

INDICATIVE – HERITAGE ACT 1977 LISTING OF HABERFIELD INCLUDING ITS EXEMPTIONS

This document is indicative (only).

It is a illustrative technical document which uses extracts from the Heritage Act 1977 and uses similar text and layout for Conservation Areas which have an existing State Heritage Register Listing.

If Haberfield was listed on the State Heritage Listed the purpose of this document is to illustrate how :

- Haberfield could continue to be managed by Council where Development Applications are required for major building alterations as is currently the case in 2021 - see page 7.
- The current Development Control Plan for Haberfield would apply – see page 7.
- Council in conjunction with the Heritage Council could produce a list of work not requiring development approval, similar to the Codes SEPP (exempt development) – see page 8.

Particular parts are shown in underline where they relate specifically to Haberfield.

If the Heritage Council agrees to progress the Haberfield State listing to the next stage, Heritage NSW would have a similar document carefully drafted by their legal team to ensure that it will adequately operate.

INDICATIVE EXTRACTS OF HERITAGE ACT 1977

Explanatory Note.

Has selected parts of Heritage Act 1977 to illustrate key principles affecting Haberfield. Note parts underlined and their particular affect or reference to a Haberfield State Heritage Register Listing.

Part 3A State Heritage Register

31 State Heritage Register to be kept by Heritage Council

- (1) There is to be a register called the State Heritage Register kept by the Heritage Council. The Register is to be kept in such form and manner as the Heritage Council determines.

Information Note. This is the Register as found on the Heritage NSW website.

- (2) Items can only be listed on or removed from the State Heritage Register at the direction of the Minister, as provided by this Part.

32 Minister can direct listing on State Heritage Register

- (1) The Minister may direct the listing on the State Heritage Register of a place, building, work, relic, moveable object or precinct that the Minister considers is of State heritage significance, but only if the Heritage Council has recommended that the item be listed and the Minister has considered the following:

- (a) the recommendation of the Heritage Council that the item should be listed,
 - (b) whether the long-term conservation of the item is necessary,
 - (c) whether the listing would render the item incapable of reasonable or economic use,
 - (d) whether the listing would cause undue financial hardship to the owner, mortgagee or lessee of the item or the land on which the item is situated.
- (2) The Heritage Council may make a recommendation to the Minister that an item be listed on the State Heritage Register at the request of the Minister, on the Heritage Council's own initiative or at the request of the owner of the item concerned or the council of the area in which the item is situated.

Information Note. Inner West Council has resolved to request that Haberfield have a State Listing.

- (3) A listing in respect of an item can be expressed to apply (and if so expressed does apply) to:
- (a) if the item is a building—the curtilage of that building or the site of that building, being the curtilage or site specified or described in the listing, or
 - (b) if the item is a work or a relic that is attached to or forms part of land—the site specified or described in the listing of that work or relic.

57 – Effect of interim heritage orders and listing on State Heritage Register

Effect of interim heritage orders and listing on State Heritage Register

- (1) When an interim heritage order or listing on the State Heritage Register applies to a place, building, work, relic, moveable object, precinct, or land, a person must not do any of the

following things except in pursuance of an approval granted by the approval body under Subdivision 1 of Division 3:

