schedule 5 Environmental heritage

Category 2 Archaeological/Townscape/Landscape Items (shown on the Heritage Map)

Map No	Suburb	Name	Address	Significance
11	Gosford	Avenue and feature trees—Grahame Park	Along Alfred Higgs Place and Dane Drive	Local
12	Gosford	Stone street wall	Gertrude Place, corner of Broadview Avenue	Local
13	Gosford	Gosford City Council Memorial Park	Park and Memorials	Local
14	Gosford	Avenue and feature trees—Memorial Park	South end Mann Street and Vaughan Avenue	Local
15	Gosford	Stone street and driveway wall	Corner of Mann Street and Gertrude Place	Local
16	Gosford	Feature tree—Fig	Carpark behind Mann Street, access off Henry Parry Drive, south of Donnison Street	Local
17	Gosford	Burns Place	Mann Street, adjacent to the railway station, Burns Crescent	Local
18	Gosford	Feature eucalypt and stands of mature trees—Burns Place	Mann Street, adjacent to the railway station, Burns Crescent	Local
19	Gosford	Signal box and water column and tank	Gosford Railway Station/Showground Road	State
19A	Gosford	Large faced clock with wooden frame	Gosford Railway Station	State
20	Gosford	Railway bridge/viaduct	Etna Street	State
21	Gosford	Railway turntable	Gosford Railway Station/Showground Road	Local
22	Gosford	War Memorial Site—Gosford Olympic swimming pool	Gosford City Park, opposite York Street	Local

Map No	Suburb	Name	Address	Significance
23	Gosford	The Rotary Clubs Fountain and Garden—original wharf location	Vaughan Ave, below Memorial Park	Local
24	Gosford	Site of Gosford Wharf	Dane Drive	Local
25	Gosford	Railway bridge and pylons	Between Fagans Bay and Broadwater, Brisbane Water	Local

Category 3 Items/Buildings of Heritage Interest (shown on the Heritage Map)

Map No	Suburb	Name	Address	Significance
26	Gosford	Gosford City Council Administration Building	49 Mann Street	Local
27	Gosford	Gosford First National Real Estate—Building Facade	150 Mann Street	Local
28	Gosford	Mitre 10	307 Mann Street, corner Beane Street	Local

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(Clause 4)

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.

advertisement has the same meaning as in the Act.

Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

amusement centre means a building or place (not being part of a hotel or pub) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

animal boarding or training establishment means a building or place used for the breeding, boarding, training, keeping or caring of animals for commercial purposes (other than for the agistment of horses), and includes any associated riding school or ancillary veterinary clinic.

archaeological site means the site (as shown on the Heritage Map or listed in Schedule 5) of one or more relics.

attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

backpackers' accommodation means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

bed and breakfast accommodation means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling for a maximum of 6 guests and:

- (a) meals are provided for guests only, and

-
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
 - (c) dormitory-style accommodation is not provided.

biodiversity means biological diversity.

biological diversity has the same meaning as in the *Threatened Species Conservation Act 1995*.

Note. The term is defined as follows:

biological diversity means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

boarding house means a building:

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principal place of residence for 3 months or more, and
- (c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (d) that has rooms that accommodate one or more lodgers,

but does not include backpackers' accommodation, a serviced apartment, seniors housing or hotel accommodation.

boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and which is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

building has the same meaning as in the Act.

Note. The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure) or a temporary structure within the meaning of the *Local Government Act 1993*.

building height (or **height of building**) means the vertical distance between ground level (existing) at any point to highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

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building line or **setback** means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

bulky goods premises means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public, for the purpose of loading and unloading the items into their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale of bulky goods.

bush fire prone land has the same meaning as in the Act.

Note. The term is defined, in relation to an area, as land recorded for the time being as bush fire prone land on a map for the area certified as referred to in section 146 (2) of the *Environmental Planning and Assessment Act 1979*.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person who does not carry on business at the premises or place.

business premises means a building or place at which an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis.

car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

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

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a family day care home or home-based child care home, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

classified road has the same meaning as in the *Roads Act 1993*.

Note. The term is defined as follows:

classified road means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,

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(h) a transitway,

(i) a State work. (see *Roads Act 1993* for meanings of these terms).

