

**ATTACHMENT B**

**LETTER ADVISING THE MINISTER FOR  
HERITAGE HAS AUTHORISED COUNCIL  
TO MAKE INTERIM HERITAGE ORDERS  
UNDER SECTION 25 OF THE HERITAGE  
ACT 1977**





Our reference: DOC13/18641

15 July 2013

Ms Monica Barone  
General Manager  
City Of Sydney  
GPO Box 1591  
SYDNEY NSW 2001



Dear Ms Barone

I am writing to advise that the Minister for Heritage, the Hon Robyn Parker MP, has authorised all local councils in NSW to make Interim Heritage Orders (IHOs) under the *NSW Heritage Act 1977*.

This initiative is consistent with the Government's commitment to devolve decision making to the appropriate level and allows for local decision-making by council on local heritage issues. As you may be aware, consultation occurred with councils and other key heritage stakeholder groups prior to the authorisation being approved.

***What does an IHO do?***

An IHO is a temporary heritage order (made for up to one year) which provides time to assess the heritage significance, or values, of a potential heritage item. The definition of a potential heritage item is one not currently listed on a statutory Local Environmental Plan (LEP) heritage schedule or the State Heritage Register. IHOs provide time for studies and inspections to take place, so that a decision on whether a place should be formally considered for local or State heritage listing can be taken. An IHO should be made over a potential heritage item only where the heritage item is being or is likely to be harmed, they are not to be used as a tool to block development.

***Why is this authorisation needed?***

Most of the State's heritage items, places and objects are protected at the local government level by listing on LEPs. There are currently 26,000 heritage items listed in this way across NSW. While this figure sounds large, it equates to an average of only 160 heritage items per local government area. This is a relatively small number, taking into account the size of the State's property and asset base, with less than one per cent of the State's properties listed as heritage items. This also indicates there are likely to be additional places of heritage significance in local communities that warrant consideration for heritage protection.

***What happens after an IHO is made?***

During the period of an IHO, councils are required to assess the significance of the item and determine if it warrants statutory listing. While an IHO can be in place for up to a year, they lapse after six months if a council does not resolve to add the item to its LEP. Importantly, an IHO does not stop a development from proceeding. Because council is the approval body under the Heritage Act for changes to an item during the period of an IHO, council can approve all or parts of a development to continue but cannot authorise demolition. When an IHO is in place, section 60 applications are not referred to the Heritage Council for its consideration.

# ATTACHMENT B

In addition to supporting local heritage decisions being made at the local level by council, the NSW Government recognises that statutory heritage listing is not an end in itself. Consequently, owners, business, councils and the community should work together to find viable adaptive reuse options for our heritage places to retain their vitality and contribution to the community's sense of place. Heritage places play a significant role in setting a locality's identity and should be seen as a way to enliven local communities and provide economic and tourism benefits where appropriate. The granting of the authority to issue IHOs provides councils with the ability to safeguard community heritage assets, while informed decisions on their long-term futures are made.

To help ensure Council staff are acquainted with the IHO authorisation and conditions, please find enclosed, the authorisation notice from the NSW Government Gazette; and Question and Answer sheet summarising the IHO provisions. For any assistance in the use of the authorisation powers, please contact the Heritage Division of the Office of Environment and Heritage on (02) 9873 8500.

Yours sincerely



**TERRY BAILEY**  
**Deputy Chief Executive**  
**Regional Operations**

Enclosures: Ministerial Order and Schedules published in NSW Government Gazette  
Making Interim Heritage Orders—Questions and Answers



### Questions & Answers

#### **What is an Interim Heritage Order?**

An Interim Heritage Order (IHO) is a temporary heritage order made to protect a potential heritage item while a heritage assessment is carried out.

#### **What is Council required to do when an IHO is in place?**

Council is required to make a decision about whether to take further action such as listing as a heritage item on an Local Environmental Plan (LEP). This decision must be based on the heritage assessment prepared by a person with appropriate heritage knowledge, skills and experience who is employed or retained by Council.

#### **When should IHOs be considered**

Only where the site has potential heritage value following a preliminary assessment by a heritage expert, and where:

- the site is likely to be of local heritage significance, or of State significance;
- the site is likely to be harmed or destroyed; and
- where an existing heritage LEP exists.

The IHO must be confined to the item under threat.

#### **Does an IHO freeze a property?**

No, Council becomes an approval body for the life of an IHO under the NSW *Heritage Act 1977*. Council is not permitted to approve demolition of an item within the life of the order.

#### **How long does an IHO last for?**

Six months unless Council resolves to add the item to its LEP schedule, then 12 months applies. Council can revoke an IHO at any time.