- (a) demolish the building or work,
 - (b) damage or despoil the place, precinct or land, or any part of the place, precinct or land,
 - (c) move, damage or destroy the relic or moveable object,
 - (d) excavate any land for the purpose of exposing or moving the relic,
 - (e) carry out any development in relation to the land on which the building, work or relic is situated, the land that comprises the place, or land within the precinct,
 - (f) alter the building, work, relic or moveable object,
 - (g) display any notice or advertisement on the place, building, work, relic, moveable object or land, or in the precinct,
 - (h) damage or destroy any tree or other vegetation on or remove any tree or other vegetation from the place, precinct or land.
- (1A) In the case of an interim heritage order made by a council, subsection (1) does not apply to:
- (a) State significant development within the meaning of the Environmental Planning and Assessment Act 1979, or
 - (b) development, or demolition of a building or work, carried out by or on behalf of the Crown (with Crown including the persons prescribed for the purposes of Division 4 of Part 4 of the Environmental Planning and Assessment Act 1979 as referred to in section 88 (2) (a) of that Act).
- (1B) Subsection (1) does not apply to anything that is exempted from the operation of this Part by a heritage agreement.
- (1C) Subsection (1) (d) does not apply in the case of a relic to which an interim heritage order made by a council applies.
- (1D) Subsection (1) does not apply to anything that is exempted from the operation of this Part by a conservation management plan (within the meaning of section 38A) endorsed by the Heritage Council.
- (2) The Minister, on the recommendation of the Heritage Council, may, by order published in the Gazette, grant an exemption from subsection (1) or such of the provisions of that subsection as are specified in the order in respect of the engaging in or carrying out of such activity or class of activities by such person or class of persons in such circumstances as may be so specified. The Minister's power under this subsection extends to apply in respect of interim heritage orders made by councils.
- Information Note. This clause enables the Minister to provide a list of exemptions indicating what Development Approvals can continue to be determined by Council.**
- (3) A council may, by order published in the Gazette, grant an exemption from subsection (1) or such of the provisions of that subsection as are specified in the order in respect of the engaging in or carrying out of such activity or class of activities by such person or class of persons in such circumstances as may be so specified. Such an exemption has effect only in respect of an interim heritage order made by the council concerned.

INDICATIVE ONLY – SCHEDULE FOR HABERFIELD

Information Note. This uses a similar format to the Braidwood Conservation Area (Southern Tablelands NSW) and Millers Point (City of Sydney) which are State Listing .

HABERFIELD

Name of Item

Type of Item: Conservation Area

Group/Collection Urban Area

Category Townscape

Location

Primary address Haberfield, Sydney, NSW

Local gov. area Inner West Council

Local Aboriginal

Land Council

Property description

Lot/Volume Code	Lot/Volume Number	Section Number	Plan/Folio Code	Plan/Folio Number

All addresses

Street Address	Suburb/town	LGA	Parish	County	Type
	Haberfield	Inner West		Cumberland	Primary Addrss

Statement of Significance

Explanatory Note: Heritage NSW will provide these details, using updated information supplied by Council including from Council's Heritage Consultant. Refer to the 1988 Haberfield Study - Robert Moore and Associates for the Statement of Significance as stated at that time, which will be updated by Council's Heritage Consultant.

To be advised.	To be advised.
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Description

Designer/Maker Richard Stanton and Architect

Construction Years

Physical Description The Garden Suburb of Haberfield.

History

Explanatory Note: Heritage NSW will provide these details, as supplied from Council including from Council's Heritage Consultant.

To be advised.	To be advised.
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Study details

Title	Year	Number	Author	Inspected by	Guideline used
Haberfield Conservation Study 1988 and update Haberfield at 2021.	1988		Robert Moore and Associates		

Explanatory Note: For 2021 Heritage NSW will provide these details, as supplied from Council including from Council's Heritage Consultant.

References, internet links and images

Title	Author	Year	Title	Inspected by
To be advised.				

Historic Themes

Explanatory Note: Heritage NSW will provide these details, using Council's Heritage Consultant document.

Australian Theme	New South Wales Theme	Local Theme
Such as	Such as:	Changing the Environment

Environment- Tracing the evolution of a continent's special man made environments	Environment – Activities associated with the physical surroundings that support human life and influence or shape human cultures	
Settlements – Building settlements, towns, cities		

Assessment of significance

Explanatory Note: Heritage NSW will provide these details, using Council's Heritage Consultant document.

State Heritage Criteria

Explanatory Note: Heritage NSW will provide the details, using Council's Heritage Consultant document.

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Recommendations

Explanatory Note: Heritage NSW will provide these details.

Management Category		
<u>To be managed in accordance with the Inner West Council Haberfield Development Control Plan.</u>		

Procedures/ Exemptions

Section of Act			
21(1)(b)	Conservation Plan submitted for endorsement		
57(2)	Exemption to allow work	Heritage Act Site Specific Exemptions	Notice that appeared in Government Gazette on XXXXXX (date to be determined). SCHEDULE C