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

(a) cutting down, felling, thinning, logging or removing native vegetation,

(b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities).

coastal foreshore means land with frontage to a beach, estuary, coastal lake, headland, cliff or rock platform.

coastal lake means a body of water specified in Schedule 1 to *State Environmental Planning Policy No 71—Coastal Protection*.

coastal waters of the State—see section 58 of the *Interpretation Act 1987*.

coastal zone has the same meaning as in the *Coastal Protection Act 1979*.

Note. The term is defined as follows:

coastal zone means:

(a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and

(b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and

(c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

community facility means a building or place owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community.

community land has the same meaning as in the *Local Government Act 1993*.

Council means the Gosford City Council.

crematorium means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

Crown reserve means:

(a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or

(b) a common within the meaning of the *Commons Management Act 1989*, or

(c) land within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

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.

drainage means any activity which intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

dual occupancy means 2 dwellings (whether attached or detached) on one lot of land.

dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

dwelling house means a building containing only one dwelling.

earthworks means excavation or filling.

ecologically sustainable development has the same meaning as in the Act.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE college, that provides formal education and is constituted by or under an Act.

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall, amusement centre and the like.

environmental facility means a building or place which provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

estuary has the same meaning as in the *Water Management Act 2000*.

Note. The term is defined as follows:

estuary means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or

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- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

excavation means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does not significantly alter the shape, natural form or drainage of the land, or
- (b) a waste disposal landfill operation.

fish has the same meaning as in the *Fisheries Management Act 1994*.

Note. The term is defined as follows:

Definition of “fish”

- (1) **Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) **Fish** includes:
 - oysters and other aquatic molluscs, and
 - crustaceans, and
 - echinoderms, and
 - beachworms and other aquatic polychaetes.
- (3) **Fish** also includes any part of a fish.
- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

floor space ratio means the ratio of the gross floor area of all buildings on a site to the site area.

Floor Space Ratio Map means the “Gosford City Centre Local Environmental Plan 2007 Floor Space Ratio Map”.

food and drink premises means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food shops, milk bars and pubs.

forestry has the same meaning as **forestry operations** in the *Forestry and National Park Estate Act 1998*.

Note. The term is defined as follows:

forestry operations means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

funeral chapel means business premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

funeral home means business premises used to arrange and conduct funerals and memorial services, and includes facilities for the short term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

Gosford City Centre Development Control Plan 2007 means the *Gosford City Centre Development Control Plan 2007*, as in force on the commencement of this Plan.

gross floor area means the sum of the floor area of each storey of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine within the storey, and
- (b) habitable rooms in a basement, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic,

but excludes:

- (d) any area for common vertical circulation, such as lifts and stairs, and

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- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
 - (i) terraces and balconies with outer walls less than 1.4 metres high, and
 - (j) voids above a floor at the level of a storey or storey above.

ground level (existing) means the existing level of a site at any point.

ground level (finished) means, for any point on a site, the ground surface after completion of any earthworks (excluding any excavation for a basement, footings or the like) for which consent has been granted or which is exempt development.

ground level (mean) means, for any site on which a building is situated or proposed, one half of the sum of the highest and lowest levels at ground level (finished) of the outer surface of the external walls of the building.

group home means a dwelling that is a permanent group home or a transitional group home.

hazardous industry means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

hazardous storage establishment means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

health care professional means any person registered under an Act for the purpose of providing health care.

health consulting rooms means one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise

in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

Height of Buildings Map means the “Gosford City Centre Local Environmental Plan 2007 Height of Buildings Map”.

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.

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 shown on the Heritage Map and the site and nature of which is described in Schedule 5.

Heritage Map means the “Gosford City Centre Local Environmental Plan 2007 Heritage Map”.

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

home-based child care or **family day care home** means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and which satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or

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- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or
- (f) the use of more than 30 square metres of floor area to carry on the business, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

home industry means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or
- (f) the use of more than 40 square metres of floor area to carry on the light industry,

but does not include bed and breakfast accommodation or sex services premises.

home occupation means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or

-
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or
 - (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation or home occupation (sex services).

home occupation (sex services) means the provision of sex services in a dwelling, or in a building ancillary to a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

hostel means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

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- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

hotel accommodation means a building (whether or not a hotel within the meaning of the *Liquor Act 1982*) that provides tourist and visitor accommodation consisting of rooms or self-contained suites, but does not include backpackers' accommodation, a boarding house or bed and breakfast accommodation.

industry means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

Key Sites Map means the "Gosford City Centre Local Environmental Plan 2007 Key Sites Map".

kiosk means retail premises with a gross floor area not exceeding 10 square metres and that provides food, light refreshments and other small convenience items such as newspapers, films and the like.