#### **Is compensation payable to the owner if an IHO is made?**

No.

# ATTACHMENT B

## **When should an IHO not be made?**

An IHO cannot be made in the following circumstances:

- Where there are no significant heritage values.
- Where the site is already listed as a heritage item or in a Heritage Conservation Area.
- The item is subject to an emergency order (s.136) under the Heritage Act.
- Where there has been a previous IHO over the site.
- Where a Development Application consent has already been issued which permits harm to the item.
- Where a complying development certificate has been issued for the demolition of a house **and** the erection of a single or two storey house.

## **Can an IHO be made over Crown land, activities or approvals?**

No, an IHO cannot be made over:

- Crown Land;
- land subject to Crown development (or on its behalf);
- land where the consent authority is the Minister for Planning and Infrastructure (e.g. SSD and SSI); or
- land where there is an existing licence or similar issued by the Crown or a Minister which permits the item to be harmed.

## **What about a proposed IHO for Aboriginal heritage?**

A proposed IHO over an Aboriginal place, site or object must first be referred to the Office of Environment & Heritage for expert assessment.

#### 4. Further action under the Act

The making of this declaration does not prevent the carrying out of voluntary management of the site and any person may submit a voluntary management proposal for the site to the EPA.

#### 5. Submissions invited

The public may make written submissions to the EPA on:

- Whether the EPA should issue a management order in relation to the site; or
- Any other matter concerning the site.

Submissions should be made in writing to:

Manager, Contaminated Sites,  
Environment Protection Authority,  
PO Box A290,  
Sydney South NSW 1232,

or faxed to (02) 9995 5930,

by not later than 4 weeks from the date of this letter.

Dated: 9 July 2013.

NIALL JOHNSTON,  
Manager,  
Contaminated Sites,  
Environment Protection Authority

#### Note:

##### Management order may follow

If management of the site or part of the site is required, the EPA may issue a management order under s.14 of the Act.

##### Amendment/Repeal

This declaration may be amended or repealed. It remains in force until it is otherwise amended or repealed. The subsequent declaration must state the reasons for the amendment or repeal (s.44 of the Act).

##### Information recorded by the EPA

Section 58 of the Act requires the EPA to maintain a public record. A copy of this significantly contaminated land declaration will be included in the public record.

##### Information recorded by councils

Section 59 of the Act requires the EPA to give a copy of this declaration to the relevant local council. The council is then required to note on its planning certificate issued pursuant to s149 (2) of the Environmental Planning and Assessment Act 1979 that the land is declared significantly contaminated land. The EPA is required to notify council as soon as practicable when the declaration is no longer in force and the notation on the s149 (2) certificate is no longer required.

##### Relationship to other regulatory instrument

This declaration does not affect the provisions of any relevant environmental planning instruments which apply to the land or provisions of any other environmental protection legislation administered by the EPA.

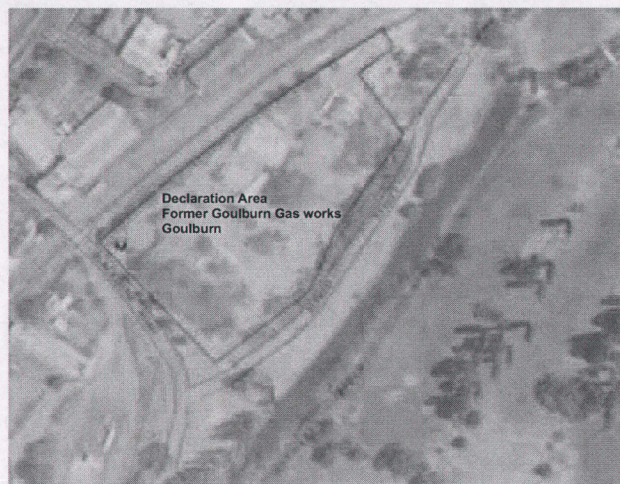


Figure 1. Land to which this declaration applies, 1 Blackshaw Road, Goulburn NSW

Map Source: NSW Land and Property Website, <http://maps.six.nsw.gov.au/>; 4 March 2013

### HERITAGE ACT 1977

#### Ministerial Order

Authorisation for Local Councils to make Interim Heritage Orders

Section 25 of the Heritage Act 1977

Section 43 Interpretation Act 1987

I, ROBYN PARKER M.P., Minister for Heritage, do by this order:

1. **revoke** the order made under section 25 of the Heritage Act 1977 and published in the *New South Wales Government Gazette* dated 1st February 2002, at pages 708 to 710.
2. **authorise** the local councils identified in Schedule 1 to make Interim Heritage Orders for items in the local council's area in accordance with section 25 of the Heritage Act 1977 and subject to the conditions listed in Schedule 2.