			<p><u>1 Exemptions relating to the Haberfield Conservation Area whose location defined by the Ashfield LEP Heritage Map and Map.</u></p> <p>Exemptions are granted from the need to obtain approval under Part 4 Division 3 of the Heritage Act for all development except the following :</p> <p>Information Note: This part enables all development application types to be determined by Council, as currently is the case, except for the following:</p> <p>(a) <u>Demolition of heritage items listed in Ashfield LEP 2013 applying to the Haberfield Conservation Area ;</u></p> <p>(b) <u>Development that does not comply with the Inner West Development Control Plan 2016 and the following sections:</u></p> <p><u>Part E2 – Haberfield Conservation Area.</u></p> <p>Information Note. The current Inner West Comprehensive DCP 2016 applies. Council will be able to approve work which complies with this DCP.</p> <p>(c) <u>Any other application referred to the Heritage Council by Inner West Council.</u></p> <p>Information note. This would be at the discretion of Council.</p> <p>2 Exemptions relating to specific development approvals.</p> <p>Information Note: Clause 2(a) affects existing Development Application approvals and states they will not be affected by any State listing of the Haberfield Conservation Area. Notwithstanding the provisions of Exemption 1: specific exemptions are granted for the need to obtain approval under Part 4 Division 3 of the Heritage Act for the following development:</p> <p>a) <u>All work and activities in accordance with current development application</u></p>
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			<p><u>approvals from Inner West Council in force at the time of gazettal of the listing of Haberfield Conservation Area other than those identified in Exemption (2b)</u></p> <p>3 Standard exemptions for other Works Requiring Heritage Council Approval</p> <p>Where development is not exempted by Exemption 1 or 2 above then the provisions of the <u>Inner West Council Exemptions for Works Requiring Heritage Council approval</u> shall apply.</p> <p>Information Note.</p> <p>Clause 3 enables having a document which sets out which minor work does not require development consent/ approval from Inner West Council. The document library contains “Indicative Examples Minor Work for Haberfield” to illustrate how this would work. It is modelled after the Heritage NSW Standard Exemptions form but tailored for Haberfield. Similar documents exist for Heritage Conservation Areas which are State Heritage Listed.</p>
657 (2)	Exemption to allow work6	Heritage Act – Site Specific Exemptions	<p>On XXX 2021 (date to be advised) exemptions were gazetted in the New South Wales Government Gazette no X that affects the State Heritage listed <u>area of the Haberfield Conservation Area</u>.</p> <p>SCHEDULE ‘A’</p> <p>All those pieces or parcels of land in the <u>Parish of Haberfield to be within the State Heritage Register curtilage on the plan catalogued Haberfield Conservation Area in the Office of the Heritage Council of New South Wales</u>.</p> <p>Explanatory Note.</p> <p>There will be a map showing the boundaries and extent of Haberfield, this will have the same area as that shown on the Ashfield LEP 2013 Heritage Map.</p>

			<p>SCHEDULE “B”</p> <p>EXEMPTIONS TO SUBSECTION 57 (1) The following development does not require approval under Section 57(1) of the Heritage Act.</p> <p>1 Integrated development.</p> <p>2 Integrated development for which the consent has been modified by the consent authority pursuant to Section 96.</p>
57(2)	Exemption to allow work	Standard Exemptions	<p>SCHEDULE OF STANDARD EXEMPTIONS</p> <p>HERITAGE ACT 1977</p> <p>Notice of Order Under Section 57(2) of the Heritage Act 1977.</p> <p>I, the Minister, pursuant to subsection 57(2) of the Heritage Act 1977, on the recommendation of the Heritage Council of New South Wales, do by this Order :</p> <ol style="list-style-type: none"> 1. Revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57 (2) and published in the Government Gazette XX on XX Month and Year, and : 2. Grant standard exemptions from subsection 57(1) of the Heritage Act 1977, described in the Schedule <u>attached</u>. <p>Signed XXXXXXXXXXXX Minister for Department.</p> <p>Information Note.</p> <p>The Schedule referred to as being <u>attached</u> in subclause 2 above, will be the Haberfield “Exemptions” schedule listing minor work which does not require Council development consent.</p>

Haberfield Location map

Information Note.

Clause 57(2) -(page 8)- refers to a map defining the Haberfield Conservation area. This will have the same area as that shown on the Ashfield LEP 2013 Heritage Map- see Figure 1 below.

Figure 1 – Haberfield Conservation Area north of Parramatta Road within red boundary

