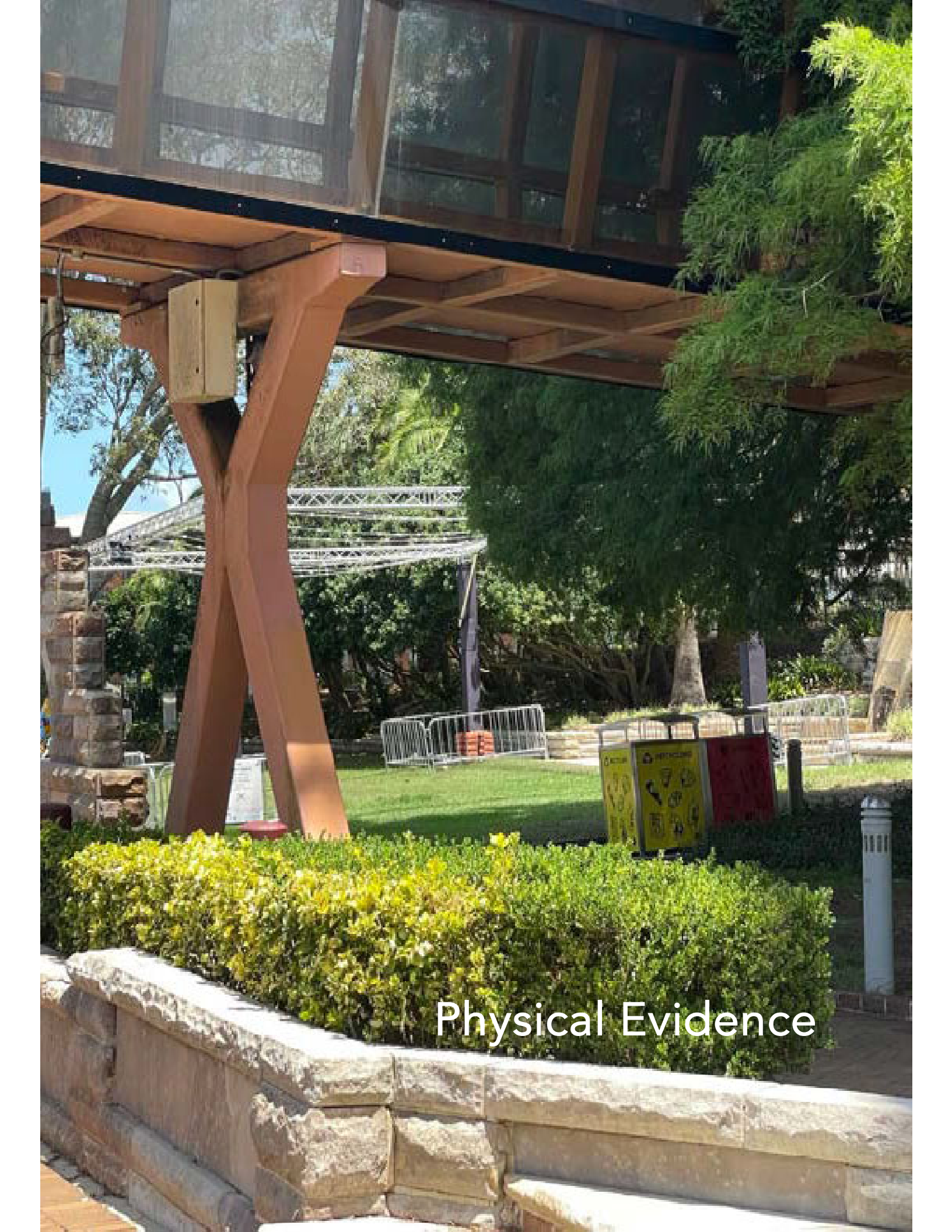




Physical Evidence

## 5.0 PHYSICAL EVIDENCE

### 5.1 Introduction

This section describes Burns Place and its surrounding context.

Prior to applying a set of criteria established by the NSW Heritage Council for the assessment of cultural significance, it is important to establish and understand the integrity and condition of the fabric, to identify view corridors to and from the site, its contribution to the streetscape, and the heritage curtilage and setting.

### 5.2 Context and setting

The subject site is situated within the Central Coast Council local government area and in the locality of Gosford, which is 77 kilometres northeast of Sydney city. The subject site is situated in the heart of the Gosford town centre, forming part of the road reserve and is not identified by any particular Lot or DP reference.

The site is effectively bound to the west by Burns Crescent, which arcs around the site and joins into Mann Street, which defines the eastern side of the site. The site is commonly known as 'Burns Park', Mann Street, Gosford.



**Figure 40:** Aerial view of the locality.  
[Source: NSW Land and Property Information, 2024]



**Figure 41:** Aerial view of the site.

[Source: NSW Land and Property Information, 2024]

### 5.3 The subject site generally

Burns Park is located in the heart of the Gosford town centre and sits on the western side of Mann Street, within an established urban streetscape.

The site is irregular in shape and as it is part of the broader road reserve, it does not occupy its own separate allotment boundaries. For the purposes of this CMP, Figure 41 above identifies a red outline which illustrates the 'boundary' of what is considered to define Burns Park. It comprises an approximate area of 5,564.37sqm.

The site is adjoined to the west by the Gosford Railway Station precinct, which include the railway station itself and a transport interchange with numerous bus and taxi stands. To the north, south and east of the site are various commercial buildings which form part of the commercial and retail core of the town centre.

Burns Park comprises a mostly level topography, which sits slightly higher than the road carriageway level of Mann Street, before rising steeply to the rear, with Burns Crescent occupying an elevated position in the landscape. The crescent profile of Burns Crescent commences at the south commensurate with Mann Street, before rising to its highest elevation towards the location of the stair access to Burns Park, before gradually reducing in elevation to rejoin Mann Street at the north.



**Figure 42:** View of Burns Place from Mann Street facing southwest.



**Figure 43:** View of Burns Place from Mann Street facing west.



**Figure 44:** View of the Burns Place facing south.



**Figure 45:** View of Burns Place from Faunce Street facing south.



**Figure 46:** View of Burns Place from Gosford Railway.

## 5.4 Landscaped setting

Burns Park comprises mostly open grassed areas, interspersed by established trees, formal paths and terraced gardens that frame the rear backdrop of the park. The park is situated adjacent to the Gosford Railway Station and has a direct relationship, comprising a central pathway and stairs that extends from the boundary of the station to the Gateway Centre on the eastern side of Mann Street.

The existing established landscaped plantings surrounding Burns Park provide for a treed canopy and landscaped backdrop that largely frames the parks boundaries. Along the western boundary are a neat row of Canary Island date palms which create a visual barrier between Burns Crescent and the park. Towards the centre of the park are established Bald Cypressess, that frame the c1985 pedestrian footbridge. Towards the southern corner of the park is a single large Forest Red Gum (*eucalyptus*).

Terraced garden beds line the western rear boundary, delineated by low height sandstone walls. The garden beds are not densely planted but mostly comprise mulch as a covering. Towards the centre of the site is a stone paved area and the ornate c1963 Memorial Fountain designed by Gerald and Margo Lewers. The sculpted copper scoop sits adjoining a stone wall, with tessellated tiles said to represent a map of Brisbane Waters. The pool beneath the scoop has been ornamented with coloured tiles which reflect in the water onto surrounding hard surfaces.

The landscaped setting of Burns Park is reasonably formal, yet minimal, structured off the two axial, pathways comprising brick paving that transect the park, extending east to west and north to south. The Mann Street boundary is enclosed by a low height stone wall, which meets at a central stone archway and primary entrance to the park. The arch is offset at 45 degrees from the stone wall, providing a natural gateway entry and focal point within Mann Street.

Opposite the Mann Street entrance is the entrance from the station side of Burns Crescent. This entry is delineated by sandstone stone pillars with a wrought iron arch affixed to either pillar. The arch leads to a set of cementitious stairs that transition into the paved path.

The northern entry of the site is flanked by two stone pillars, whilst the southern entry to the park has an 'open' language, transitioning from the public footpath to the paved walkway in the park. Also in the southern corner of the site is the public bathrooms and the Gosford / Erina and Coastal Chamber of Commerce and Industry building.

Hedges have been planted along the western stone wall providing a soft landscape transition between the built environment and the open grassed landscape of the park.



**Figure 47:** View of central and main entrance to Burns Place from Mann Street.



**Figure 48:** View of the northern entrance to the park facing southeast.

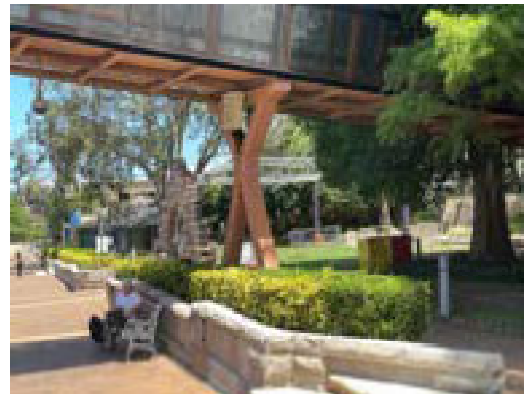


**Figure 49:** View of Burns Place facing southeast.



**Figure 50:** View of Burns Place facing south.



**Figure 51:** View of the central pathway facing west.



**Figure 52:** View of the garden beds along the western boundary facing north.



**Figure 53:** View of the Memorial fountain on the western boundary.



**Figure 54:** View of Burns Place facing north.



**Figure 55:** View of Burns Place facing south towards the bathrooms.



**Figure 56:** View of the entry from the station.

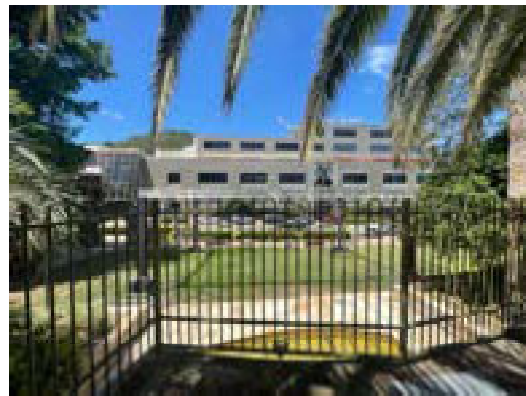


**Figure 57:** View of the park facing east.

## 5.5 Description of the built forms on site

### *Gosford / Erina and Coastal Chamber of Commerce and Industry building*

The single storey structure is concentrated to the south of the site and has rectangular footprint. The building is orientated to have its primary frontage to Mann Street and presents as a stepped structure with multiple gabled roofs over the sectional portions of the building. The roof is clad in concrete tiles and the eaves have been enclosed.

Whilst of masonry construction, the eastern walls largely comprise of floor to ceiling windows, with painted portions of face brick interspersed. The western elevations are face brick with no windows or notable architectural features.

The definitive framework for identifying architectural styles within Australia is that developed by Apperly, Irving and Reynolds in '*Identifying Australian Architecture: Style and Terms from 1788 to the Present*'. The authors provide a perceptive account of what constitutes and defines a style. Mostly concerned with 'high' or 'contrived' architectural styles, rather than the 'popular' styles or the vernacular, it is accepted that the boundaries between identified styles are not always clear-cut.

Subsequently, the terminology for a style and the framework to be applied in defining the style, comprises two parts, firstly identifying the period in which the building belongs and secondly describing the major characteristics.

In this manner, the building displays characteristics that are loosely attributed to the late 20<sup>th</sup> period and of the Sydney Regional architectural style.

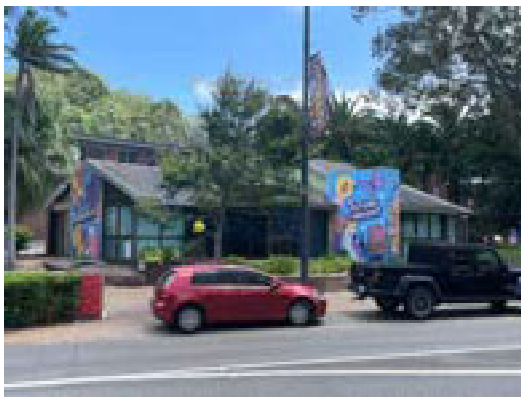


**Figure 58:** View of the building from Mann Street.



**Figure 59:** View of the northern wall facing south.

#### *Pedestrian Footbridge*

The pedestrian footbridge extends from Burns Crescent to the Gateway Centre located on the eastern side of Mann Street. The footbridge is a steel structure encased in tinted glass. It measures approximately 35 metres and is suspended the full length with no piers or pillars upholding the structure.

The bridge was constructed in c.1985 after the construction of the Gateway Centre.

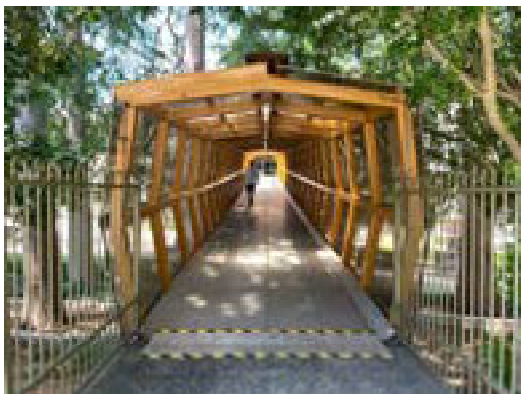


**Figure 60:** View of the footbridge from Burns Crescent facing east.

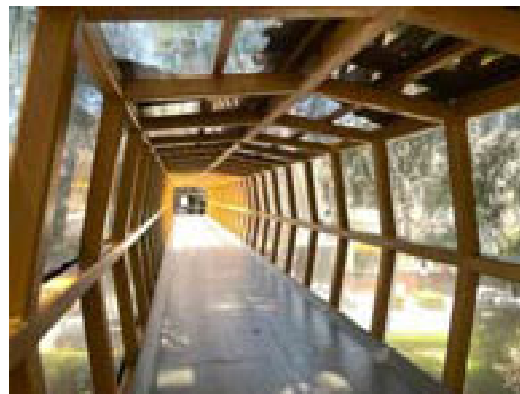


**Figure 61:** View of the footbridge from Burns Crescent facing southeast.



**Figure 62:** View of footbridge from the Gateway Centre facing west.



**Figure 63:** View of the footbridge from the park facing northeast.

#### *Sandstone arch and corresponding walls and steps*

The most striking feature of the site is the sandstone gateway arch and corresponding walls. The sandstone arch is constructed of local Gosford grey sandstone and consists of stepped stone courses (the spandrel), over a semi-circular stone arch with a central keystone.

The arch and stepped wall are supported on two base / wing walls that sit either side of the arched opening. The stepped spandrel wall consists of eleven courses of 300mm thick, rough-faced stone, while the arch consists of a single course of 255mm thick smooth-faced stone blocks.

The arch has a radius of 1400mm (to the intrados) and the arch springs one course above the base walls, of which are 2,300mm wide and 1,630mm high (above the surrounding pavers) and consists of seven courses of two skins of 220mm thick, rough-faced stone blocks with alternating through-stones.

On either side of the base / wing walls are smooth-faced stone plaques bearing the inscription of the former Gosford City Council logo together with the text BURNS PLACE Gosford "Garden City by the Waters".

The garden wall along Mann Street typically consists of several (4-6) courses of sandstone blocks surrounding a central indented course topped with a stone capping course. The indented stone course has been laid with bedding vertical.

Towards the rear of the site is a set of sandstone block stairs, with stone treads and corresponding side walls which feature capping on the top course. The stone blocks to the side walls are rough-faced, similar to the stone archway, which is situated on the same axis to provide a visual framing of each other.



**Figure 64:** View of the eastern (front) elevation of the sandstone arch.



**Figure 65:** View of the rear elevation of the stone arch facing east.



**Figure 66:** View of the stone panels with their inscriptions.



**Figure 67:** View of the stone panels in the base walls of the arch.

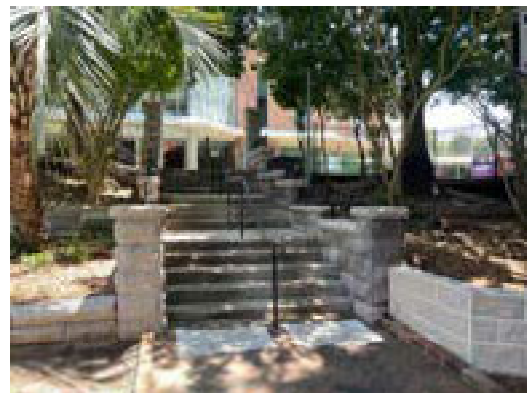


**Figure 68:** View of rear stairs facing west.

## 5.6 Condition and integrity

The integrity of a site, in terms of its heritage significance, can exist on a number of levels. For instance, a site may be an intact example of a particular architectural style or period and thus have a high degree of significance for its ability to illustrate that style or period.

