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Notice of listing Ithaca Gardens on the SHR No.02107 under the *Heritage Act 1977*

In pursuance of section 37(1)(b) of the *Heritage Act 1977 (NSW)*, the Heritage Council gives notice that the item of environmental heritage specified in Schedule “A” has been listed on the State Heritage Register in accordance with the decision of the Minister for Heritage made on 19 June 2025 to direct the listing. This listing applies to the curtilage or site of the item, being the land described in Schedule B.

The listing takes effect on the date this notice is published in the NSW Government Gazette.

Heritage Council of New South Wales

SCHEDULE A

The item known as the Ithaca Gardens, Elizabeth Bay, situated on the land described in Schedule “B”.

SCHEDULE B

All those pieces or parcels of land known as Lot 1-40 Strata Plan 5704, in Parish of Alexandria, County of Cumberland, shown on the plan catalogued HC 3333 in the office of the Heritage Council of New South Wales.

Exemption Order for Ithaca Gardens listing on the SHR No. 02107 under the *Heritage Act 1977*

I, Penny Sharpe, the Minister for Heritage, on the recommendation of the State Heritage Register Committee as delegate of Heritage Council of New South Wales dated 4 February 2025, make the following order under section 57(2) of the *Heritage Act 1977* (the Act) granting an exemption from section 57(1) of the Act in respect of the engaging in or carrying out of any activities described in Schedule C by the owner, manager, mortgagee or lessee (or persons authorised by the owner or manager) of the item described in Schedule A on the land identified in Schedule B.

This Order takes effect on the date it is published in the NSW Government Gazette.

Dated this 19 day of June 2025.

The Hon Penny Sharpe MLC

Minister for Heritage

SCHEDULE A

The item known as Ithaca Gardens SHR No. 02107, situated on the land described in Schedule B.

SCHEDULE B

The item known as Ithaca Gardens SHR No. 02107, located as identified on the plan catalogued HC Plan 3333 in the office of the Heritage Council of New South Wales.

SCHEDULE C

The following specified activities/ works to an item do not require approval under section 57(1) of the Act.

GENERAL CONDITIONS

These general conditions apply to the use of all the site specific exemptions and must be complied with:

- a) If a conservation management plan (CMP) is prepared for the item, it must meet the following conditions:
 - i. It must be prepared by a suitably qualified and experienced heritage professional.
 - ii. It must be prepared in accordance with the requirements for a detailed and best practice CMP as outlined in the Heritage Council of NSW document *Statement of best practice for conservation management plans* (2021) or any subsequent document prepared to replace or supplement this document.
 - iii. It must be consistent with the *Heritage Council of NSW documents: Guidance on developing a conservation management plan* (2021) and *Conservation Management Plan checklist* (2021) or any subsequent document prepared to replace or supplement this document.
- b) Anything done under the site specific exemptions must be carried out by people with knowledge, skills and experience appropriate to the work (some site specific exemptions require suitably qualified and experienced professional advice/ work).
- c) The site specific exemptions do not permit the removal of relics or Aboriginal objects. If relics are discovered, work must cease in the affected area and the Heritage Council of NSW must be notified in writing in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, assessment and an excavation permit may be required prior to the recommencement of work in the affected area. If any Aboriginal objects are discovered, excavation or disturbance is to cease, and Heritage NSW notified in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Aboriginal object has the same meaning as in the *National Parks and Wildlife Act 1974*.
- d) Activities/ works that do not fit within the exemptions described in this document or the 'standard exemptions' for items listed on the State Heritage Register made under section 57(1) of the *Heritage Act 1977*, and published in the *NSW Government Gazette* would require an application under section 60 and approval under Section 63 of the *Heritage Act 1977*.
- e) The site specific exemptions are self-assessed. It is the responsibility of a proponent to ensure that the proposed activities/works fall within the site specific exemptions.