Land Application Map means the "Gosford City Centre Local Environmental Plan 2007 Land Application Map".

Land Zoning Map means the "Gosford City Centre Local Environmental Plan 2007 Land Zoning Map".

landscape and garden supplies means a building or place where trees, shrubs, plants, bulbs, seeds and propagating material are offered for sale (whether by retail or wholesale), and may include the sale of landscape supplies (including earth products or other landscape and horticulture products) and the carrying out of horticulture.

light industry means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

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

maintenance in relation to a heritage item or a building, work, 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.

marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring.

market means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

mean high water mark means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

medical centre means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

medical research and development centre means a building or place used for the purpose of carrying out medical research or the development of medical treatments or products.

mezzanine means an intermediate floor within a room.

mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

mining means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

mixed use development means a building or place comprising 2 or more different land uses.

mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

mortuary means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

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multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land.

native fauna means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

Meaning of “native vegetation”

Native vegetation means any of the following types of indigenous vegetation:

- (a) trees (including any sapling or shrub, or any scrub),
- (b) understorey plants,
- (c) groundcover (being any type of herbaceous vegetation),
- (d) plants occurring in a wetland.

Vegetation is **indigenous** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.

Native vegetation does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

neighbourhood shop means retail premises used for the purpose of selling foodstuffs, personal care products, and other small daily convenience goods for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank, newsagency or dry cleaning.

offensive industry means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

operational land has the same meaning as in the *Local Government Act 1993*.

parking space means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

passenger transport facility means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

permanent group home means a dwelling:

- (a) used to provide a household environment for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies or a transitional group home.

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.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

potable water means water that meets the standards or values for drinking water recommended from time to time by the National Health and Medical Research Council.

property vegetation plan has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

property vegetation plan means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

pub means licensed premises under the *Liquor Act 1982* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel accommodation and whether or not food is sold on the premises.

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public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

public authority has the same meaning as in the Act.

public land has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

public reserve has the same meaning as in the *Local Government Act 1993*.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, electricity supply authority, Government Department, corporation, firm or authority carrying on the undertaking.

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and includes sports stadiums, showgrounds, racecourses and motor racing tracks.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

registered club means a club in respect of which a certificate of registration under the *Registered Clubs Act 1976* is in force.

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.

residential accommodation means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

residential care facility means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

residential flat building means a building containing 3 or more dwellings.

restaurant means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises and that may also provide takeaway meals and beverages.

restricted premises means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel accommodation, a pub, home occupation (sex services) or sex services premises.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials or whether also sold by wholesale.

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

seniors housing means residential accommodation that consists of:

- (a) a residential care facility, or
 - (b) a hostel, or
 - (c) a group of self-contained dwellings, or
 - (d) a combination of these,
- and that is, or is intended to be, used permanently for:
- (e) seniors or people who have a disability, or
 - (f) people who live in the same household with seniors or people who have a disability, or
 - (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

serviced apartment means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

sex services means sexual acts or sexual services in exchange for payment.

sex services premises means premises used primarily for the provision of sex services, but does not include home occupation (sex services).

shop top housing means mixed use development comprising one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

site area means the area of any land on which development is carried out. The land may include the whole or part of one lot, or more than one lot, if they are contiguous to each other.

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or

- (b) a mezzanine, or
- (c) an attic.

take away food or drink premises means food or drink premises that are predominantly used for the preparation and sale of food or drink for immediate consumption away from the premises.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or
- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

the Act means the *Environmental Planning and Assessment Act 1979*.

theatre or public hall has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

theatre or public hall means any building or place that is used or intended to be used for the purpose of providing public entertainment or conducting public meetings.

timber and building supplies means a building or place used for the display and sale (whether by retail or wholesale, or both) of goods or materials used in the construction and maintenance of buildings, where those goods or materials are of such size or weight as to require customers to have direct vehicular access to the building or place in order to load or unload those goods or materials.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

transitional group home means a dwelling:

- (a) used to provide temporary accommodation, for the purposes of relief or rehabilitation, for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, either with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* applies.

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turf farming means the commercial cultivation of turf for sale and the removal of turf for that purpose.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

warehouse or distribution centre means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made.

waste disposal land fill operation means use of land for the purpose of disposing of industrial, trade or domestic waste on that land.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (artificial) means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

waterbody (natural) means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

wetland means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow water body (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.

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