Equally, heritage significance may arise from a lack of architectural integrity where the significance lies in an ability to illustrate an important evolution to the building or change in use.

While a detailed structural assessment is beyond the scope of this report, a non-invasive visual inspection of Burns Park has been undertaken, which identifies a number of structural and non-structural cosmetic changes that have been undertaken.

It is important to recognise that Burns Place is considered to comprise an 'evolved landscape'. That is to say, the setting and fabric of the park has evolved and changed over time, with the extant fabric and elements of the park being attributed to differing periods and phases of change, with no one particular layer or phase more intact than another. Each layer and phase of change has been subject to further change. The most formative period of growth and development of Burns Park is however, considered to have occurred in the late 1930s to early 1940s when the park was first established. There are more extant features and fabric surviving from the earliest phase of development and growth than subsequent periods.

Consequently, in terms of integrity, the fact that the park has seen various layers of change does not necessarily diminish its overall design integrity. Certain previous actions regarding change have however, obscured or diminished the integrity of individual layers, but not necessarily the park as a whole.

The c1937 sandstone block arch, garden wall and stairs are substantially intact and retain a high degree of integrity in and of themselves, though evidence previous localised repairs including repointing of mortar joints, wholesale replacement of stone units and minor epoxy repairs. Presently, all of the stone structures on the site exhibit varying forms of deterioration and damage to individual stone units, ranging from superficial to substantial failure and damage. It is noted that the present condition of the garden wall in particular, which is being mechanically impacted by invasive root growth of the adjacent trees, has been the catalyst for the commissioning of this CMP, to guide maintenance and conservation of Burns Park and to establish management principles and policies to manage and protect the identified significance and values of the place.

Overall, the changes demonstrate the evolution of the site during its time of use, whilst also reflecting changes in the Gosford township. The changes have altered elements of Burns Park, however the changes are generally considered to have a low impact on the overall character of the site and what it represents.

Burns Park inclusive of the landscape setting and built elements appear well maintained. The site overall appears in reasonable repair and condition.

## 5.7 Streetscape contribution

Located directly adjacent to the main street (Mann Street) and the Gosford Station, Burns Place occupies a prominent position in the streetscape and broader town centre. The subject site sits within an established park setting, whereby occupying a pleasant location within the locality.

Burns Place was established to provide a pleasant buffer between the station precinct and the Gosford township and provides a soft landscape zone in the bustling township whereby it contributes significantly to the established character and identity of the street. Whilst the surrounding streetscape is a hybrid of commercial complexes, buildings associated with the railway and residential dwellings, the significance that is imbued in the site provides a contribution to the evolutionary narrative of the street.

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## 5.8 Moveable heritage

### 5.8.1 Introduction

'Movable heritage' is a term used to define any natural or manufactured object of heritage significance, ranging from everyday objects to antiques and may be a single item, a group of items or a whole collection.

However, it does not include archaeological relics found underwater or underground.

Movable heritage may be an integral part of the significance of heritage places. It can also belong to cultural groups, communities or regions of New South Wales.

Because movable heritage is portable, items, objects or collections are easily sold, relocated, displaced or disposed of during changes of ownership, fashion and use. For this reason, movable heritage is vulnerable to loss, damage, theft and dispersal, often before its heritage significance is appreciated.

Documenting movable heritage helps us to understand an item's importance, including its relationship to people and places. Documentation creates a record of the item's location, its arrangement and details of manufacture, ownership and use. When items are moved from their context, documentation helps us to recover their history, trace their use and reinstate them when circumstances change.

A movable heritage item, object or collection, can usually survive for long periods in the place where it belongs, as long as there is basic security, protection from pests and shelter from the elements.

Some items, objects, and collections, which are important to Australia, are given statutory protection by the *Protection of Movable Cultural Heritage Act 1986*. This means that a permit may be required for the permanent or temporary export of movable items important to Australia. The Act does not affect the right to own or sell items in Australia.

### 5.8.2 Moveable heritage at Burns Place

There are no known moveable heritage items associated with Burns Place, comprising largely of established landscaped features that are unlikely to be removed from the site.

## 5.9 Archaeology

### 5.9.1 Introduction

A detailed archaeological assessment of Aboriginal and European occupation is beyond the scope of this CMP.

A due-diligence assessment should take reasonable and practical steps to ascertain whether there is likelihood that archaeological sites are present that will require specific management and protection.

If it is assessed that archaeological sites exist or have a likelihood of existing within the site, and have the potential to be impacted by any future development or changes to the item or place, further archaeological investigations may be required along with excavation permits under the *Heritage Act 1977*.

### 5.9.2 Summary of archaeological potential

Due to the previous disturbance of the natural landform through excavation and landfill and the development of the site, Burns Place is identified as an area of low archaeological sensitivity, having low potential to yield significant archaeological evidence.

## 5.10 Views and vistas

### 5.10.1 Introduction

The Australia ICOMOS *Burra Charter* (2013) emphasises the importance of setting in the significance of heritage places.

For Burns Place, the setting includes not only the immediate fabric of the park and open landscaped setting, but also the wider cultural landscape context, including views and vistas to, from and within the place. It is important that the physical and visual setting of the site is maintained, preserved and where possible, enhanced, to ensure the interpretation and appreciation of the context and setting.

### 5.10.2 Key views to the site

Burns Place has a strong visual and physical relationship to both Mann Street, Burns Crescent and Gosford Station featuring prominently within the streetscape, with important (primary) views obtained towards Burns Place from both approaches along Mann Street and Burns Crescent and immediately at the front of the site, which takes in the full viewing scope of Burns Place.

Secondary views are obtained from various vantage points further along Mann Street towards Faunce Street to the north, as well as Erina Street to the south. Additional views are also obtained from the Gateway Centre, which also shares a physical relationship to the site via the footbridge.

Key views to the site are represented in the following images:



**Figure 69:** View of the site from Mann Street facing south.



**Figure 70:** View of the site from the corner of Mann Street and Faunce Street facing southwest.



**Figure 71:** View of site from station depot facing southeast.



**Figure 72:** View of the site from the station facing east.



**Figure 73:** View of the site from Burns Crescent facing southeast.



**Figure 74:** View south from Burns Crescent and Mann Street.



**Figure 75:** View of the site from Mann Street facing west.

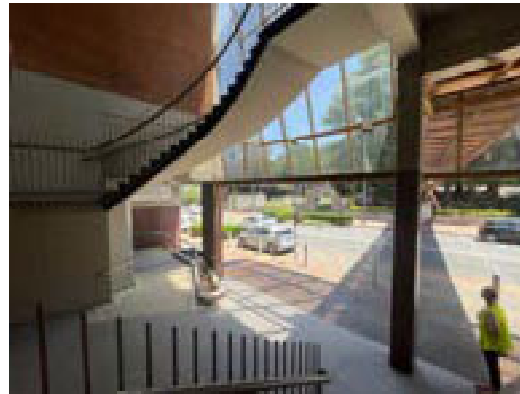


**Figure 76:** View of the site from the Gateway Centre.

Views to the site are represented in the following diagram and images:

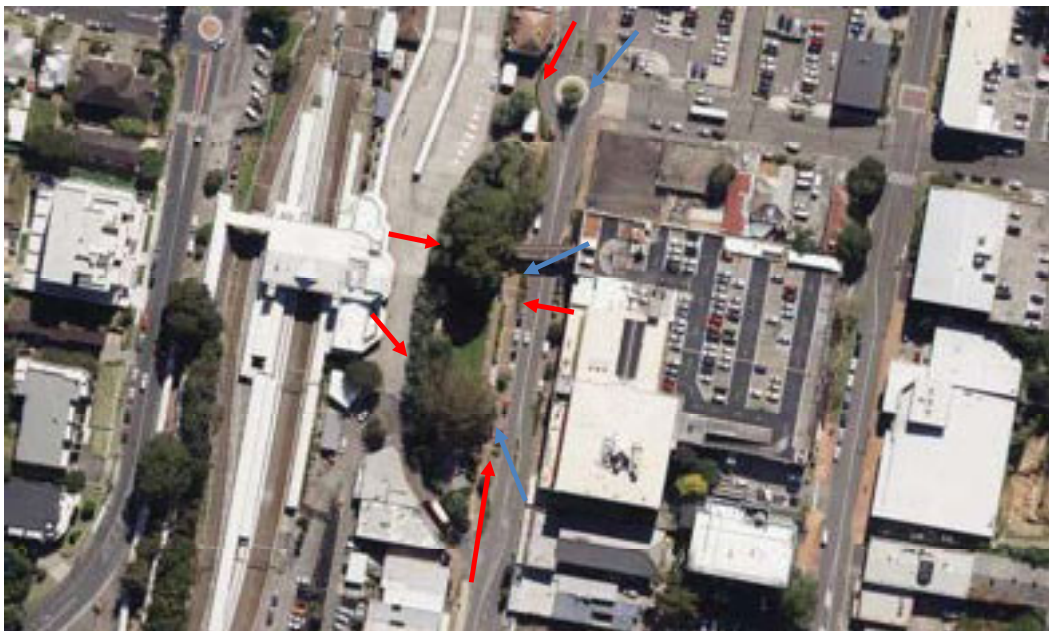


**Figure 77:** Diagram showing the significant views towards the site. Primary views are shown by blue arrow and secondary views are shown by red arrow.

[Source: NSW Land and Property Information, 2024, with EHC overlay]

### 5.10.3 Key views from the site

Burns Place is situated within an established urban streetscape setting, surrounded by commercial and civic built forms that comprise the central precinct of the Gosford town centre.

The primary views to and from the site are to and from Mann Street and Burns Crescent / Gosford Station. Whilst these are not significant road corridors within themselves, the pleasant green landscaped setting along the roads contribute to the wider landscaped setting of the site and sensory appeal of the precinct.

Key views from the site are represented in the following images:



**Figure 78:** View of Mann Street from the centre of Burns Place.



**Figure 79:** View of Burns Crescent / Gosford Station.

Views from the site are represented in the following diagram and images:



**Figure 80:** Diagram showing the significant views from the site.  
[Source: NSW Land and Property Information, 2024, with EHC overlay]

#### 5.10.4 Key views within the site

Burns Place comprises a number of individual built and landscape elements that collectively make up the site. Each of the built and landscape features have a strong visual and physical relationship owing to the physical proximity, the symmetry and axial pathway alignments that unify the space.

Key views within the site are represented in the following diagram and images:



**Figure 81:** View of Mann Street from the centre of Burns Place, encompassing the primary arch.



**Figure 82:** View of transecting pathway, running parallel to Mann Street.



**Figure 83:** View of central pathway facing towards Burns Crescent.

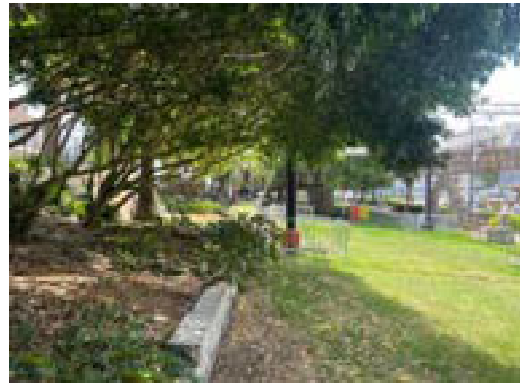


**Figure 84:** View of park facing north.



**Figure 85:** View of Memorial Fountain facing west.

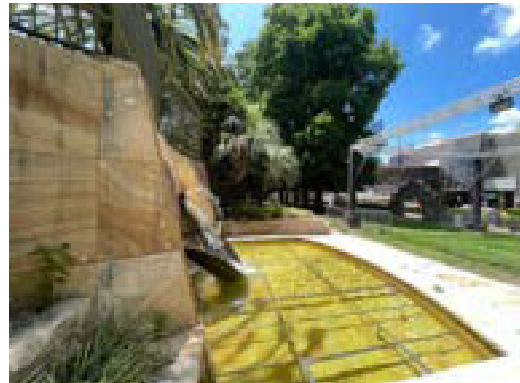


**Figure 86:** View of the Memorial Fountain facing north.

Views from the site are represented in the following diagram and images:



**Figure 87:** Diagram showing the significant views within the site  
[Source: NSW Land and Property Information, 2024, with EHC overlay]

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# BURNS PLACE

Gosford

"Garden City  
by the Waters"

Heritage Listing Status

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## 6.0 HERITAGE LISTING STATUS

### 6.1 Introduction

Within New South Wales, there are different types of statutory heritage listings for local, state and national heritage items.

A property is considered a 'heritage item' if it is:

- Listed in the heritage schedule of a local Council's local environmental plan (LEP) or a regional environmental plan (REP).
- Listed on the State Heritage Register, a register of places and items of particular importance to the people of NSW.
- Listed on the National Heritage List established by the Australian Government to list places of outstanding heritage significance to Australia.

Identification of the statutory and non-statutory heritage listings applicable to the subject site is as follows:

### 6.2 Statutory heritage listings

Statutory registers and lists provide legal protection for heritage items. Within New South Wales, legal protection generally comes from the *Heritage Act 1977* and the *Environmental Planning and Assessment Act 1979* (EPA&A 1979).

Places on the National Heritage List are protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999).

The following identifies the statutory heritage listings applicable to Burns Place, Gosford:

a) *UNESCO – World Heritage Register*

'Burns Place' is not listed on the World Heritage Register.

b) *Australian Heritage Council – Australian Heritage Database*

'Burns Place' is not listed on the Australian Heritage Database.

c) *Heritage Council of NSW – State Heritage Register*

'Burns Place' is not listed on the State Heritage Register.

d) *State Environmental Planning Policy (Precincts - Regional) 2021*

'Burns Place' is listed as an item of local/state heritage significance under Schedule 9 – Chapter 5 of the *State Environmental Planning Policy (Precincts – Regional) 2021*.



**Figure 88:** Map showing the heritage status of the subject site and surrounding allotments.  
[Source: SEPP (Precincts - Regional) 2021 Heritage Map Sheet HER\_001]

e) *Central Coast Local Environmental Plan 2022*

Burns Place is not listed as an item of local heritage significance under Schedule 5 of the *Central Coast Local Environmental Plan 2022*.

### 6.3 Non-statutory heritage listings

Non-statutory registers and listings are an advisory registry of items or places, which have heritage significance.

Unlike statutory registers, non-statutory registers and lists do not provide legal protection.

The following identifies the non-statutory heritage listings applicable to Burns Place, Gosford:

a) *Commonwealth Government – Register of the National Estate*

'Burns Place' is not listed on the Register of the National Estate.

**Note:** Register of the National Estate is a list of natural, Indigenous and historic heritage places throughout Australia.

Following amendments to the *Australian Heritage Council Act 2003*, the Register of the National Estate (RNE) was frozen on 19 February 2007, which means that no new places can be added, or removed.<sup>63</sup>

Notwithstanding, the Register of the National Estate is maintained on a non-statutory basis as a publicly available archive and educational resource.

b) *National Trust of Australia – National Trust Register*

'Burns Place' is not listed on the National Trust Register.

<sup>63</sup> Commonwealth of Australia – Department of Environment, Water, Heritage and the Arts website.

**Note:** A register of landscapes, townscape, buildings, industrial sites, cemeteries and other items or places which are determined to have national cultural significance and are worthy of conservation.<sup>64</sup>

- c) *Royal Australian Institute of Architects – 20<sup>th</sup> Century Buildings Register*

'Burns Place' is not listed on the 20<sup>th</sup> Century Buildings Register.

**Note:** The register contains notable buildings in NSW of the 20<sup>th</sup> Century.<sup>65</sup>

- d) *Art Deco Society*

'Burns Place' is not listed on the Art Deco Society Register.

**Note:** A register of significant buildings and monuments from the inter-war period.<sup>66</sup>

- e) *Section 170 Register*

'Burns Place' is not listed on any s170 Register.

**Note:** Section 170 of the *Heritage Act 1977* requires government agencies to keep a Register of heritage items, which is called a Heritage and Conservation Register or more commonly, a 's170 Register'.