- f) The proponent is responsible for ensuring that any activities/ works undertaken by them, or with their landowners consent, meet all the required conditions and have all necessary approvals.
- g) Proponents must keep records of any activities/ works for auditing and compliance purposes by the Heritage Council of NSW. Where advice of a suitably qualified and experienced professional has been sought, a record of that advice must be kept. Records must be kept in a current readable electronic file or hard copy for a reasonable time.
- h) It is an offence to do any of the things listed in section 57(1) of the *Heritage Act 1977* without a valid exemption or approval.
- i) Authorised persons under the *Heritage Act 1977* may carry out inspections for compliance.
- j) The site specific exemptions under the *Heritage Act 1977* are not authorisations, approvals, or exemptions for the activities/ works under any other legislation, Local Government and State Government requirements (including, but not limited to, the *Environmental Planning and Assessment Act 1979* and the *National Parks and Wildlife Act 1974*), or construction codes such as the National Construction Code.
- k) The site specific exemptions under the *Heritage Act 1977* do not constitute satisfaction of the relevant provisions of the National Construction Code for ancillary works. Activities or work undertaken pursuant to a site specific exemption must not, if it relates to an existing building, cause the building to contravene the *National Construction Code*.
- l) In these exemptions, words have the same meaning as in the *Heritage Act 1977* or the relevant guidelines, unless otherwise indicated. Where there is an inconsistency between relevant guidelines and these exemptions, these exemptions prevail to the extent of the inconsistency. Where there is an inconsistency between either relevant guidelines or these exemptions and the *Heritage Act 1977*, the Act will prevail.
- m) Where relevant *The Heritage Manual* (1996, Heritage Office and Department of Urban Affairs and Planning) and *The Maintenance Series* (1996 republished 2004, NSW Heritage Office and Department of Urban Affairs & Planning) guidelines must be complied with then undertaking any activities/works on an item.
- n) Where reference is made to the strata by-laws, this refers explicitly to the by-laws as registered on 19 December 2020.
- o) a) Note that these exemptions provide exemption from the requirement for approval under Section 60 of the Heritage Act only. They do not exempt from other approvals which may be required from the Strata Committee or City of Sydney Council, or under any other legislation.

EXEMPTION 1: APPROVED WORKS

Specified activities/works:

- (a) All works relating to an existing Development Application approval issued by the City of Sydney Council for the property prior to State Heritage Register listing.

EXEMPTION 2: WORKS TO APARTMENTS 0101 TO 0904 INCLUSIVE AND 1002 TO 1004 INCLUSIVE

Specified activities/works:

- (a) All interior works or activities including alteration to the layout of individual apartments, which do not alter the general layout or external appearance of the building, and which do not alter the pattern of the balconies or enclose the balcony areas.

- (b) The installation of locking or other safety device, screen, or other device for safety or security, which is installed in a competent and proper manner, and which is in keeping with the appearance of the rest of the building.
- (c) The installation of a vertical awning blind to the common property adjoining each apartment, in accordance with the strata by-laws, including that the awning be retractable and dark navy blue in colour.
- (d) The modification of existing window and half wall below to install full length window or door in the wall dividing the main bedroom from the balcony of each apartment, in accordance with the strata by-laws, specifying that new installations include a natural anodised aluminium frame and clear glass door or windows in 3 equal panels.

EXEMPTION 3: MAINTENANCE AND REPAIR

Specified activities/works:

- (a) Conservation works and activities to the building, exterior and interior, that do not impact the heritage significance of the place, and that are undertaken under the supervision of a heritage materials specialist.
- (b) Re-painting of exterior and interior common space with like-for-like colour scheme.
- (c) Works and activities associated with the ongoing surfacing and maintenance of existing elements limited to: roadways, carpark, verges, drainage, pedestrian pathways, and steps.
- (d) Maintenance, repair or upgrade activities to the lifts which do not result in expansion of the lift shaft.
- (e) Replacement of broken balustrade glass to balconies with Georgian wired glass where possible, or alternatively clear glass panels of the same dimensions.

EXEMPTION 4: SERVICES

Specified activities/works:

- (a) Works and activities associated with the maintenance, repair, and renewal of services and public utilities including communications, water, gas, and electricity where it is demonstrated that they use existing conduits and fixings where possible.
- (b) Installation of new services where this will not have an impact on the visual appearance of the building or exceed the existing building parapet.
- (c) Works and activities associated with the maintenance, repair, or upgrade of mechanical plant where this does not increase the existing scale or exceed the height of existing plant.

EXEMPTION 5: CARPARK

Specified activities/works:

- (a) The installation of bike racks within carparking area.
- (b) The installation of electric vehicle charging facilities within carparking area.
- (c) The installation of safety mirrors at the entrance gates to the carpark.
- (d) Replacement, in part or full, of perimeter fencing, in keeping with the design tradition of the building.

EXEMPTION 6: ROOF SPACE

Specified activities/works:

- (a) Removal of the existing washing lines and installation of a new washing lines on the roof area, where they are not visible from the street.
- (b) Installation of shelves on the roof parapet balustrade, provided this is reversible and entirely concealed behind the parapet.

- (c) Installation of Helioscreen Rubix retractable awnings, fixed to the edge of the building, for shading the rooftop entertaining area. Note that these must be in a muted colour and in accordance with the plans provided by the Seidler & Associates office, including the use of reversible fixings where possible

EXEMPTION 7: EXCAVATION

Specified activities/works:

- (a) Excavation which does not undermine the building or result in potential structural damage to the building or its exterior, including but not limited to excavation for service installation, tree plantings, signage and archaeological or geotechnical exploration, in accordance with the general conditions.

EXEMPTION 8: RENEWABLE ENERGY

Specified activities/works:

- (a) Installation and maintenance (including replacement and upgrade) of renewable energy infrastructure on the roof of a building provided that it follows best practice guidelines, including the Sustainable Heritage Buildings Guide (Heritage NSW, 2024).