

Gosford Local Environmental Plan No 22 (1981 EPI 24)

[1981-24]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

Part 1 Preliminary

1 Name of plan

This plan may be cited as *Gosford Local Environmental Plan No 22*.

2 Land to which plan applies

Subject to clause 2A, this plan applies to the land situated in the City of Gosford, as shown edged heavy black on the maps marked “*Gosford Local Environmental Plan No 22*” and “*Gosford Local Environmental Plan No 169*” deposited in the office of the Council.

2A This plan does not apply to the land to which the following instruments apply:

Gosford Local Environmental Plan No 94

3 Relationship to other environmental planning instruments

This plan varies the provisions of *Interim Development Order No 122—Gosford*, by excluding the land to which this plan applies from the operation of that Order.

4 Arrangement

This plan is divided as follows:

- (a) PART 1—PRELIMINARY—cll 1-7.
- (b) PART 2—GENERAL DEVELOPMENT CONTROL—cl 8.
- (c) PART 3—SPECIAL PROVISIONS—cll 9-21.
- (d) SCHEDULES.

5 Definitions

- (1) In this plan, except in so far as the context or subject-matter otherwise indicates or requires:

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.

appointed day means the day upon which this plan is published in the Gazette.

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

car repair station means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery.

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

clearing 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,
- (c) severing, topping or lopping branches, limbs, stems or trunks of native vegetation,
- (d) substantially damaging or injuring native vegetation in any other way.

Council means the Council of the City of Gosford.

community building means a senior citizens centre, youth centre, rest centre, community centre, library, scout hall, guide hall or any other building of a like character used for community purposes, but does not include a club or recreation facility.

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.

gross floor area, in relation to a building, means the sum of the areas of all floors of the building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1 400 millimetres above that floor level, excluding:

- (a) columns, fin walls, sun-controlled devices and any elements, projections or works outside the general line of the outer face of the external walls,

- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and vertical air conditioning ducts,
- (c) parking spaces needed to meet any requirements of the council and any internal access thereto,
- (d) space for the loading and unloading of goods, and
- (e) any pedestrian mall or precinct.

heavy equipment and plant depot means a building or place used for the servicing, repair and garaging of earth-moving, construction or agricultural equipment.

height, in relation to a building, means the vertical distance between the topmost point of that building and the ground level immediately below that point.

heritage conservation area means:

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

Note—

At the commencement of [Gosford Local Environmental Plan No 460](#) there were no heritage conservation areas on land under [Gosford Local Environmental Plan No 22](#).

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

heritage impact statement means a document consisting of:

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

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

Heritage Map

Note—

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

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

landscaped, in relation to the area of an allotment of land, being an allotment on which development has been carried out, means:

- (a) planted predominantly with gardens, lawns, shrubs or trees, and
- (b) available for the use and enjoyment by persons using the allotment on which the development has been carried out,

and not occupied by driveways, parking spaces or storage areas.

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

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

motor showroom means a building or place used for the display and sale of motor vehicles (including accessories) and after-sales service of these vehicles.

native vegetation has the same meaning as in the [Native Vegetation Conservation Act 1997](#).

parking station means a building or place used for the temporary parking of motor vehicles for the purposes of gain but does not include a motor showroom.

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.

plant hire depot means a building or place used for the parking or servicing of moveable plant which is hired out for profit.

reception establishment means a building or place used wholly or principally for the purpose of wedding receptions, birthday parties and the like.

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.

the map means the map marked “*Gosford Local Environmental Plan No 22*”, copies of which are deposited in the office of the council and of the Department.

timber yard means a building or place used for the purpose of:

- (a) the milling, cutting or processing of timber from logs or baulks,
- (b) a joinery operation, or
- (c) the wholesaling or retailing of timber or joinery products.

zone means land shown on the map by distinctive colouring, edging or lettering for the purpose of indicating the restrictions imposed by this plan on development.

- (2) A reference in this clause to a building or place used for a purpose includes a reference to a building or place intended to be used for that purpose.

6 Adoption of Model Provisions

The *Environmental Planning and Assessment Model Provisions 1980*, other than the definitions of **car repair station**, **gross floor area** and **motor showroom** in clause 4 (1), are adopted, for the purposes of this plan.

7 Consent authority

The council shall be the consent authority and shall be charged with the functions of carrying into effect and enforcing the provisions of this plan.

Part 2 General development control

8

- (1) Subject to clause 6 and Part 3, the purposes for which development may be carried

out only with the consent of the council on land within each of the zones specified in Column 1 of the Table to this clause are respectively shown opposite thereto in Column 2 of that Table.