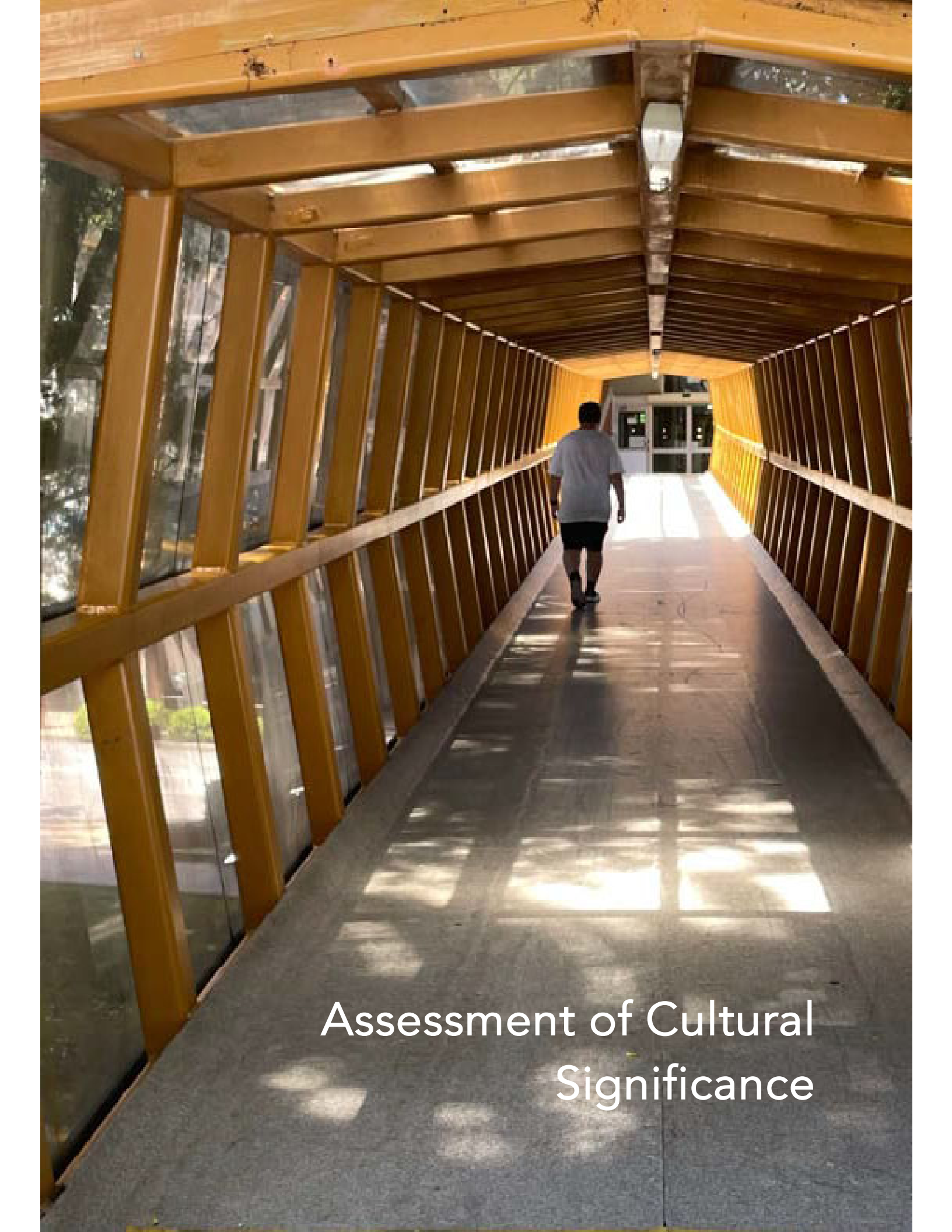
A s170 Register is a record of the heritage assets owned or managed by a NSW government agency.

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<sup>64</sup> NSW National Trust website. 'National Trust Register'. Available from [<http://www.nationaltrust.com.au/register/default.asp>]

<sup>65</sup> Royal Australian Institute of Architects website. '20<sup>th</sup> Century Register'. Available from [<http://www.architecture.com.au>]

<sup>66</sup> Art Deco Society of NSW website. 'Building Register'. Available from [<http://www.angelfire.com/retro/artdeconsnw/>]

A photograph of a person walking away from the camera down a long, covered walkway. The walkway has a wooden frame with vertical slats and glass railings on both sides. Sunlight filters through the slats, creating a pattern of light and shadow on the grey concrete floor. At the end of the walkway, a glass door is visible. The overall atmosphere is bright and modern.

# Assessment of Cultural Significance

## 7.0 ASSESSMENT OF CULTURAL SIGNIFICANCE

### 7.1 Identifying heritage significance

Assessments of heritage significance aim to identify whether a place has heritage values, establish what those values may be, and determine why the item or place (or element of a place) may be considered important and valuable to the community.

The terms 'heritage value' and 'heritage significance' are broadly synonymous with 'cultural significance', which is the term that the Burra Charter uses to mean 'aesthetic, historic, scientific or social value for past, present or future generations'<sup>67</sup>.

These definitions are broadly consistent with the definitions used and adopted by other organisations including the Australian Heritage Council, the National Trust of Australia (NSW) and the Heritage Division (Office of Environment and Heritage).

Assessments of cultural significance rely on an understanding and analysis of these values, which have been derived from an examination of the context of the item or place, the way in which the extant fabric demonstrates function, associations and aesthetic qualities. An understanding of the historical context of an item or place and consideration of the physical evidence are therefore, key components in the heritage significance assessment.

A 'Statement of Significance' is a concise authoritative statement on what is important and culturally significant about the place or item and is used as a basis for the formulation of specific guidelines and conservation policies to promote and ensure the appropriate care and management of the place.

Article 26.1 of the *Burra Charter* states that:

*'Work on a place should be preceded by studies to understand the place which should include analysis of physical, documentary oral and other evidence, drawing on appropriate knowledge, skills and disciplines'.*

### 7.2 Previous heritage significance assessments – statutory heritage listings

Burns Place is identified as an item of heritage significance the State Heritage Inventory sheet.

#### a) State Environmental Planning Policy (Precincts - Regional) 2021

The Statement of Significance, extracted from the State Heritage Inventory database (SHI Item No. 1620241), is reproduced as follows:

*'Burns Place Park is the prime city centre formal park acting as a gateway between the commercial streetscape and the railway station. It is aesthetically significant as a public open space, and socially significant for its components donated/built by the community, such as the War Memorial Fountain. Full height mature trees (Taxodium distichum (Bald Cypress), especially in groups, are a valuable asset to the city.'*

### 7.3 Previous heritage significance assessments – non-statutory heritage listings

Burns Place is not identified as an item of heritage significance on a non-statutory register or list.

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<sup>67</sup> Australia ICOMOS, 2013. *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 2013.

## 7.4 Comparative analysis

### 7.4.1 Introduction

Comparative analysis of the site is an important consideration in the assessment of cultural significance (see Section 7.5), helping to determine whether a place is 'rare' or 'representative' and also helps to locate it within patterns of history or activity.

The level of design and condition integrity may impact upon how a site compares with other similar examples.

### 7.4.2 Selection criteria

It is important that the comparative analysis is based upon selected examples that display similarities in terms of context of place, or share key features, use, characteristics, attributes, style, association and / or historic themes.

This section of the CMP examines Burns Place in the context of place, with the following selection criteria applied:

- Parks within the Gosford and broader Central Coast locality that contribute to the historical narrative of a township.
- Parks within the Gosford and broader Central Coast locality that were established during the Inter-War period
- Parks within the Gosford and broader Central Coast locality that have a direct relationship to a train station or historical transportation hub.

### 7.4.3 Selection of comparative examples

A search of the NSW State Heritage Inventory (SHI) database for heritage-listed properties within the Central Coast and Gosford region identified numerous listed parks and recreational areas. However, in applying the selection criteria, only three examples were considered.

- 'Gosford City Council War Memorial Park, including avenue and feature trees', Gosford [Item 31]
- 'Woy Woy Memorial Park and wall', Woy Woy [Item I348]
- 'Pioneer Park', Point Frederick (cemetery within the park listed, not the park itself)
- 'Former Cemetery, "Brady's Gully"', North Gosford [Item I181]

### 7.4.4 Comparative Examples

- a) *Gosford City Council War Memorial Park, including avenue and trees*

Statement of Significance:

*The Gosford War Memorial Park is significant aesthetically for its value as open space, and socially for its connections to the military and general communities.*

*The mature trees within the park and its street boundaries, consisting of Araucaria cunninghamiana (hoop pines), Casuarina cunninghamiana (River she oaks), Lophostemon confertus (Brush box) and Pinus radiata (Monterey Pines) provide an 'avenue' landscape of a comfortable scale, and frame streetscape vistas of high aesthetic and natural value, linking the city to the views over Brisbane Water and to the ridges surrounding the city. Full height mature trees, particularly in groups, are a valuable asset to the city.*

| TABLE 3 – Comparative analysis |                                                                                                                                                 |             |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Consideration                  | Response                                                                                                                                        | Similar ✓/X |
| Type of site                   | Park and war memorial                                                                                                                           | ✓           |
| Construction date              | c.1902-1953                                                                                                                                     | X           |
| Level of significance          | Local                                                                                                                                           | ✓           |
| Context                        | Low-rise suburban street with flat, close to the water comprising of cement and landscaped setting.                                             | ✓           |
| Design integrity               | Intact                                                                                                                                          | ✓           |
| Condition                      | In good repair                                                                                                                                  | ✓           |
| Historical associations        | Local community and association with Servicemen and Servicewomen from the First and Second World Wars                                           | ✓           |
| Use                            | Continues to be used as a War Memorial and a place for reflection                                                                               | ✓*          |
| Elements                       | Marble and bronze tablets, honour rolls, stone obelisks, cementitious obelisks, flag poles and 'avenue' of established hoop pines and she oaks. | X           |
| Materiality                    | Open grassed areas interspersed with built elements comprising a variety of materials.                                                          | ✓           |
| Scale                          | Small-scale.                                                                                                                                    | ✓           |



**Figure 89:** Gosford City Council War Memorial Park.

[Source: SHR – 'Gosford City Council War Memorial Park, including avenue and feature trees'. Heritage Item ID: 1620242]

Gosford City Council War Memorial within an established park setting, adjacent to other parks and having a direct relationship to the water. This is dissimilar from Burns Place which is situated within the context of the Gosford township and being associated with the development of the Gosford Train Station. The Gosford City Council War Memorial Park dates from the early 1900s and formalised in the 1920s and additional improvements made in 1950s.

Burns Place has landscape features that are not dissimilar from the War Memorial Park, including established plantings and the Memorial Fountain, of which the War Memorial Park shares similar plantings and memorial structures.

This War Memorial Park exemplifies the simple style of parks and memorial structures within the context of Gosford and has remained in good and intact condition. Nonetheless, the Gosford City War Memorial Park displays substantial differences to Burns Place, being specifically designed for the purposes of solemn reflection and memorial. Despite sharing similar contexts (both being located on Mann Street, Gosford), their design intent and use vary substantially.

\*While the Burns Place is not distinctly identifiable as a war memorial, the Lewers Fountain was commissioned and erected by the Gosford Rotary Club in 1963 as a war memorial fountain.

b) Woy Woy Memorial Park

Statement of Significance:

*The Memorial Park is significant for its commemoration of soldiers killed in various wars, and for its aesthetic landscape qualities. There are significant trees in the Park, including Araucaria heterophylla (Norfolk island pine) and Araucaria cunninghamiana (Hoop pine)*

| TABLE 4 – Comparative analysis |                                                                                                                     |             |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------|-------------|
| Consideration                  | Response                                                                                                            | Similar ✓/X |
| Type of site                   | Park and war memorial                                                                                               | ✓           |
| Construction date              | c.1925                                                                                                              | X           |
| Level of significance          | Local                                                                                                               | ✓           |
| Context                        | Low-rise suburban street with flat, close to the water comprising of cement and landscaped setting.                 | ✓           |
| Design integrity               | Intact                                                                                                              | ✓           |
| Condition                      | In good repair                                                                                                      | ✓           |
| Historical associations        | Local community and association with Servicemen and Servicewomen from the First and Second World Wars               | ✓           |
| Use                            | Continues to be used as a War Memorial and a place for reflection                                                   | X           |
| Elements                       | Marble and bronze tablets, honour rolls, stone obelisks, flag poles and low height plantings and established trees. | X           |
| Materiality                    | Open grassed areas interspersed with built elements comprising a variety of materials.                              | ✓           |
| Scale                          | Small-scale.                                                                                                        | ✓           |



Figure 90: Woy Woy Memorial Park and wall

[Source: SHR - Woy Woy Memorial Park and wall. Heritage Item ID: 1620290]

The Woy Woy Memorial Park was established in 1925 to honour the various conflicts that Australia, and particularly residents from the area, have been involved in. The memorial park at Woy Woy, like Gosford Memorial Park, shares a direct relationship to the water and shares a similar size and scale to Burns Place. It is similar in its context and scale, whereby both are

situated within an open landscaped area with established trees, though Woy Woy Memorial Park enjoys a more structured and formal design and layout.

Whilst not dissimilar ages of establishment, the Woy Woy Memorial Park differs to Burns Place in use and intent, with the site utilised as a place of a reflection and commemoration of the previous conflicts that Australian servicemen and women have fought in. The landscape including plantings and pathways are more structured in their layout and the established trees are largely limited to the boundary of the park closest to the verge and footpath.

The Woy Woy Memorial Park displays substantial differences to Burns Place.

a) *Pioneer Park, Point Frederick*

| TABLE 5 – Comparative analysis |                                                                                                      |             |
|--------------------------------|------------------------------------------------------------------------------------------------------|-------------|
| Consideration                  | Response                                                                                             | Similar ✓/X |
| Type of site                   | Park and cemetery                                                                                    | X           |
| Construction date              | c.1974                                                                                               | X           |
| Level of significance          | Local                                                                                                | ✓           |
| Context                        | Low-rise suburban street with flat, close to the water comprising of cement and landscaped setting.  | ✓           |
| Design integrity               | Intact                                                                                               | ✓           |
| Condition                      | In good repair                                                                                       | ✓           |
| Historical associations        | Local community and association with early pioneers at Point Frederick, comprises a small graveyard. | X           |
| Use                            | Used largely for outdoor recreation, sitting, picnicking and gentle walks                            | ✓           |
| Elements                       | Established landscape setting, graveyard with stone headstones, bronze monument, paved paths.        | X           |
| Materiality                    | Open grassed areas interspersed with built elements comprising a variety of materials.               | ✓           |
| Scale                          | Small-scale.                                                                                         | ✓           |

The Pioneer Park is of a similar scale, use and has similar associations with the history and development of Point Frederick / Gosford area.

They do differ in age, context and materiality, whereby Pioneer Park is situated within the context of the Point Frederick Peninsula, away from the primary township. The built form and landscaped setting also varies between the two, with Pioneer Park largely comprising remnant bushland and established plantings. The paths have been formulated around the existing landscape setting and takes into consideration the graves towards the north of the site.

The plantings and design of Burns Place appears more intentional, with formal paths connecting the streetscape to the park and Gosford Station.

Pioneer Park displays distinct differences to Burns Place.

b) *Brady's Gully, North Gosford*

Statement of Significance:

*'The Brady's Gully Cemetery on Henry Parry Drive, North Gosford has rare local historic and social significance as one of the two main early burial grounds of the district and for its association with many early families of the district and first settlement of Gosford. Although post dating Point Fredrick it is indicative of the later settlement of Gosford. It has historic significance as the resting place of Edmund Alfred Parks and the Spears family. It has historic significance as an example of the Conversion of Cemeteries Act, 1974. The cemetery has scientific significance for its potential for research and education purposes. Although the headstones have been relocated, this does not diminish the significance of the site and is an important feature of the landscape.'*

*As a place, Brady's Gully Cemetery satisfies some of the seven Heritage Council of NSW criteria identified for assessment of heritage significance and inclusion on a Local Environmental Plan heritage schedule.*

*Brady's Gully Cemetery is of historic significance. The cultural landscape retains visible and archaeological evidence of an historic designed landscape created in response to the site's location and topography, with monuments reflecting the standing, tastes and religious affiliations of past members of the Gosford community. Although conversion of the cemetery to a pioneer park reduced its size and resulted in the loss of many monuments, sufficient remains to satisfy this criterion at a local level. The cemetery is also the burial site of many of the area's pioneering settlers. Conversion of cemeteries is now regarded as an unacceptable practice but Brady's Gully Cemetery helps to demonstrate how community attitudes to heritage conservation have changed since the 1970s.*

*Brady's Gully Cemetery has strong associations with Charlotte Ashby, the Broken Bay tribes and with the historic Gosford community, including a number of individuals and families important in the early European settlement and subsequent development of the area.*

*The cemetery has some aesthetic significance at a local level arising from the remaining sandstone and marble memorials, which demonstrate the art and craft of the monumental masons who created them. The gully setting and landscaping contribute to the character and amenity of the place.*

*Most of the associative significance of Brady's Gully Cemetery is of an historic nature. Local recognition and regard for the historic values of the place has been demonstrated by listing the place on the LEP. Since no formal social significance assessment of the cemetery has been undertaken, identifying any regard for the property within the local community, it is not known if the cemetery meets this criterion. However since it is a burial site with strong associations with many families in the district, it is considered likely that at least part of the community would feel a sense of loss if the place were damaged further or destroyed.*

*The surviving memorials in Brady's Gully Cemetery have some limited potential to yield further evidence of historic monumental styles in the area.*

*Brady's Gully Cemetery is an early burial ground in the Gosford area. Although its layout and memorials are much altered, it contains burials and monuments not found anywhere else and is part of an ever-diminishing resource of 19th century evidence of the area's European settlement. The cemetery is considered to meet the rarity criterion at a local level.*

*The cemetery is representative of 19th century burial grounds converted in the 1970s into pioneer parks in well-intentioned but uninformed and misguided attempts by local government and church authorities to reduce maintenance loads.*

*The integrity of the cemetery has been much altered over the years, with conversion to a pioneer park and change of use to a public park. The intactness has been considerably reduced by the removal of, relocation of and / or damage to many of the original memorials and removal of items such as grave kerbs, footstones, enclosures, grave ornaments, etc.'*

TABLE 6 – Comparative analysis

| Consideration         | Response                                                                                                           | Similar ✓/X |
|-----------------------|--------------------------------------------------------------------------------------------------------------------|-------------|
| Type of site          | Park and cemetery                                                                                                  | X           |
| Construction date     | Grave monuments date c1881, however the park was opened in the 1970s                                               | X           |
| Level of significance | Local                                                                                                              | ✓           |
| Context               | Located in a gully off a low-rise suburban street, close to the water comprising of cement and landscaped setting. | ✓           |
| Design integrity      | Intact                                                                                                             | ✓           |

|                         |                                                                                                             |   |
|-------------------------|-------------------------------------------------------------------------------------------------------------|---|
| Condition               | In good repair                                                                                              | ✓ |
| Historical associations | Local community and association with early pioneers and residents of Gosford, comprising a small graveyard. | X |
| Use                     | Used largely for outdoor recreation, sitting, picnicking and gentle walks                                   | ✓ |
| Elements                | Established landscape setting, stone and marble headstones scattered throughout, concrete paths.            | X |
| Materiality             | Open grassed areas interspersed with built elements comprising a variety of materials.                      | ✓ |
| Scale                   | Small-scale.                                                                                                | ✓ |



**Figure 91:** Brady's Gully Park and Cemetery.  
[Source: SHR – Former cemetery Heritage Item ID: 1620290]

Brady's Gully Park was established in the 1970s, converting part of the original cemetery into a park for public use. The setting and wider landscaped area varies between the sites, with Brady's Gully Park comprising bushland, taller plantings and a wider space away from the primary township. Additionally, similar to Pioneer Park, the paths have been formulated around the existing landscape setting and takes into consideration the scattered graves that remain around the site.

The plantings and design of Burns Place appears more intentional, with formal paths connecting the streetscape to the park and Gosford Station.

Brady's Gully Park displays distinct differences to Burns Place.

#### 7.4.5 Summary observations of comparative analysis

From the comparative analysis above, there are few identified examples that fit the selection criteria, indicating immediately, the potential rarity and representative values of Burns Place.

The assessment of the selected comparative examples shows that Burns Place displays characteristics which are found in each of the other selected examples, such as the incorporation the open landscape setting, formal pathways and established trees and plantings. Additionally, as all the sites are within the Central Coast Council the context and backdrop of Brisbane Waters are similar.

However, Burns Place displays characteristics which are unparalleled in the selected comparative examples. The distinct characteristics found in Burns Place include:

- The connection to Gosford Railway Station.
- The historical narrative of community funding for the establishment of the park.
- The Inter-War period construction date.
- The use of a Gosford stone for the central arch entry, pillars to the north and boundary wall.

Interestingly, all the identified parks have an element of commemoration or remembrance, which is shared with Burns Place. Despite not being the primary design intent, the Lewers Memorial Fountain provides a space for quiet reflection and consideration. However, Burns Place was primarily established to provide a soft landscaped space for commuters, shoppers and visitors to the primary centre of the Gosford township. This is reflected in the design that is unseen in any of the above examples.

Ultimately, this comparative analysis has revealed that the characteristics and attributes of Burns Place are of particular rarity in the Central Coast and is representative of the style and approach to early 20<sup>th</sup> century parks in the context of regional NSW.

## 7.5 Criteria for assessment of cultural significance

A statement of cultural significance is a declaration of the value and importance given to a place or item, by the community. It acknowledges the concept of a place or item having an intrinsic value, which is separate from its economic value.

There are a number of recognised and pre-tested guidelines for assessing the cultural significance of a place or item established by organisations including the Australia ICOMOS (International Committee on Monuments and Sites) the National Trust of Australia (NSW), the Australian Heritage Council (Commonwealth Government) and in New South Wales, by the Heritage Council and Heritage Division (Office of Environment and Heritage) (State Government).

## 7.6 Assessment of Cultural Significance using the NSW Heritage Assessment Criteria

The *NSW Heritage Manual* published by the NSW Heritage Division (Office of Environment and Heritage), sets out a detailed process for undertaking heritage significance assessments within the context of New South Wales. The *NSW Heritage Manual* provides a set of specific criteria<sup>68</sup> for assessing the significance of an item or place, which are summarised as follows:

| TABLE 7 – Assessment of Significance criteria and definitions |                        |                                                                                                                                                                                                               |
|---------------------------------------------------------------|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Criterion:                                                    | Significance theme:    | Definition:                                                                                                                                                                                                   |
| <b>Criterion (a)</b>                                          | Historical             | An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).                                                                  |
| <b>Criterion (b)</b>                                          | Historical association | An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area). |
| <b>Criterion (c)</b>                                          | Aesthetic              | An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).                                                         |
| <b>Criterion (d)</b>                                          | Social                 | An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.                                                 |
| <b>Criterion (e)</b>                                          | Technical / Research   | An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).                              |
| <b>Criterion (f)</b>                                          | Rarity                 | An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).                                                           |
| <b>Criterion (g)</b>                                          | Representative         | An item is important in demonstrating the principal characteristics of a class of NSW's (or the local area's) cultural or natural places or cultural or natural environments.                                 |

<sup>68</sup> NSW Heritage Branch, 2001. 'Assessing Heritage Significance'.

Subsequently, this CMP adopts the heritage significance assessment criteria and methodology for assessment as contained within the *NSW Heritage Manual* and is consistent with the guidelines as set out in the *Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter 2013)*<sup>69</sup>.

## 7.7 Heritage significance assessment for Burns Place

An item or place will be assessed to be of heritage significance if it meets one or more of the following criteria:

### 7.7.1 Criterion (a) – Historical significance

An item is important in the course, or pattern, of NSW's cultural or natural history (or the cultural or natural history of the local area).

| TABLE 8 – Criterion (a) – historical significance                        |     |                                                                                                      |     |
|--------------------------------------------------------------------------|-----|------------------------------------------------------------------------------------------------------|-----|
| Guidelines for Inclusion                                                 | ✓/X | Guidelines for Exclusion                                                                             | ✓/X |
| • Shows evidence of a significant human activity.                        | X   | • Has incidental or unsubstantiated connections with historically important activities or processes. | ✓   |
| • Is associated with a significant activity or historical phase.         | ✓   | • Provides evidence of activities or processes that are of dubious historical importance.            | X   |
| • Maintains or shows the continuity of a historical process or activity. | ✓   | • Has been so altered that it can no longer provide evidence of a particular association.            | X   |

### Assessment of significance

#### Previously established response

Burns Place is a prominent public recreation area and constructed by the community and Gosford Municipal Council in the period 1935-38 to enhance the gateway from the railway station to the main street.

#### Additional response to criterion

- Burns Place is historically significant at the local level for its contribution to the growth and development of the Gosford township. The park represents the civic actions and advocacy that resulted in the establishment of the park, with funding being obtained largely by the community.
- Burns Place has a historical and physical relationship with the Gosford Railway Station, being established to provide a place for commuters, shoppers and residents to rest and enjoy a green space amongst the centre of town.
- Burns Place has historical significance for its ability to demonstrate and document an Inter-War period park, with the central arch and pillared entry to the north remaining intact.

Burns Place, Gosford satisfies this criterion in demonstrating historical significance at a local level.

### 7.7.2 Criterion (b) – Historical association significance

An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (or the cultural or natural history of the local area).

<sup>69</sup> Australia ICOMOS, 2013. 'Burra Charter'.

| TABLE 9 – Criterion (b) – historical association significance         |     |                                                                                            |     |
|-----------------------------------------------------------------------|-----|--------------------------------------------------------------------------------------------|-----|
| Guidelines for Inclusion                                              | ✓/X | Guidelines for Exclusion                                                                   | ✓/X |
| • Shows evidence of a significant human occupation.                   | X   | • Has incidental or unsubstantiated connects with historically important people or events. | ✓   |
| • Is associated with a significant event, person or group of persons. | X   | • Provides evidence of people or events that are of dubious historical importance.         | ✓   |
|                                                                       |     | • Has been so altered that it can no longer provide evidence of a particular association.  | X   |

### Assessment of significance

#### Previously established response

L.T Burns

#### Additional response to criterion

- The subject site has its origins from a portion of land granted to Henry Worley in 1854, a local sergeant. This land was resumed by the Commissioner of Railways shortly after the death of Worley, for the purpose of opening the Gosford train station. The subject site does not possess any tangible connections to the early landowners, and there are no structures on the site that are considered to have significant associations with the Worley family, or other early landowners.
- The establishment of Burns Place occurred c.1930, after a public request to utilise the land next to the railway as a public park. Accordingly, the subject site is not associated with a significant individual or event, thus is considered of dubious historical associative significance.

Burns Place, Gosford does not satisfy this criterion in demonstrating historical associative significance.

### 7.7.3 Criterion (c) – Aesthetic significance

An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area).

| TABLE 10 – Criterion (c) – aesthetic significance                               |     |                                                                                                                    |     |
|---------------------------------------------------------------------------------|-----|--------------------------------------------------------------------------------------------------------------------|-----|
| Guidelines for Inclusion                                                        | ✓/X | Guidelines for Exclusion                                                                                           | ✓/X |
| • Shows or is associated with, creative or technical innovation or achievement. | X   | • Is not a major work by an important designer or artist.                                                          | X   |
| • Is the inspiration for a creative or technical innovation or achievement.     | X   | • Has lost its design or technical integrity.                                                                      | X   |
| • Is aesthetically distinctive.                                                 | ✓   | • Its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded. | X   |
| • Has landmark qualities.                                                       | ✓   | • Has only a loose association with a creative or technical achievement.                                           | ✓   |
| • Exemplifies a particular taste, style or technology                           | X   |                                                                                                                    |     |

### Assessment of significance

#### Previously established response

The open space is aesthetically significant as the gateway to the commercial precinct from the foreground of the railway station while the mature planting and use of local sandstone celebrates the natural character of the Gosford area.

*Additional response to criterion*

- Burns Place is situated within an established urban landscape. The site is situated adjacent to the railway line, whereby the park is distinctive within the wider landscape of commercial built forms and transport corridors.
- Burns Place has landmark qualities as it is prominently positioned within the streetscape. The overall use of the site as a public open space is enhanced by mature trees and stone edging, remaining a visually appealing and important site within the context of Gosford.
- The Memorial Fountain on the site is the work of modernist artists and sculptors Gerald and Margo Lewers, further contributing to the aesthetic significance of the site.

Burns Place, Gosford satisfies this criterion in demonstrating aesthetic significance at a local level.

**7.7.4 Criterion (d) – Social significance**

An item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons.

| TABLE 11 – Criterion (d) – social significance                  |     |                                                             |     |
|-----------------------------------------------------------------|-----|-------------------------------------------------------------|-----|
| Guidelines for Inclusion                                        | ✓/X | Guidelines for Exclusion                                    | ✓/X |
| • Is important for its associations with an identifiable group. | X   | • Is only important to the community for amenity reasons.   | X   |
| • Is important to a community's sense of place.                 | ✓   | • Is retained only in preference to a proposed alternative. | X   |

**Assessment of significance***Previously established response*

Significant to the military and general communities, and to Rotary, as a symbol of the contribution to the community in relation to the war memorials and places in public where interest groups leave their mark. The business community made a substantial contribution to the original construction.

*Additional response to criterion*

- Burns Place is of value and importance socially and historically. Historically, Burns Place was constructed owing primarily to the funds raised by the community. Additionally, further significance is imbued in the elements built by the community including the Memorial Fountain.
- Burns Place is important to the community's sense of place and holds a high degree of esteem for the community.

Burns Place, Gosford satisfies this criterion in demonstrating social significance at a local level.

**7.7.5 Criterion (e) – Technical / research significance**

An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (or the cultural or natural history of the local area).

| TABLE 12 – Criterion (e) – technical / research significance                                         |     |                                                                                              |     |
|------------------------------------------------------------------------------------------------------|-----|----------------------------------------------------------------------------------------------|-----|
| Guidelines for Inclusion                                                                             | ✓/X | Guidelines for Exclusion                                                                     | ✓/X |
| • Has the potential to yield new or further substantial scientific and/or archaeological information | X   | • The knowledge gained would be irrelevant to research on science, human history or culture. | ✓   |

|                                                                           |   |                                                                                                     |   |
|---------------------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------|---|
| • Is an important benchmark or reference site or type.                    | X | • Has little archaeological or research potential.                                                  | ✓ |
| • Provides evidence of past human cultures that is unavailable elsewhere. | X | • Only contains information that is readily available from other resources or archaeological sites. | ✓ |

### Assessment of significance

#### Previously established response

The memorials offer archival records of those who served.

#### Additional response to criterion

- Burns Place has been subject to various changes in landscaping throughout its lifespan. Due to the disturbance of the site through excavation and landfill and further developments of the site, there is little potential to yield substantial archaeological information.
- Though the long use and occupation of the site, Burns Place is identified as an area of low archaeological sensitivity whereby it is unlikely there is any archaeological evidence that would provide unique or important evidence of past human activities in the locality.

Burns Place, Gosford does not satisfy this criterion in demonstrating technical / research significance.

### 7.7.6 Criterion (f) – Rarity

An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history (or the cultural or natural history of the local area).

| TABLE 13 – Criterion (f) – rarity significance                                            |     |                                 |     |
|-------------------------------------------------------------------------------------------|-----|---------------------------------|-----|
| Guidelines for Inclusion                                                                  | ✓/X | Guidelines for Exclusion        | ✓/X |
| • Provides evidence of a defunct custom, way of life, or process.                         | X   | • Is not rare.                  | ✓   |
| • Demonstrates a process, custom or other human activity that is in danger of being lost. | X   | • Is numerous but under threat. | X   |
| • Shows unusually accurate evidence of a significant human activity.                      | X   |                                 |     |
| • Is the only example of its type.                                                        | X   |                                 |     |
| • Demonstrates designs or techniques of exceptional interest.                             | X   |                                 |     |
| • Shows rare evidence of a significant human activity important to the community          | X   |                                 |     |

### Assessment of significance

- Burns Place is an intact example of an evolved landscape setting with the Gosford context, evidencing Inter-War elements in the archway and pillared entry, coupled with contemporary additions and built forms.
- The subject site is not considered an important benchmark or reference site as a public park, with low archaeological potential and low ability to demonstrate techniques of exceptional interest.

Burns Place, Gosford does not satisfy this criterion in demonstrating significance through the item's rarity.