- (1A) The Council must not grant consent for development unless it has taken into consideration the character of the development site and the surrounding area, where, for the purpose of this provision, character means the qualities that distinguish each area and the individual properties located within that area.
- (2) Except as provided in subclause (1), development is prohibited on the land to which this plan applies.

Column 1

Column 2

Zone and colour or indication on the map

Purposes for which development may be carried out only with the consent of the Council

3 BUSINESS:

(a2) Business "A2".
Light blue and lettered 3 (a2).

Advertisements; airline terminals; bulk stores; bus depots; bus stations; car repair stations; child care centres; clearing; clubs; commercial premises; community buildings; drainage; dwellings used in conjunction with any other purpose included in this part of this Column; educational establishments; home industries; home occupations; hotels; industries referred to in Schedule 1; motels; motor showrooms; parks and gardens; parking spaces; parking stations; places of assembly; places of public worship; public buildings; reception establishments; recreation facilities; refreshment rooms; roads; service stations; shops; utility installations (other than gas holders and generating works); warehouses.

4 INDUSTRIAL:

	(a1) General Industrial. Purple and lettered 4 (a1).	Advertisements; bulk stores; bus depots; bus stations; car repair stations; clearing; commercial premises used in conjunction with any other purpose included in this part of this Column; drainage; dwellings used in conjunction with any other purpose included in this part of this Column; heavy equipment depots, plant depots or plant hire depots; industries (other than extractive industries and offensive or hazardous industries); junk yards; liquid fuel depots; parks and gardens; parking spaces; parking stations; public buildings; roads; road transport terminals; shops which satisfy the requirements of clause 16; timber yards; utility installations; warehouses.
5	SPECIAL USES:	
	(a) Special Uses "A". Yellow and lettered 5 (a).	The particular purpose indicated by the lettering on the map; advertisements; drainage; parks and gardens; roads; utility installations (other than gas holders and generating works).
	(b) Special Uses "B" (Roads). Grey and lettered 5 (b).	Any purpose authorized by Part 9 of the <i>Local Government Act 1919</i> ; advertisements; drainage; utility installations (other than gas holders and generating works).
	(c) Special Uses "C" (Proposed Arterial Road). A broken red band between black lines.	Roads.
6	OPEN SPACE:	
	(b) Proposed Recreation. Light green and lettered 6 (b).	Agriculture; any purpose authorized by Division 2 or 3 of Part 13 of the <i>Local Government Act 1919</i> ; advertisements; drainage; roads; utility installations (other than gas holders and generating works).

Part 3 Special provisions

Division 1 Land within Zone No 3 (a2)

9 Floor area ratio

A person shall not erect a building on land within Zone No 3 (a2) unless the ratio of the gross floor area of the building to the area of the land does not exceed 1:1.

10 Setback

A person shall not carry out development other than for the purposes of landscaping or

the provision of access on an allotment of land within Zone No 3 (a2) to a depth of 10 metres along the front alignment of the allotment to a public road.

11 Landscaping

A person shall not carry out development on an allotment of land within Zone No 3 (a2), unless the allotment is landscaped to the satisfaction of the Council to a depth of 10 metres along the front alignment of the allotment to a public road.

11A Demolition

- (1) Demolition may be carried out on land to which this plan applies, but only with development consent.
- (2) This clause is subject to any other provision of this plan that:
 - (a) expressly allows demolition to be carried out without development consent (whether or not subject to conditions or restrictions), or
 - (b) expressly allows demolition to be carried out with development consent subject to conditions or restrictions, or
 - (c) expressly prohibits demolition.
- (3) For the purposes of this clause, demolition in a particular zone is not expressly prohibited just because development generally in that zone is prohibited unless it may be carried out with or without development consent.
- (4) (Repealed)

Division 2 Land within Zone No 4 (a1)

12 Subdivision

- (1) In this clause, **existing holding** means:
 - (a) except as provided in paragraph (b), the area of an allotment, portion or parcel of land as it was as at the appointed day, or
 - (b) where, as at the appointed day, a person owned 2 or more adjoining or adjacent allotments, portions or parcels of land, the aggregation of the areas of those allotments, portions or parcels as they were as at the appointed day.
- (2) Land within Zone No 4 (a1) shall not be subdivided unless each allotment created by the subdivision has an area of not less than:
 - (a) in the case of an allotment which has a frontage to Wisemans Ferry Road—2 hectares, or
 - (b) in the case of any other allotment—4 000 square metres.