### 7.7.7 Criterion (g) - Representativeness

An item is important in demonstrating the principal characteristics of a class of NSW's:

- Cultural or natural places; or
- Cultural or natural environments (or a class of the local area's cultural or natural places; or cultural or natural environments.).

| Guidelines for Inclusion                                                                                                      | ✓/X | Guidelines for Exclusion                                                                      | ✓/X |
|-------------------------------------------------------------------------------------------------------------------------------|-----|-----------------------------------------------------------------------------------------------|-----|
| • Is a fine example of its type.                                                                                              | ✓   | • Is a poor example of its type.                                                              | X   |
| • Has the principal characteristics of an important class or group of items.                                                  | ✓   | • Does not include or has lost the range of characteristics of a type.                        | X   |
| • Has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity. | X   | • Does not represent well the characteristics that make up a significant variation of a type. | X   |
| • Is a significant variation to a class of items.                                                                             | X   |                                                                                               |     |
| • Is part of a group which collectively illustrates a representative type.                                                    | ✓   |                                                                                               |     |
| • Is outstanding because of its setting, condition or size.                                                                   | X   |                                                                                               |     |
| • Is outstanding because of its integrity or the esteem in which it is held.                                                  | ✓   |                                                                                               |     |

### Assessment of significance

- Burns Place is evidence of an evolved landscape, providing evidence of Inter-War elements whilst also incorporating contemporary additions. The site is not attributed to any distinguished architectural style or influence.
- Nonetheless, Burns Place is a good and intact example of a public park due to the prominence within the streetscape, incorporating established plantings, stone edging and remaining an important site within the locality of Gosford.
- The subject site is considered outstanding due to the esteem of which the site is held by the community.

Burns Place, Gosford satisfies this criterion in demonstrating representative significance at a local level.

## 7.8 Summary level of significance

The following table summarises the assessed level of significance against each criterion for assessing heritage significance:

| Criterion                                              | What is the assessed level of significance? |
|--------------------------------------------------------|---------------------------------------------|
| Criterion (a) – Historical Significance                | LOCAL                                       |
| Criterion (b) – Historical Association Significance    | Does not satisfy criterion                  |
| Criterion (c) – Aesthetic Significance                 | LOCAL                                       |
| Criterion (d) – Social Significance                    | LOCAL                                       |
| Criterion (e) – Technical / Research Significance      | Does not satisfy criterion                  |
| Criterion (f) – Rarity Significance                    | Does not satisfy criterion                  |
| Criterion (g) – Representativeness Significance        | LOCAL                                       |
| <b>Overall assessed level of cultural significance</b> | <b>LOCAL</b>                                |

## 7.9 Statement of Significance

Burns Place is a small-scaled public park situated prominently in the heart of the Gosford town centre.

The park is historically significant at the local level and demonstrates the growth and development of the wider Gosford township. Having been informally left as open space since the coming of the railway in the late 1880s, it was through the conscious efforts and agitation of the community in the 1930s that the community raised funds for the establishment of 'Burns Place' (as it was then known). The park is of

historical significance as it evidences the civic actions and community agitation for the beautification of the town centre, to provide both a sense of arrival for tourists arriving to Gosford by train and a sense of place-making for the community.

Burns Park sits prominently within the streetscape and while the surrounding context has progressively developed and changed, the boundaries, size and configuration of Burns Park has remained substantially unchanged. Despite this, Burns Park is described as an 'evolved landscape' and provides evidence of various layers and phases of change, including most notably, the sandstone arch, garden wall and steps which are attributed to the formative phase of the development of Burns Park during the late 1930s Inter-War period, the cast concrete lamp post attributed to the 1940s period, the mature tree plantings with most attributed to the 1930s – 1960s period and the 1963 War Memorial Fountain designed by renowned mid-century sculptures Gerald and Margo Lewers.

Despite the loss of numerous early elements such as the 1930s bandstand rotunda and the introduction of numerous elements of lesser significance, the park is considered a good example of an evolved landscape, with the various later phases reinforcing the role and function as a public park.

Burns Park possesses landmark qualities due to its prominent positioning in the town centre and has aesthetic values and significance as an important and identifiable pocket or urban treed canopy and open space that is distinctive in the streetscape. It has social significance and holds varying degrees of esteem for the community, serving as an important area of public open space for the passive recreation, reference point and use and enjoyment by visitors, residents, workers and the general community. Burns Park is also of social significance as an important element to the community's sense of place.

Overall, Burns Park makes an important contribution to the historical narrative of Gosford, and has historical, aesthetic, social and representative significance at the local level.

## 7.10 Heritage curtilage

### 7.10.1 Introduction

The NSW Heritage Branch (now Office of Environment and Heritage – Heritage Division) publication *Heritage Curtilages*<sup>70</sup> defines 'curtilage' as the area of land surrounding an item or area of heritage significance, which is essential for retaining and interpreting its heritage significance.

This area is most commonly, but not always, the lot or lots on which the item is situated and is usually, but not always, restricted to land in the same ownership as the item:

*'At times there is a clear distinction between the place and its setting – only rarely is a culturally significant place self-contained within its definite boundaries, without some visible link to the world around it. If the cultural significance of a place relates to its visual attributes – such as form, scale, colour, texture and materials – its setting is of special importance.'*<sup>71</sup>

### 7.10.2 Heritage curtilage assessment principles

The establishment of a heritage curtilage must satisfy certain principles, namely ensuring that:

- An adequate setting exists to conserve the significance of the original relationship between the item and site.
- Visual catchments and corridors have been provided for.
- Buffer zones have been considered to protect the item from unsympathetic development.

<sup>70</sup> NSW Heritage Office and the Department of Urban Affairs and Planning. 1996. *'Heritage Curtilages'*

<sup>71</sup> Australia ICOMOS, 1992. Commentary on Article 8 of the the Illustrated Burra Charter.

Attributes of the place such as scale, use, relationships, visual linkages, vegetation, buildings, archaeology, style and form all inform the delineation of a heritage curtilage.

It is important to note that the heritage curtilage for an item or place or heritage significance does not preclude development within the defined heritage curtilage boundary, but requires particular care in the consideration of the nature and extent of such development.

A suitable heritage curtilage should contain all of the elements, structures and features that contribute to the heritage significance of the site, including, but not limited to:

- The historic site boundaries.
- Significant buildings and structures including their settings.
- Spatial relationships between buildings, landscape features and other important structures.
- Significant or important views both to and from the place.
- Any items of moveable heritage significance.

The Australia ICOMOS *Burra Charter* places increased emphasis on the importance of the settings of cultural heritage places, which states that:

*'Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place.*

*New construction, demolition, intrusions, or other changes that would adversely affect the setting or relationship are not appropriate' (Article 8).*

This means that care must be taken in decision-making regarding development and management of the surroundings of a significant cultural heritage place. It becomes necessary to define both a minimum legal heritage curtilage as well as a separate broad setting.

The Heritage Council of NSW publication *Heritage Curtilages*<sup>72</sup> identifies four different types of heritage curtilages:

| TABLE 16 – Curtilage definitions       |                                                                                                                                                                                                  |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Heritage Curtilage Type                | How is the heritage curtilage is defined?                                                                                                                                                        |
| <i>Lot boundary heritage curtilage</i> | The legal boundary of the allotment is defined as the heritage curtilage. The allotment will in general contain all related features, for example outbuildings and gardens within its boundaries |
| <i>Reduced heritage curtilage</i>      | An area less than total allotment is defined as the heritage curtilage, and is applicable where not all parts of a property contain places associated with its significance.                     |
| <i>Expanded heritage curtilage</i>     | The heritage curtilage is actually larger than the allotment, and is predominantly relevant where views to and/or from a place are significant to the place.                                     |
| <i>Composite heritage curtilage</i>    | The heritage curtilage relates to a larger area that includes a number of separate places, such as heritage conservation areas based on a block, precinct or whole village.                      |

72

NSW Heritage Office and the Department of Urban Affairs and Planning. 1996. *'Heritage Curtilages'*

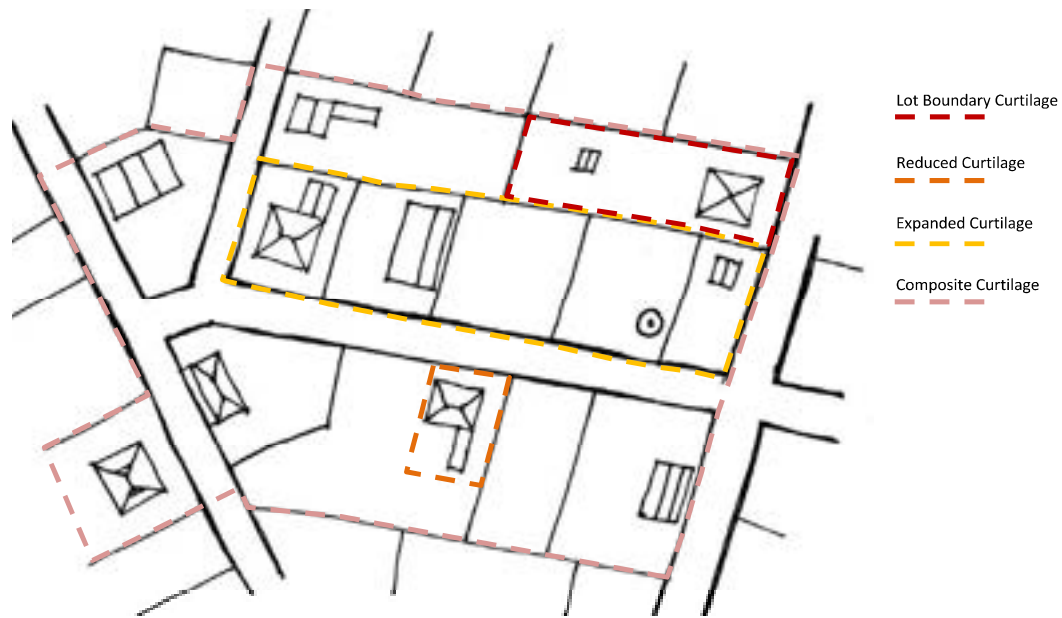


**Figure 92:** Diagram showing the four defined heritage curtilages.

#### 7.10.3 Heritage curtilage assessment

Burns Place is situated within an established urban precinct. The site is adjoined to the north and west by the Gosford Railway Station, to the east by the Gateway Centre and to the south by detached and semi-detached commercial buildings.

The curtilage of Burns Place can be read and appreciated within the context of the Gosford Township, being central to the primary shopping and commercial area. As the park is situated within an urban environment, the curtilage and boundaries of the site are largely defined by the surrounding built forms which pose as a strong juxtaposition to the green space of the park, and establish a natural boundary between the subject site and the surrounding environment.

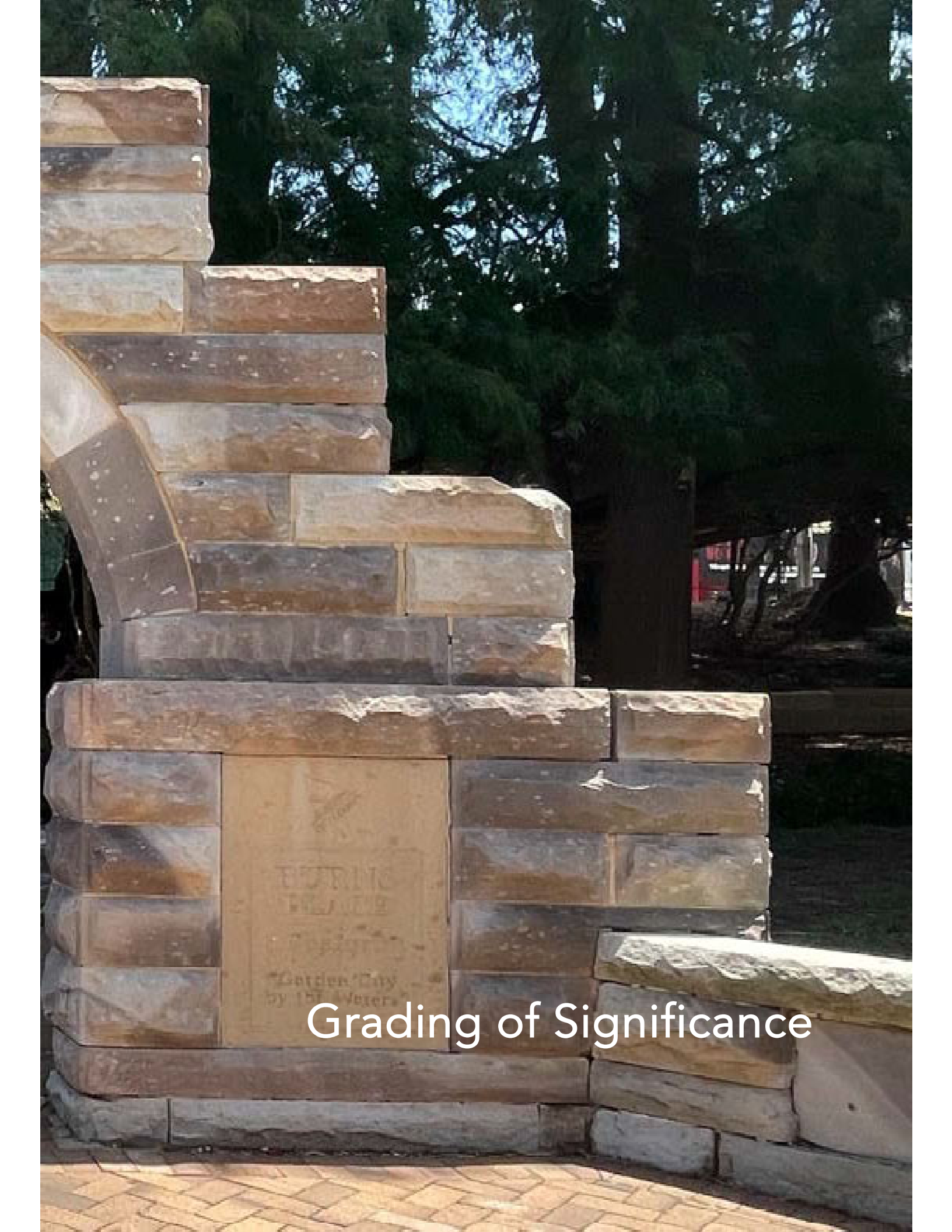
#### 7.10.4 Recommended heritage curtilage

The curtilage assessment and grading of landscaped and built elements suggests that a lot boundary heritage curtilage (whereby defined by the existing allotment boundaries) is appropriate in any future management of the site as a heritage item, so as to preserve the context and setting.

The recommended heritage curtilage is represented in the following diagram:



Figure 93: Aerial photograph of the subject site with curtilage denoted in red.  
[Source: NSW Land Registry Services, 2024 EHC overlay]

A photograph of a stone wall constructed from large, rectangular, light-colored stone blocks. The wall is built in a stepped fashion, with some sections higher than others. In the center of the wall, there is a rectangular plaque made of a lighter-colored stone. The plaque has an eagle emblem at the top, followed by the words "PUBLIC PLACE" and "Golden Day by the Water". The wall is set against a background of dark, dense evergreen trees. The foreground shows a paved area with a brick pattern. The text "Grading of Significance" is overlaid in white at the bottom right of the image.

Grading of Significance

## 8.0 GRADING OF SIGNIFICANCE

### 8.1 Introduction

Grading the significance of elements that make up the item or place, reflects the contribution that the elements make to the overall significance of the item. It is a useful tool in assessing and identifying the degree to which the significance of the item would be diminished if the component were removed or altered, and provides a useful framework for decision-making about the conservation of and/or changes to the item or place.

Good conservation practice encourages change, adaptation or removal of elements that have a lesser contribution to the overall significance of the item or place, whereas elements that provide a high or exceptional contribution to the overall significance should generally be left intact or altered in a most sympathetic manner that does not detract from the heritage significance.

A six-tier system for grading of significance is used with a subsequent assessment of the site. The process examines a number of factors, including:

- Relative age
- Original design quality and integrity
- Degree of intactness and general condition
- Extent of subsequent alterations
- Associations with important phases of construction, people or events
- Ability to demonstrate a rare quality, craft or construction process

The grading of significance has been applied to the particular layout, elements and fabric of Burns Place. As part of this process, the grading table seeks to reflect the extent to which particular components or attributes of Burns Place retain and/or provide meaningful evidence of the original site, as well as the relative importance of later layering and overall physical condition.

| TABLE 17 – Grading of significance definitions |                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Grading of Significance                        | Justification                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>EXCEPTIONAL</b>                             | <p>This includes fabric and elements that are rare or outstanding, together with original elements directly contributing to an item's local or state significance.</p> <p>It generally involves fabric and elements with a high degree of intactness and design integrity and unaltered original fabric and elements.</p>                                                                                                          |
| <b>HIGH</b>                                    | <p>This includes fabric and elements that make an important contribution to the item's significance and have a high degree of intactness and design integrity with original fabric.</p> <p>It generally involves fabric and elements that demonstrate a key element of the item's significance and may include elements that have been sympathetically altered, such as alterations that do not detract from the significance.</p> |
| <b>MODERATE</b>                                | <p>This includes fabric and elements that contribute to the overall significance of the item and have some heritage value, but do not make an important key contribution to that significance.</p> <p>It generally involves fabric and elements which were originally of higher significance, but have been compromised by later and less significant alterations or modifications.</p>                                            |
| <b>LITTLE</b>                                  | <p>This includes fabric and elements that detracts from the heritage significance of the item.</p> <p>It generally involves fabric and elements which are difficult to interpret, or is associated with unsympathetic alterations and additions.</p>                                                                                                                                                                               |
| <b>NEUTRAL</b>                                 | <p>This includes fabric and elements that do not contribute to significance but neither detracts from the significance.</p> <p>It generally involves fabric and elements associated with sympathetic new uses or alterations and additions.</p>                                                                                                                                                                                    |
| <b>INTRUSIVE</b>                               | <p>This includes fabric and elements which are damaging and adversely affects the significance of the item.</p> <p>It generally involves fabric and elements that have been introduced without respect for the tangible and intangible values of the item.</p>                                                                                                                                                                     |

## 8.2 Fabric condition ratings

The present physical condition of the fabric and elements is a relative factor to determining the grading of significance. Consequently, the following condition ratings are applied:

| Condition rating | Description                                                                                                                                                                                                                                                              |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Excellent        | The fabric or element has no visible defects and the condition and cosmetic appearance are as new.                                                                                                                                                                       |
| Good             | The fabric or element exhibits superficial deterioration through 'wear and tear', minor defects, minor signs of deterioration to surface finishes, but does not require major maintenance or repair. No major defects exist.                                             |
| Fair             | The fabric or element is in an average condition. Deteriorated surfaces require maintenance or repair.                                                                                                                                                                   |
| Poor             | The fabric or element has deteriorated badly. Serious inherent structural defects or problems exist. The general cosmetic appearance is poor, with eroded protective surface coatings. Elements and fabric are defective and require maintenance, repair or replacement. |
| Very poor        | The fabric or element has failed or exhibits major inherent structural defects. Fabric or elements require remedial repairs, reconstruction or replacement.                                                                                                              |

## 8.3 Grading of significance

The following table demonstrates the grading of significance for specific elements or features of the site:

| Grading            | Site Elements / Fabric                                                                                                                      | Commentary                                                                                                                                                                                                                            |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>EXCEPTIONAL</b> | <ul style="list-style-type: none"> <li>Stone pillar entry (northern entry to the park), 1930s.</li> </ul>                                   | Reasonable condition, cracking in stone and evidence of stone exfoliation.                                                                                                                                                            |
|                    | <ul style="list-style-type: none"> <li>Main stone entry arch (eastern entry to the park), 1930s.</li> </ul>                                 | Early and original fabric to the site, however there is evidence of contemporary changes and repairs. Evidence of human intervention.                                                                                                 |
| <b>HIGH</b>        | <ul style="list-style-type: none"> <li>The overall proportions of Burns Place Park (defined by the curtilage).</li> </ul>                   | The overall volume, proportions and location of Burns Place Park and the relationship between Gosford Railway Station and Mann Street (Gosford town centre).                                                                          |
|                    | <ul style="list-style-type: none"> <li>All stone walls, 1930s.</li> </ul>                                                                   | Early fabric, however there is evidence of many repairs and alterations. Evidence of trees causing mechanical damage and it is recommended they are removed to alleviate this damage.                                                 |
|                    | <ul style="list-style-type: none"> <li>Cast concrete light poles.</li> </ul>                                                                | Early fabric and still highly intact.                                                                                                                                                                                                 |
|                    | <ul style="list-style-type: none"> <li>Path alignment between the Gosford train Station and Mann Street.</li> </ul>                         | As the park was established to provide a thorough fair from the station to the township of Gosford, the path was considered an integral part of the design. It is also evident in early photographs of the site.                      |
|                    | <ul style="list-style-type: none"> <li>Lewers Memorial Fountain, c1963.</li> </ul>                                                          | Despite being a later addition to the park the Memorial Fountain was designed and produced by notable artists Margot and Gerald Lewers. This was one of the last pieces Gerald worked on prior to his untimely demise.                |
| <b>MODERATE</b>    | <ul style="list-style-type: none"> <li>Canary Island Palm trees, Pine trees and Eucalyptus tree.</li> </ul>                                 | Early and prominent plantings to the park that provide a high level of landscaped amenity and shade canopy.                                                                                                                           |
|                    | <ul style="list-style-type: none"> <li>Lawn areas.</li> </ul>                                                                               | While the grass surfaces themselves are of low significance, the spatial qualities and open lawn spaces are important features that contribute to the openness of the landscape and provide for passive recreational use of the park. |
| <b>LITTLE</b>      | <ul style="list-style-type: none"> <li>Paving and edges.</li> </ul>                                                                         | Contemporary fabric, considered of low significance.                                                                                                                                                                                  |
|                    | <ul style="list-style-type: none"> <li>Brick wall and eastern boundary hedges.</li> </ul>                                                   | Contemporary fabric and considered of low significance.                                                                                                                                                                               |
|                    | <ul style="list-style-type: none"> <li>Low height walls (garden beds).</li> </ul>                                                           | Since the establishment of the park the landscape features have been altered and improved to evolve with the park itself. The garden beds appear to be contemporary.                                                                  |
|                    | <ul style="list-style-type: none"> <li>Understorey shrubbery, predominantly boxus hedging, murraya, cliveas, and Duranta repens.</li> </ul> | Most of the understorey shrubbery is attributed with the late 20 <sup>th</sup> and early 21 <sup>st</sup> centuries and comprise replacement plantings.                                                                               |
|                    | <ul style="list-style-type: none"> <li>Cabbage Tree Palms and Alexandria Palms</li> </ul>                                                   |                                                                                                                                                                                                                                       |

|           |                                                                                                                           |                                                                                                                                                                                                                                                                                                                           |
|-----------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | <ul style="list-style-type: none"> <li>• (Former) Gosford City Council street furniture, c1980s-1990s.</li> </ul>         | Remnants of former Gosford City Council of low significance, however they do contribute to the character of the area and community environment.                                                                                                                                                                           |
|           | <ul style="list-style-type: none"> <li>• Alignment of paths.</li> </ul>                                                   | Contemporary paths.                                                                                                                                                                                                                                                                                                       |
|           | <ul style="list-style-type: none"> <li>• Brick capping.</li> </ul>                                                        | Contemporary material to formalise the existing and new paths.                                                                                                                                                                                                                                                            |
|           | <ul style="list-style-type: none"> <li>• Street lighting and other contemporary lighting.</li> </ul>                      | Contemporary additions to the site to improve visibility through the park.                                                                                                                                                                                                                                                |
|           | <ul style="list-style-type: none"> <li>• Toilet block, 1970s.</li> </ul>                                                  | The toilet block has low significance, however is constructed on the site of the former Tourist Bureau. It is unlikely that there would be any archaeological remnants of the former structure under the current building.                                                                                                |
|           | <ul style="list-style-type: none"> <li>• Power supply</li> </ul>                                                          | Contemporary installation to assist with events.                                                                                                                                                                                                                                                                          |
|           | <ul style="list-style-type: none"> <li>• Pedestrian footbridge</li> </ul>                                                 | Installed in the 1980s when the Gateway Centre was constructed, the bridge was installed to provide ease of access from the station to the Gateway Centre without crossing Mann Street.                                                                                                                                   |
| NEUTRAL   | <ul style="list-style-type: none"> <li>• Signage and contemporary wayfinding</li> </ul>                                   | Installed in the early 21 <sup>st</sup> century to assist with wayfinding throughout Gosford.                                                                                                                                                                                                                             |
| INTRUSIVE | <ul style="list-style-type: none"> <li>• Power supply</li> </ul>                                                          | Contemporary installation to assist with events.                                                                                                                                                                                                                                                                          |
|           | <ul style="list-style-type: none"> <li>• Steel safety barrier installed to pool of Lewers Memorial Fountain.</li> </ul>   | The barrier fence atop of the memorial fountain was likely installed to prevent falling, similarly the mesh barrier to the pool is likely to comply with the <i>Swimming Pools Act 1992</i> and prevent drowning. Nonetheless, these elements are considered intrusive and detract from the visual qualities of the site. |
|           | <ul style="list-style-type: none"> <li>• Steel powder coated steel fence atop of the Lewers Memorial Fountain.</li> </ul> |                                                                                                                                                                                                                                                                                                                           |

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**Grading of Significance of built features at Burns Place Park.****Figure 94:** Grading of significance of the built features of Burns Place Park.

**Grading of Significance of landscape features at Burns Place Park.**

**Figure 95:** Grading of significance of the landscape features of Burns Place Park.

## 8.4 Tolerance for change

Good conservation practice encourages change, adaptation or removal of fabric and elements that have a lesser contribution to, or detract from, the overall significance of the item – whereby having a higher tolerance to change.

Whereas fabric and elements that provide a high contribution to the heritage significance of the item have a lesser tolerance for change and should generally be left intact or altered in a most sympathetic manner that does not detract from the interpretation of the heritage significance.

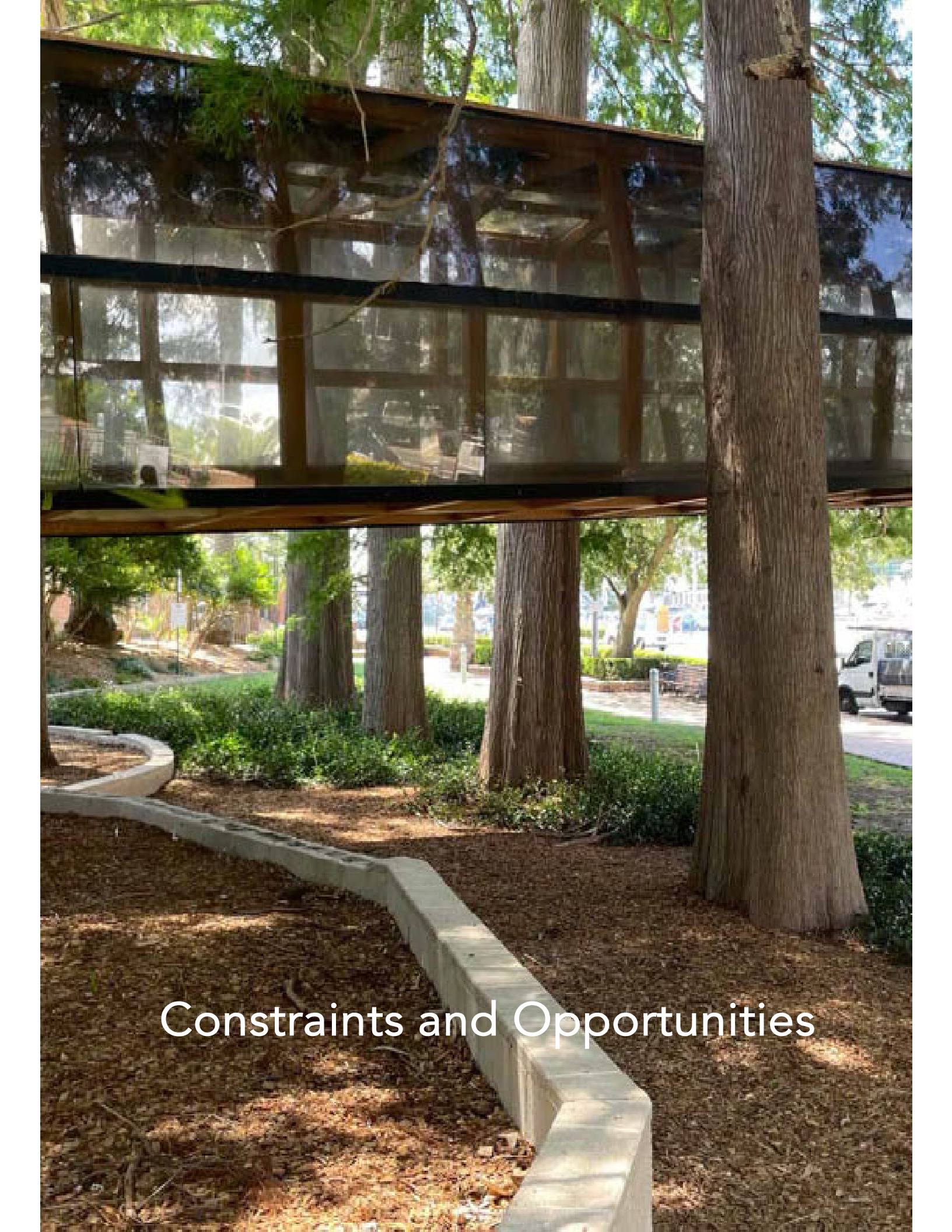
The 'tolerance for change' and corresponding appropriate actions, which are based on the equivalent grading of significance, is demonstrated in Table 19 below. The colour coding follows the 'traffic light system' for simplicity, explained as follows:

- Red – Stop! Significant fabric, tread very carefully!
- Amber – Go slow! Significant fabric, tread carefully!
- Green – Go! Low to very little significant fabric, be mindful of significance.

| Grading of Significance | Tolerance for change       | Recommended actions                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>EXCEPTIONAL</b>      | Little to no tolerance     | <p>Fabric and elements identified as being of exceptional significance should be retained and conserved or restored in-situ.</p> <p>Works that affect the fabric or external appearance of these elements should be confined to conservation, restoration and reconstruction as defined by the ICOMOS (Australia) <i>Burra Charter</i>.</p>                                                                                                                        |
| <b>HIGH</b>             | Little to some tolerance   | <p>Fabric and elements identified as being of high significance should be retained and conserved or restored in-situ.</p> <p>Minor intervention including adaptation or alterations as defined by the ICOMOS (Australia) <i>Burra Charter</i> is permissible, providing that the level of significance of each element is retained, works do not remove or obscure significant fabric, and preference is given to changes that are sympathetic and reversible.</p> |
| <b>MODERATE</b>         | Moderate tolerance         | <p>Fabric and elements identified as being of moderate significance can generally accommodate a greater level of intervention.</p> <p>Adaptation or alterations and additions is generally acceptable, provided that such works protects the overall heritage significance of the item.</p>                                                                                                                                                                        |
| <b>LITTLE</b>           | Moderate to high tolerance | <p>Fabric and elements identified as being of little significance can accommodate a greater level of intervention and are generally not regarded as essential to the major aspects of the heritage significance of the item.</p> <p>Both retention and removal are acceptable and major intervention should be confined to areas where the fabric and elements are of little significance.</p>                                                                     |
| <b>NEUTRAL</b>          | High tolerance             | <p>Fabric and elements identified as being of neutral significance are not regarded as essential to the major aspects of the heritage significance of the item.</p> <p>They do not contribute to the significance nor to they detract. Sympathetic adaptation or removal are acceptable and preferable.</p>                                                                                                                                                        |
| <b>INTRUSIVE</b>        | Highest tolerance          | <p>Fabric and elements identified as being intrusive can diminish or obscure the overall heritage significance of the item, despite their role as documenting the phases and progressive development of the site.</p>                                                                                                                                                                                                                                              |

|                                                                                   |  |                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <p>The preferred option is for their removal, adaptation or alteration to a more compatible and complementary form, or replacement in a way that facilitates retention of the overall significance of the item. Works should be undertaken in a manner that does not damage adjacent fabric or elements of higher significance.</p> |
|-----------------------------------------------------------------------------------|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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# Constraints and Opportunities

## 9.0 CONSTRAINTS AND OPPORTUNITIES

### 9.1 Introduction

The conservation planning process established by the guidelines to the ICOMOS (Australia) *Burra Charter* (and set out in the NSW Heritage Manual) requires that relevant opportunities and constraints be identified as part of the process for developing conservation policies for places of significance.<sup>73</sup> These are discussed as follows:

- The ways in which the heritage significance of the site and tolerance for change constrain future development or change.
- The short- and long-term requirements of the owners, managers and users.
- The ways in which the physical condition and integrity of the fabric of various elements of Burns Place may constrain future development or change.
- The legislative framework governing any future development or change.
- Opportunity for community interpretation.