- (3) Notwithstanding subclause (2) but subject to subclause (4), an allotment referred to in subclause (2) (b) which has an area of less than 4 000 square metres but not less than 2 500 square metres may be created in a subdivision of land within Zone No 4 (a1).
- (4) The total area of all allotments created in accordance with subclause (3) shall not exceed 10 per cent of the area of the existing holding.
- (5) An allotment shall not be created by a subdivision of land within Zone No 4 (a1) unless:
 - (a) where the allotment has a frontage to Wisemans Ferry Road, the width of the allotment on a line drawn 20 metres from that frontage is not less than 70 metres, or
 - (b) where the allotment has a frontage to any other public road, the width of the allotment on a line drawn 10 metres from that frontage is not less than:
 - (i) in the case of an allotment created in accordance with subclause (3)—24 metres, or
 - (ii) in any other case—36 metres.

13 Size of certain allotments transferred or dedicated to the Council

Where land is to be transferred or dedicated to the council pursuant to clause 5.6 of a Service Agreement made pursuant to the Principal Agreement dated 25 July 1980, between New South Wales Planning and Environment Commission of the first part, the Council of the City of Gosford of the second part and the Honourable Eric Bedford of the third part (which Agreement is held by the Department), the Council may consent to the creation of an allotment with an area less than that required under clause 12 (2) where the allotment would result from that transfer or dedication and that allotment shall be lawfully created under this plan.

14 Distance from boundaries

A person shall not carry out development for any purpose other than landscaping or the provision of access on an allotment of land within Zone No 4 (a1) unless:

- (a) the development does not occupy more than 75 per cent of the allotment,
- (b) where the allotment has a frontage to only one public road, being Wisemans Ferry Road, the development is not carried out within 20 metres of that frontage or within 5 metres of any 2 other boundaries of the allotment, one of which does not connect with that frontage,
- (c) where the allotment has a frontage to only one public road, not being Wisemans Ferry Road, the development is not carried out within 10 metres of that frontage or within 5 metres of any 2 other boundaries of the allotment, one of which does not connect with

that frontage,

- (d) where the allotment has a frontage to more than one public road, one of which is Wisemans Ferry Road, the development is not carried out within 20 metres of the frontage to Wisemans Ferry Road, within 5 metres of any other frontage or within 5 metres of one boundary of the allotment which is not a frontage to a public road,
- (e) where the allotment has a frontage to more than one public road, none of which is Wisemans Ferry Road, the development is not carried out within 10 metres of one of those frontages, within 5 metres of any other of those frontages or within 5 metres of one boundary of the allotment which is not a frontage to a public road, or
- (f) where the allotment adjoins or abuts land outside the boundaries of the land to which this plan applies the development is not carried out within 5 metres of the boundary of the allotment adjoining or abutting that land.

15 Landscaping

- (1) A person shall not carry out development on an allotment of land within Zone No 4 (a1), unless:
 - (a) in the case of an allotment referred to in clause 14 (b), the area of the allotment which is within 20 metres of the road frontage of the allotment,
 - (b) in the case of an allotment referred to in clause 14 (c), the area of the allotment which is within 10 metres of the road frontage of the allotment,
 - (c) in the case of an allotment referred to in clause 14 (d), the area of the allotment which is within 20 metres of the frontage of the allotment to Wisemans Ferry Road or within 5 metres of any other road frontage, or
 - (d) in the case of an allotment referred to in clause 14 (e), an area of the allotment that is within 10 metres of one road frontage of the allotment or within 5 metres of any other road frontage of the allotment,

is landscaped to the satisfaction of the council.

16 Floor area of certain retail shops

- (1) In this clause:

gross floor area in relation to a building, includes any space in the building for the loading and unloading of goods.

- (2) A person may, with the consent of the council, commence to use a building on an allotment of land within Zone No 4 (a1) or part of an allotment of land within that zone for the purpose of a shop which retails only goods manufactured or assembled on the allotment or any spare parts related to those goods, if the floor area of the building, or

the area of the part of the allotment used for that purpose does not exceed:

(a) 10 per cent of the gross floor area of all buildings on the allotment, and the area of any part of the allotment, used in the manufacture or assembly of goods, or

(b) 500 square metres,

whichever is the lesser.

Division 2A Heritage conservation

16A Heritage conservation

(1) **Objectives** The objectives of this clause are:

(a) to conserve the environmental heritage of the area of the City of Gosford, and

(b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and

(c) to conserve archaeological sites, and

(d) to conserve places of Aboriginal heritage significance.