### 9.2 Issues arising from the Statement of Significance

The heritage significance of Burns Place imposes a range of obligations and requirements, the most fundamental of which is the obligation to ensure that the embodied and identified heritage values of Burns Place are appropriately conserved for both current and future generations.

Changes to the site must be carefully managed so that those elements of the site that contribute to the cultural significance (whether tangible or intangible), are retained, whilst making allowance for those changes needed to give an acceptable amenity and compliance with statutory requirements and regulations for continued use.

Burns Place has been assessed as being of local significance. In particular, it has historical significance as an early land reservation for public open space that has influenced the urban growth and development of Gosford as well as having aesthetic and social significance for its long-established role and function in providing important sensory appeal and amenity to the town centre, creating a sense of place for the community, spanning multiple generations.

The following constraints arise from a consideration of the heritage values expressed in the Statement of Significance, which need to be addressed in the conservation policies to guide on-going management and future adaptation and change:

- a) The site should remain listed as an item of heritage significance on Schedule 9 of *State Environmental Planning Policy (Precincts – Regional) 2021* and any succeeding environmental planning instruments.
- b) Ensure that there is an appropriate level of statutory heritage protection through heritage listing.
- c) Continuing appropriate uses of Burns Place that are compatible with the heritage significance and historical roles and functions as a place of public open space for passive recreation and enjoyment.
- d) Ensuring the appropriate conservation and retention of the landscape and aesthetic qualities of Burns Place that establishes and defines its significance.
- e) Entrench the functional lifespan of the built elements in the public domain, including the sandstone boundary wall, pedestrian steps and gateway entry arch.

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<sup>73</sup> Australia ICOMOS, 1999. 'The Burra Charter', 1999.

- f) Maintain significant fabric and prevent the removal, deterioration through neglect or obscuration of significance fabric and elements.
- g) Enhance the embodied cultural heritage significance of Burns Place.
- h) Acknowledge that future development proposals outside of Burns Place may jeopardise the cultural significance of the place and such proposals should be scrutinised and where necessary, opposed in an attempt to minimise adverse impacts.
- i) Conserve, manage and interpret evidence according to relative significance.
- j) Conserve evidence of construction techniques, significant fabric, finishes and fittings, significant technologies and services.
- k) Provide interpretation for the site in appropriate forms.
- l) Secure the site in terms of protection against anti-social behaviour, appropriate lighting, securing of removal / moveable heritage items.
- m) Meet the requirements of statutory authorities without damaging significant fabric, spaces etc.
- n) Determine and manage the curtilage of the site and any future development that might take place within this curtilage or impact upon this curtilage.
- o) Conserve and manage the setting of Burns Place.

The following opportunities for the enhancement of the heritage values and significance of Burns Place exist:

- p) The positioning of the site between the town centre and the Gosford Railway Station and transport interchange is well-suited to being retained for use as public open space.
- q) The landscaped setting of the park could be enhanced with the removal of intrusive plantings and introduction of appropriate plantings based on historical research including historical photographs.
- r) The historic significance of the place could be used to excite public interest in the heritage of the Gosford town centre.

### 9.3 Issues arising from the physical condition of the site

The physical condition and integrity of fabric and elements both individually and collectively, give rise to the following issues which need to be addressed in the conservation policies to guide on-going management and future adaptation and change:

- a) Burns Place is generally in good condition and repair and there does not appear to be any significant immediate threats to fabric or elements which would compromise the significance of the item.
- b) The existing sandstone block wall and gateway arch exhibit evidence of mechanical damage from invasive tree roots and ground settlement which has caused the failure of mortar joints and in some localised areas, dislodgement of stone units. It is necessary to direct attention in the short-term to rectifying existing defects, undertake tree management works and undertake remedial / restorative works to the stone wall and gateway entry arch.

- c) The original curtilage and setting of Burns Place remains largely intact, with a moderate to high degree of design integrity maintained and generally has low tolerance to further adaptation and change.
- d) Minor and cyclical maintenance works are required in the short-term to retard any potential damage to significant fabric and elements.

The following opportunities for the enhancement of the heritage values and significance of Burns Place exist:

- e) Reconstruct missing elements and detailing, based on historical research and documentary and physical evidence.
- f) Promote the significance of the mosaic mural to the water feature and provide for enhanced interpretation of the artists Gerald Francis Lewers (1905-1962) and Margo Lewers (1908-1978).

#### 9.4 Issues arising from the requirements of ownership and management

Burns Place is Crown Land with Central Coast Council as Trustees and Managers.

The requirements of ownership and management need to be addressed in the conservation policies to guide on-going management and future adaptation and change:

- a) The need to establish a realistic and achievable conservation framework to facilitate appropriate conservation outcomes whilst allowing flexibility in the ongoing use, adaptation and change that does not hinder the orderly use and occupation as public open space.
- b) The need to balance conservation with adaptation and change.
- c) Establishing a clearly defined set of conservation principles which provide for ease of reference and practical implementation.
- d) Under the *Crown Lands Act 1989*, Section 11 prescribes principles and requirements for the management of Crown Land, which states:

*For the purposes of this Act, the principles of Crown land management are:*

- (a) *that environmental protection principles be observed in relation to the management and administration of Crown land,*
- (b) *that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible,*
- (c) *that public use and enjoyment of appropriate Crown land be encouraged,*
- (d) *that, where appropriate, multiple use of Crown land be encouraged,*
- (e) *that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and*
- (f) *that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.*

The following opportunities for the enhancement of the heritage values and significance of Burns Place exist:

- e) A (PoM) should be prepared to guide the use and management of the land, fulfilling the obligations under the *Local Government Act 1993* and the *Crown Lands Act 1989*.

## 9.5 Issues arising from heritage curtilage

Heritage curtilage is defined as *'the area of land surrounding an item or area of heritage significance, which is essential for retaining and interpreting its heritage significance'*<sup>74</sup>.

The area delineated as the 'curtilage' should therefore contain all those elements contributing to the heritage significance and setting of an item or place.

Heritage curtilage takes into consideration tangible and intangible historic relationships and aesthetic relationships defined by vistas and view corridors. In other words, heritage curtilage moderates between a site and its physical setting.

Section 7.10 provides an assessment of the heritage curtilage for Burns Place and establishes the heritage curtilage required in order to retain the heritage significance of Burns Place.

The historical assessment contained in this CMP has considered the historical context of Burns Place and the development and significance of the site within the context of the progressive development of the surrounding area. This historical assessment alone, presupposes links and associations with the surrounding area arising from historical and functional relationships, settings and views.

There are a number of constraints imposed on the heritage curtilage of items of heritage significance. In general, these can include:

- a) Degradation and physical deterioration to the curtilage through inappropriate land subdivision and alienation of land.
- b) Inappropriate development within the identified heritage curtilage.
- c) Inappropriate changes to the natural landform within the identified heritage curtilage.
- d) Removal of built or landscape features that unify and define the curtilage.

For Burns Place specifically, constraints regarding the heritage curtilage include:

- e) There is little opportunity and tolerance for new development to be accommodated within Burns Place without substantially diminishing the spatial qualities of the curtilage and impacting on sight lines.
- f) Before introducing new elements to the landscape, careful consideration must be given to impacts on views and setting, together with impacts on existing built and landscape elements that contribute to the curtilage and setting.
- g) Acknowledge that future development proposals outside of Burns Place may jeopardise the cultural significance of the place and such proposals should be scrutinised and where necessary, opposed in an attempt to minimise adverse impacts.

Opportunities exist for the implementation of measures and actions that will:

- h) Maintain an appropriate heritage curtilage to Burns Place.
- i) Maintain significant elements within the heritage curtilage, which are essential for retaining and interpreting the heritage significance.

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<sup>74</sup> NSW Heritage Branch, 2009. 'Heritage Terms and Abbreviations'. Available from: [http://www.heritage.nsw.gov.au/docs/hm\_terms&abbreviations.pdf]

- j) Removal of obtrusive structures or unsympathetic changes to the natural landform and landscape.
- k) Enhance the embodied cultural heritage significance of Burns Place by maintaining and improving the curtilage and setting.

## 9.6 Issues arising from views and vistas

Significant views to and from heritage places can impose restrictions and constraints on future development, requiring new development or alterations and additions to be oriented and sited in such manner that does not significantly alter the visual character or form of the heritage item, or obstruct or impede significant view corridors and visual relationships with points of reference, the public domain or landmarks.

It is necessary to establish mechanisms and guidelines that enable the undertaking of future development and conservation works that ensures any changes to the built form including new development, do not significantly alter the visual character of the heritage item or obstruct significant view corridors and visual relationships.

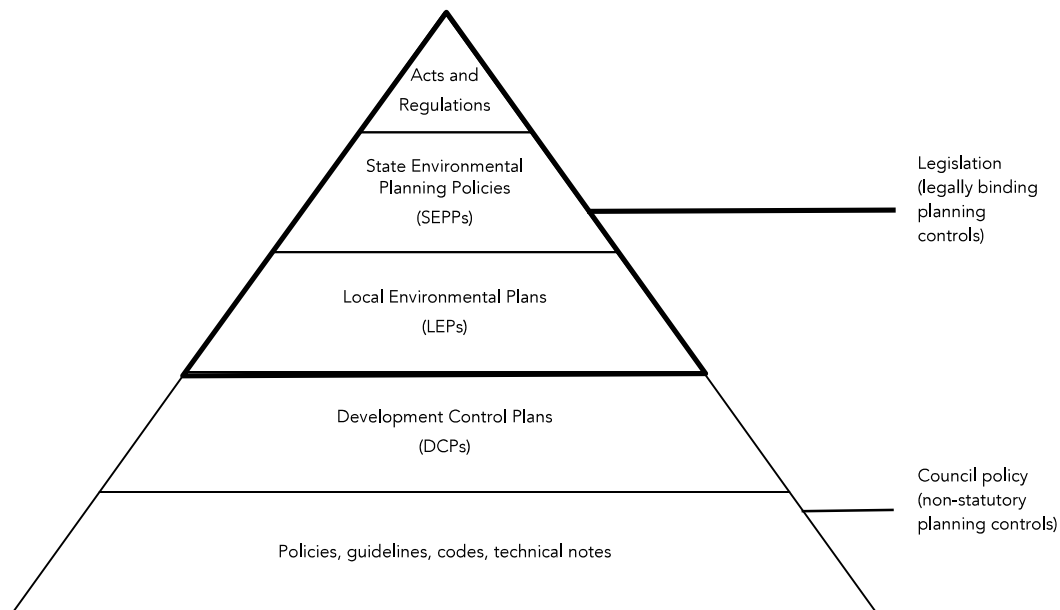
The views and vistas give rise to the following issues, which need to be addressed in the conservation policies to guide on-going management and future adaptation and change:

- a) Re-establish significant axial views along Mann Street, which have been obscured through various street furniture, urban elements, vegetation and development. Notably, the c1985 pedestrian footbridge transects Burns Place and severs historical axial view lines from both directions in Mann Street.
- b) Establish guidelines that ensure that new development or landscape plantings do not obscure view corridors or vistas.

## 9.7 Heritage management framework

Within New South Wales, a hierarchy of planning legislation applies to the subject site and controls and regulates inter-alia, development, health, compliance and heritage management and conservation.

The hierarchy of planning legislation applicable in New South Wales is represented in the following diagram:



### 9.7.1 Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) is an Act that establishes the regulatory framework governing urban and environmental planning within New South Wales.

In March 2018, the NSW Government introduced broad-sweeping changes to the EP&A Act 1979, which were designed to reflect an updated planning system that is simpler, faster and designed to ensure high quality decision and planning outcomes.

The relevant sections of the EP&A Act 1979 are addressed as follows:

#### i) Minimum Standards of Maintenance and Repair

Unlike the *Heritage Act 1977*, the EP&A Act 1979 does not provide for any minimum standards of maintenance and repair to an item or place of cultural heritage significance.

This means that an owner of an item or place of cultural heritage significance (which has been identified as being of significance at the local level) is not obliged to meet a minimum standard of maintenance and repair.

The EP&A Act 1979 does however, provide enforcement mechanisms to ensure that buildings and structures are appropriately maintained to ensure occupant and public safety. This matter is addressed in further detail in the ensuing sub-section.

#### ii) Orders

Section 9.3 (formerly Section 121B) of the EP&A Act 1979 provides the Minister administering the Act or the Local Council, the ability to serve an Order on a property, ordering a person or persons 'to do or to refrain from doing a thing'<sup>75</sup>.

The issuing of an order under Section 9.3 of the EP&A Act 1979 is a key enforcement mechanism for a Local Councils for a whole range of matters including such matters as:

<sup>75</sup> *Environmental Planning and Assessment Act 1979. Section 9.3.*

- i) Ceasing the use of a building or premises for a purpose specified in the Order (i.e. in the case of unauthorised occupation of a building or premises).
- ii) Demolition or removal of a building (i.e. where a building is so dilapidated as to be prejudicial to the safety of the occupants or the public).
- iii) Not to demolish or to cease demolishing a building (i.e. to prevent unauthorised demolition works to a building or structure).
- iv) To repair or make structural alterations to a building (i.e. where a building is so dilapidated as to be prejudicial to the safety of the occupants or the public).
- v) To ensure adequate fire safety or fire safety awareness.
- vi) To ensure public safety.

Consequently, Section 9.3 of the *EP&A Act 1979* provides de-facto minimum standards of maintenance and repair to a building, but is not specific to a heritage item or heritage significance.

### 9.7.2 Heritage Act 1977

The *Heritage Act 1977* is an Act to conserve the environmental heritage of New South Wales, providing the legal protection for items of state heritage significance.

The *Heritage Act 1977* established the Heritage Council of NSW, and the State Heritage Register (SHR).

#### i) Listings

The State Heritage Register (SHR) includes items, which are accorded SHR listing through gazettal in the NSW Government Gazette. To be listed, an item must demonstrate significance at a state level.

A listing on the SHR means that the heritage item or place is afforded legal protection under the *Heritage Act 1977* and major changes to the item require approval from the Heritage Council of NSW.<sup>76</sup>

This CMP has identified Burns Place as a place with local significance and as such, it would not be considered for listing on the State Heritage Register.

#### ii) Archaeology

The *Heritage Act 1977* provides statutory protection to relics, archaeological artefacts, features or deposits.

Part 4 of the Act refers to items and places listed on the SHR, or which are the subject of an Interim Heritage Order (IHO). Section 60 of the Act also requires an application for an excavation permit for historical archaeological resources identified as having state significance to be issued by the Heritage Council of NSW, or in accordance with a gazetted Exemption under Section 57(2) of the Act.

The *Heritage Act 1977* defines an archaeological relic as being any deposit, artefact, object or material evidence that:

- a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- b) is of state or local heritage significance.

<sup>76</sup> NSW Heritage Branch, 2009. 'State Heritage Inventory'. Available from [<http://www.heritage.nsw.gov.au>]

Under Section 57(1) of the *Heritage Act 1977*, the approval of the Heritage Council of NSW is required to move, damage, or destroy a relic listed on the State Heritage Register, or to excavate or disturb land which is listed on the SHR and there is reasonable knowledge or likelihood of relics being disturbed.

A Section 60 application is required to be prepared by a suitably qualified historical archaeologist who meets the Heritage Council of NSW Excavation Directors Criteria for works on state significant sites to disturb relics on an SHR listed property.

iii) *State Heritage Inventory / Heritage Management System*

The State Heritage Inventory (SHI) (also known as the Heritage Management System (HMS)) is a separate listing to the State Heritage Register (SHR). The SHI is an electronic database of all heritage items listed in NSW statutory schedules and registers.<sup>77</sup>

The database is managed by Heritage NSW and includes heritage items listed in local Council LEPs, state government agencies' Heritage and Conservation Registers (also known as 's170 Registers'), as well as places listed by the Heritage Council of NSW itself.

As an existing item of local heritage significance, Burns Place is presently listed on the State Heritage Inventory, however, the citation on the SHI database should be updated to reflect the reassessed values and significance of the site per this CMP.

### 9.7.3 Environment Protection and Biodiversity Conservation Act 1999

New Commonwealth heritage legislation came into effect in January 2004.

The *Environment Protection and Biodiversity Conservation Act 1999* established the Australian Heritage Council, replacing the former Australian Heritage Commission. Two new Federal heritage lists were also established, including the National Heritage List and the Commonwealth Heritage List.

The National Heritage List is a register of places with outstanding heritage value to the Nation and can include places outside of Australia. Consent by the Commonwealth Minister for the Environment and Heritage is required for works which will have a significant impact on a national heritage place.

The Commonwealth Heritage List is a list of places managed or owned by the Federal Government. The former Register of the National Estate is 'frozen', yet is maintained as an advisory list.

This CMP has identified Burns Place as a place with local significance and as such, it would not be considered for listing on the National Heritage List or Commonwealth Heritage List.

### 9.7.4 National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* provides for the management and statutory protection of Aboriginal objects and places.

Aboriginal objects (consisting of any material evidence of the Indigenous occupation of New South Wales) are afforded protection under Section 90 of the Act, while Aboriginal places (areas of cultural significance to the Aboriginal community) are afforded protection under Section 84 of the Act.

The protection afforded to Aboriginal objects and places applies irrespective of the level of significance or issues of land tenure. It is an offence under the Act to damage, deface or destroy Aboriginal sites without the consent of the Director General of the NSW National Parks and Wildlife Service.

<sup>77</sup> NSW Heritage Branch, 2009. 'State Heritage Inventory'.

The Act defines an Aboriginal object as:

*'any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises 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.'*

Any future development works at the subject site must be undertaken with having due regard for potential Aboriginal objects or places.

A search of the Aboriginal Heritage Information Management System (AHIMS) does not identify any recorded Aboriginal sites or places within the vicinity of the site.

## 9.8 Environmental Planning Instruments

Environmental Planning Instruments (EPIs) are established and created under the *EP&A Act 1979* and include State Environmental Planning Policies, which apply to the 'whole of state' or to a specific region or land use category, and Local Environmental Plans

### 9.8.1 State Environmental Planning Policy – (Exempt & Complying Development Codes) 2008

The *State Environmental Planning Policy – (Exempt and Complying Development Codes) 2008* provides ability for certain types of prescribed development, generally with low or minimal intensity, scale and impact, to be undertaken without development consent, which would ordinarily require approval by way of a Development Application.

In summary, exempt and complying development under the *State Environmental Planning Policy – (Exempt and Complying Development Codes) 2008* does not apply to listed items of heritage significance or properties within a heritage conservation area, or properties subject to an Interim Heritage Order (IHO), except where an exemption has already been granted under Section 57(2) of the *Heritage Act 1977* and the development meets the requirements and development standards specified by this policy.

Specifically, clause 1.16 of the policy stipulates the general 'qualifying' requirements for exempt development and states that exempt development:

- a) Must not be carried out on land that is, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977*, or that is subject to an interim heritage order under that Act (clause 1.16(1)(c)); and
- b) Must not be carried out on land that is, or on which there is an item of environmental heritage listed in an environmental planning instrument (clause 1.16(1C).

Likewise, clause 1.17A of the policy stipulates the general 'qualifying' requirements for complying development and states that complying development:

- a) Must not be carried out on land that is, or on which there is, an item that is listed on the State Heritage Register under the *Heritage Act 1977*, or that is subject to an interim heritage order under that Act (clause 1.17A(1)(d)); and
- b) Must not be carried out on land that is, or on which there is an item of environmental heritage listed in an environmental planning instrument (clause 1.17A(4).

### 9.8.2 State Environmental Planning Policy (Precincts – Regional) 2021

*State Environmental Planning Policy (Precincts – Regional) 2021* ('the SEPP') aims to facilitate the development, redevelopment or protection of important urban, coastal and regional sites of economic,

environmental or social significance to the State so as to facilitate the orderly use, development or conservation of those State significant precincts for the benefit of the State.

The SEPP establishes a series of state significant precincts, with land use planning controls and prescriptive and numerical-based development controls that apply to the precinct which will aid in delivering development outcomes that align with the strategic intent of the SEPP.

Chapter 5 of the SEPP relates to the Gosford city centre.

a) *Approvals for works*

Clause 5.36 of the SEPP sets the legislative framework, which relates to heritage conservation and management of heritage items, heritage conservation areas and archaeological sites (both Aboriginal and non-Aboriginal).

The SEPP defines a 'heritage item' as meaning 'a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 9'.

Subsequently, the heritage conservation provisions of clause 5.36 only apply to items or places of heritage significance which are listed on Schedule 9 of the SEPP.

As Burns Place is presently identified as an item of local heritage significance and listed on Schedule 9 of the SEPP, the provisions of clause 5.36 apply.

Clause 5.36(2) specifies circumstances where development consent is required, together with specifying statutory requirements and key considerations for the Consent Authority.

b) *Heritage exemptions*

As set out above, clause 5.36(2) specifies the activities for which development consent is required, whereas clause 5.36(3) specifies the circumstances not requiring development consent.

Specifically, (in accordance with clause 5.36(3)(a)(i) and (ii)) of the SEPP, development consent is not required for works that the Consent Authority is satisfied are of a minor nature or for maintenance that do not adversely affect the heritage significance of the heritage item, area or site.

Development of a **minor nature** or for **maintenance** is:

- i) Development that would be exempt development or development permitted without consent under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) or *State Environmental Planning Policy (Transport and Infrastructure) 2021* (T&I SEPP) except for the heritage affectation of the subject land, or
- ii) Development that exceeds the exempt development standards specified in the Codes SEPP or the T&I SEPP by a small degree and that is assessed by Council officers as not adversely affecting the heritage significance of the heritage place, or
- iii) Other development not specified in the Codes SEPP that is considered by Council officers to be minor with no adverse heritage impact, or
- iv) Maintenance that complies with the definition within the Standard Instrument LEP Dictionary:

***maintenance***, in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care, but 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.

Opportunity exists for certain minor works, predominantly maintenance works, to be undertaken without requiring development consent.

## 9.9 Development Control Plans and Guidelines

### 9.9.1 Gosford City Centre Development Control Plan 2018

Supporting the *State Environmental Planning Policy (Precincts – Regional) 2021*, the *Gosford City Centre Development Control Plan 2018* provides a greater level of detail in relation to the delivery of development outcomes and incorporates a variety of planning objectives and development controls that seek to deliver development outcomes that align with the strategic intent of the land use zoning and management controls as set out in the SEPP.

Part 10 of the *Gosford City Centre DCP 2018*, provides a series of prescriptive development controls that relate to heritage management and conservation.

Any development proposal should have regard to the development controls of Part 10 of the DCP, together with the conservation policies of this CMP.

However, where there are inconsistencies between the prescriptive outcomes or objectives of the development controls of the DCP and the conservation policies of this CMP, the conservation policies of this CMP, which have been developed having regard to the site specific characteristics and heritage values of the site, should take precedence.

### 9.9.2 Heritage Council of NSW – Design in Context

*Design in Context* is a guideline document that was produced by the Heritage Council of NSW in collaboration with the Royal Australian Institute of Architects (RAIA).

The guideline document establishes six criteria for assessing new development to a heritage item, in a heritage conservation area or in the vicinity of a heritage item, and includes; character, scale, form, siting, materials; and detailing.

The guidelines are relevant to minor and major works proposals, such as alterations and additions or new development, to ensure such works are designed in a manner that is contextually responsive and respects the significance and setting of the heritage item or conservation area.

### 9.9.3 Heritage Council of NSW – New Uses for Heritage Places

*New Uses for Heritage Places* is a guideline document that was produced by the Heritage Council of NSW in collaboration with the Royal Australian Institute of Architects (RAIA).

The guideline document establishes principles that encourage and guide careful and sympathetic designs, changes and interpretation in the adaptive reuse of heritage items and places of significance.

## 9.10 Non-statutory heritage considerations

### 9.10.1 ICOMOS (Australia) Burra Charter

ICOMOS (Australia) is a professional body of conservation practitioners, represented by the Australian National Committee of the International Council on Monuments and Sites (ICOMOS).<sup>78</sup>

ICOMOS (Australia) has developed and published a 'Charter for the Conservation of Places of Cultural Significance', generally known as the *Burra Charter*.

The *Burra Charter* sets a standard of practice for those who provide advice, make decisions about, or undertake works to places of cultural significance through establishing principles and methodologies for conservation work in Australia, which are based primarily on an understanding of the heritage values of a place and then appropriate responses to looking after the place in relation to various management issues and requirements.<sup>79</sup>

The status of the *Burra Charter* is *advisory*, rather than *statutory*, however is widely recognised as establishing the basic methodology for conservation work in Australia.

In particular, the *Burra Charter* advocates:

- Adopting a 'cautious approach' to change, whereby doing as much as is necessary to care for a place and make it useable, but otherwise changing it as little as possible so that its cultural significance is retained.
- Respect for all layers of fabric. This requires the in-situ retention of all fabric identified as being of significance.
- Reversibility of unsympathetic or later changes where circumstances permit.
- Sufficiency of evidence to guide change, with decisions based on documentary or physical evidence rather than conjecture.

The conservation principles of the *Burra Charter* should be applied to the site in all future decisions regarding ongoing management and conservation, including new development. In summary, the following procedures are recommended and form the basis for the conservation policies (Section 10):

- All conservation works should involve minimum intervention to the existing fabric (Article 3).
- Changes to a place should not distort the physical or other evidence it provides, or be based on conjecture (Article 3.2).
- Conservation requires the retention of an appropriate visual setting and other relationships that contribute to the cultural significance of the place. New construction, demolition, intrusions or other changes that would adversely affect the setting or relationships are not appropriate (Article 8).
- Significant fabric should be retained in situ unless moving it is the sole means of achieving its survival (Article 9).

<sup>78</sup> Australia ICOMOS website. Available from: [<http://www.icomos.org/australia/>]

<sup>79</sup> Australia ICOMOS, 2013. 'The Burra Charter', 2013.

- Interpretation and management of a place should provide for the participation of people for whom the place has special associations and meanings, or who have a social, spiritual or other cultural responsibilities for the place (Article 12).
- Maintenance is fundamental to conservation and should be undertaken where fabric is of cultural significance and its maintenance is necessary to retain their cultural significance (Article 16).
- Restoration is appropriate only if there is sufficient evidence of an earlier state of the fabric (Article 19).
- New work should be readily identifiable as such (Article 22.2).
- Significant meanings and associations between people and a place should be respected, retained and not obscured. Opportunities for the interpretation, commemoration and celebration of these associations and meanings should be investigated and implemented (Article 24).
- The cultural significance of many places is not readily apparent, and should be explained by interpretation. Interpretation should enhance understanding and enjoyment, and be culturally appropriate (Article 25).
- A log of new evidence and additional decisions should be kept (Article 31).

#### 9.10.2 The National Trust of Australia (NSW)

The National Trust of Australia is a community-based, non-government organisation, committed to promoting and conserving Australia's indigenous, natural and historic heritage through its advocacy work and its custodianship of heritage places and objects<sup>80</sup>.

The National Trust of Australia was formed in 1945 and incorporated by an Act of Parliament in 1960. Although the National Trust has no statutory power, it has a strong influence in heritage conservation matters, particularly with regards to possible threats to structures or places from inappropriate and unsympathetic development or the destruction of items of cultural heritage significance.

Collectively, the National Trust owns or manages over 300 heritage places Australia-wide and there are some 12,000 items listed on the National Trust's Register, including items of local significance.<sup>81</sup>

Burns Place is not currently listed on the National Trust Register, however, as an item of local significance, an opportunity exists for future listing.

#### 9.10.3 National Construction Code and Building Code of Australia

Within NSW, the *Environmental Planning and Assessment Act 1979 (EPA&A 1979)* and *Environmental Planning and Assessment Regulations 2000 (EPA Regulations 2000)* contains the statutory framework applicable to the built form. The EPA&A 1979 provides for the regulation of all new buildings and new building work, requiring compliance with the relevant provisions of the National Construction Code (NCC), which incorporates the Building Code of Australia (BCA).

The purpose of the NCC and BCA is to 'enable the achievement of nationally consistent, minimum necessary standards of relevant, health, safety (including structural safety and safety from fire), amenity and sustainability objectives efficiently'.<sup>82</sup>

<sup>80</sup> National Trust of Australia website, 2012. Available from: [www.nationaltrust.org.au]

<sup>81</sup> National Trust of Australia (NSW), National Trust Register, 2009. Available from: [www.nsw.nationaltrust.org.au/register/default.asp]

<sup>82</sup> The Australian Building Codes Board, 2012. 'The Building Code of Australia'.

The BCA sets out mandatory performance requirements, which must be met through building materials, components, design factors, and construction methods in order for a building to meet the relevant functional standards. The BCA also sets out 'deemed-to-satisfy' provisions that set out the means of achieving compliance with the performance requirements.

The BCA is not generally applicable retrospectively to existing buildings, including buildings that are listed as items of heritage significance or which may have significant heritage fabric or design elements.

This means that there is generally no obligation or requirement for property owners to upgrade an existing building to comply with the current provisions of the BCA, unless the use of the building is changed or new work is undertaken. In this case, the principal requirements for compliance in respect of the change of use of a building relates to the structural adequacy and capacity, and the fire safety of the building, appropriate to the new use.

A Consent Authority has a statutory and therefore mandatory obligation to consider clauses 93 and 94 of the *EPA Regulations 2000* to ensure adequate fire safety in an existing building in which work is to be undertaken or whether a building should be brought into full or partial conformity with the BCA.

The two clauses are summarised as follows:

- i) Clause 93 applies where there is a change of building use with no building work.
- ii) Clause 94 applies where alterations and additions are proposed to an existing building. The Consent Authority must take into consideration whether it would be appropriate to require the existing building or part thereof, to be brought into full or partial compliance with the BCA.

Clause 93 and 94 allow the Consent Authority to apply discretion in the assessment of the adequacy of fire and life safety and other aspects of existing elements to accept a building without alteration or to require some level of upgrading to improve the performance of an existing building either partially or totally in accordance with the BCA provisions<sup>83</sup>.

The discretion and flexibility of the Consent Authority is important for buildings that have heritage significance, as upgrading to achieve compliance with the BCA can impact on the heritage significance of the building.

Furthermore, the BCA is a 'performance-based' document that offers detailed technical provisions as an acceptable method of achieving the required performance in the 'deemed-to-satisfy' provisions. Another compliance method is to develop an Alternative Solution to directly demonstrate compliance with the performance requirements.

Minimising potential impacts on heritage fabric and elements need to be considered along with the BCA requirements as part of any proposal affecting a heritage item or a building having significant heritage attributes.

#### 9.10.4 Disability Discrimination Act 1992

Access to buildings and premises for people with disabilities, as well as being covered by the BCA, is also controlled by the *Disability Discrimination Act 1992 (DDA 1992)*, which is Commonwealth legislation that stipulates that people with a disability should be given equal opportunity to participate in and contribute to social, recreation and cultural activities<sup>84</sup>.

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<sup>83</sup> NSW Heritage Council, 2007. *Changes to Heritage Buildings – Application of Clauses 93 and 94 of the EP&A Regulation*.  
<sup>84</sup> Commonwealth of Australia, 2009. *Disability Discrimination Act 1992*. Available from: [<http://www.comlaw.gov.au>]

The *DDA 1992* makes it illegal to discriminate on the basis of a person's disability. The *DDA 1992* does not apply to private domestic dwellings, but applies to buildings which are expected to be used by the general public.

Heritage buildings are not exempt from meeting the requirements of the *DDA 1992*. Any proposal for changes to the use, alterations and additions, or new development to a heritage place should be informed by, and tested against a thorough understanding of the impact on significance. The preparation of an access action plan assists in preventing or defending a complaint under the *DDA 1992*. The defence of 'unjustifiable hardship' is also available, and the Australian Human Rights Commission has ruled that heritage significance may be taken into account in this regard.

One of the guiding principles of the *Burra Charter*<sup>85</sup> is the cautious approach of changing as much as necessary but as little as possible (Article 3). This approach should guide any works to provide access for people with disabilities.

Burns Place functions as an area of public open space, providing connection between Gosford Railway Station and the adjacent transport interchange on the western side and the commercial precinct of the Gosford city centre on the eastern side.

There are two main forms of connectivity through Burns Place:

- i) At-grade paved footpaths, which provide connectivity from Mann Street and allow the public to travel north-south parallel to Mann Street, together with a single access route in an east-west axis which provides connectivity from Mann Street to Gosford Railway Station. This route includes stairs due to the existing change in topographical levels between the substantive area of the park and the railway station precinct atop.
- ii) The c1985 pedestrian overpass bridge which connects from the railway station precinct at the top of the stairs to the Gateway Building, which is a commercial building on the eastern side of Mann Street.

Further existing pedestrian footpaths provide a gentle gradient that follows the western boundary of Burns Place, providing gentle gradient access from the railway station precinct to Mann Street.

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<sup>85</sup> Australia ICOMOS, 1999. 'The Burra Charter', 1999.