(2) **Requirement for consent** Development consent is required for any of the following:

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

(b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,

(c) altering a heritage item that is a building, by making structural changes to its interior,

(d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,

(e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,

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

(g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) **When consent not required** However, consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature, or is for the maintenance of the heritage item, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or
 - (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
 - (c) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
 - (d) the development is exempt development.
- (4) **Heritage impact assessment** The consent authority may, before granting consent to any development on land on which a heritage item is situated or that is within a heritage conservation area, require a heritage impact statement to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.
- (5) **Heritage conservation management plans** The consent authority may require, after considering the significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.
- (6) **Archaeological sites** The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order applies):
- (a) notify the Heritage Council of its intention to grant consent, and
 - (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.
- (7) **Places of Aboriginal heritage significance** The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal

heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
 - (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.
- (8) **Demolition of item of State significance** The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 2 as being of State heritage significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):
- (a) notify the Heritage Council about the application, and
 - (b) take into consideration any response received within 28 days after the notice is sent.
- (9) **Conservation incentives** The consent authority may grant consent to development for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this plan if the consent authority is satisfied that:
- (a) the conservation of the heritage item is facilitated by the granting of consent, and
 - (b) the proposed development is in accordance with a heritage conservation management plan that has been approved by the consent authority, and
 - (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage conservation management plan is carried out, and
 - (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
 - (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Division 3 Miscellaneous

17 Nature of certain external surfaces

(1) In this clause:

external surfaces, in relation to a building on an allotment of land, means the external surface of:

- (a) any external wall of the building and any cladding on that wall,
 - (b) any external door in the building,
 - (c) any external door frame or external window frame in the building (but not a window pane),
 - (d) any external column in the building,
 - (e) the roof of the building,
 - (f) any fence erected on the allotment,
- and any other surface of the building visible from the exterior of the building.

prescribed materials means dark toned or dark coloured materials of low reflective quality or materials which are painted or similarly treated with dark toned or dark coloured paint or pigment of low reflective quality.

- (2) A person shall not, on any land to which this plan applies, erect a building, or carry out a work, any part of which is visible from any point at natural ground level within the precinct of the area known as Old Sydney Town, unless that part has external surfaces of prescribed materials which, in the opinion of the Council, blend with the landscape of the land and its surroundings.

18

- (1) The Council shall not, without the concurrence of the Director, provide, or permit the opening of, a new road connecting with Wisemans Ferry Road.
- (2) The Director, in deciding whether concurrence should be granted to an application under subclause (1), shall take into consideration the effect that the road may have on traffic congestion on Wisemans Ferry Road and whether satisfactory provision has been made for limiting traffic congestion on Wisemans Ferry Road.

19 Subdivision—proposed new roads

Where land is zoned for the purpose of a proposed new road, the council shall not consent to a subdivision of land of which the proposed road forms part, unless the subdivision makes provision for the opening of a road in reasonable conformity with the proposed road.

20 Excavation of certain land

Where, immediately before the appointed day, any land to which this plan applies was used for the purpose of winning extractive materials, no excavation for that purpose shall be made, opened or extended within 15 metres of adjoining land which was not, immediately prior to the appointed day, in the same ownership.

21 Effect of development on surface water

Where the Council is satisfied that any development will affect the level or flow of surface water on any land, it may, where it grants consent, as a condition of its consent, require the provision of temporary or permanent settlement ponds to avoid the downstream siltation of water courses.

22 Development of land at Kangoo Road, Somersby

- (1) This clause applies to that part of Lots 1-3, DP 1013986, Kangoo Road, Somersby within Zone No 4 (a1) (near the corner with the Pacific Highway), as shown edged heavy black on the map marked “*Gosford Local Environmental Plan No 440*” deposited in the office of the Council.
- (2) Subject to subclause (3), nothing in this plan prevents a person, with the consent of the Council, from carrying out development on the land for the purpose of one motor showroom on each part of the three lots to which this clause applies.
- (3) The Council must not grant consent to development referred to in subclause (2) after the expiration of two years from the day on which *Gosford Local Environmental Plan No 440* took effect (unless a development application was lodged with the Council before that date), or such later date as the Minister may, before the expiration of that period, notify by order published in the Gazette.
- (4) Nothing in subclause (3) prevents the Council from granting consent to the carrying out of alterations or extensions to, or the rebuilding of, a building or place being used for a purpose for which consent has been granted in accordance with this clause.

Schedule 1

(Clause 8)

Boot and shoe repairing.
Bread, cake and pastry manufacture.
Dressmaking.
Dry cleaning.
Self service laundry.
Tailoring.
Radio and television repairs.

Schedule 2 Environmental heritage

(Clauses 5 (1) and 16A)

Heritage items

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