Dated: 22 April 2013.

ROBYN PARKER, M.P.,  
Minister for Heritage

#### SCHEDULE 1

Local Councils Authorised to make Interim Heritage Orders under Section 25 of the Heritage Act 1977

Albury City Council  
Armidale Dumaresq Council  
Ashfield Council  
Auburn City Council  
Ballina Shire Council  
Balranald Shire Council  
Bankstown City Council  
Bathurst Regional Council  
Bega Valley Shire Council  
Bellingen Shire Council  
Berrigan Shire Council  
Blacktown City Council

Bland Shire Council  
 Blayney Shire Council  
 Blue Mountains City Council  
 Bogan Shire Council  
 Bombala Council  
 Boorowa Council  
 The Council of the City of Botany Bay  
 Bourke Shire Council  
 Brewarrina Shire Council  
 Broken Hill City Council  
 Burwood Council  
 Byron Shire Council  
 Cabonne Council  
 Camden Council  
 Campbelltown City Council  
 City of Canada Bay Council  
 Canterbury City Council  
 Carrathool Shire Council  
 Central Darling Shire Council  
 Cessnock City Council  
 Clarence Valley Council  
 Cobar Shire Council  
 Coffs Harbour City Council  
 Conargo Shire Council  
 Coolamon Shire Council  
 Cooma-Monaro Shire Council  
 Coonamble Shire Council  
 Cootamundra Shire Council  
 Corowa Shire Council  
 Cowra Shire Council  
 Deniliquin Council  
 Dubbo City Council  
 Dungog Shire Council  
 Eurobodalla Shire Council  
 Fairfield City Council  
 Forbes Shire Council  
 Gilgandra Shire Council  
 Glen Innes Severn Council  
 Gloucester Shire Council  
 Gosford City Council  
 Goulburn Mulwaree Council  
 Great Lakes Council  
 Greater Hume Shire Council  
 Greater Taree City Council  
 Griffith City Council  
 Gundagai Shire Council  
 Gunnedah Shire Council  
 Guyra Shire Council  
 Gwydir Shire Council  
 Harden Shire Council  
 Hawkesbury City Council  
 Hay Shire Council  
 The Hills Shire Council  
 Holroyd City Council  
 The Council of the Shire of Hornsby  
 The Council of the Municipality of Hunters Hill  
 Hurstville City Council  
 Inverell Shire Council  
 Jerilderie Shire Council  
 Junee Shire Council  
 Kempsey Shire Council  
 The Council of the Municipality of Kiama  
 Kogarah City Council  
 Ku-ring-gai Council  
 Kyogle Council  
 Lachlan Shire Council  
 Lake Macquarie City Council  
 Lane Cove Municipal Council  
 Leeton Shire Council  
 Leichhardt Municipal Council  
 Lismore City Council  
 City of Lithgow Council  
 Liverpool City Council  
 Liverpool Plains Shire Council  
 Lockhart Shire Council  
 Maitland City Council  
 Manly Council  
 Marrickville Council  
 Mid-Western Regional Council  
 Moree Plains Shire Council  
 Mosman Municipal Council  
 Murray Shire Council  
 Murrumbidgee Shire Council  
 Muswellbrook Shire Council  
 Nambucca Shire Council  
 Narrabri Shire Council  
 Narrandera Shire Council  
 Narromine Shire Council  
 Newcastle City Council  
 North Sydney Council  
 Oberon Council  
 Orange City Council  
 Palerang Council  
 Parkes Shire Council  
 Parramatta City Council  
 Penrith City Council  
 Pittwater Council  
 Port Macquarie-Hastings Council  
 Port Stephens Council  
 Queanbeyan City Council  
 Randwick City Council  
 Richmond Valley Council  
 Rockdale City Council  
 Ryde City Council  
 Shellharbour City Council  
 Shoalhaven City Council  
 Singleton Council  
 Snowy River Shire Council  
 Strathfield Municipal Council  
 Sutherland Shire Council  
 Council of the City of Sydney  
 Tamworth Regional Council  
 Temora Shire Council  
 Tenterfield Shire Council  
 Tumbarumba Shire Council  
 Tumut Shire Council  
 Tweed Shire Council  
 Upper Hunter Shire Council



Upper Lachlan Shire Council  
 Uralla Shire Council  
 Urana Shire Council  
 Wagga Wagga City Council  
 The Council of the Shire of Wakool  
 Walcha Council  
 Walgett Shire Council  
 Warren Shire Council  
 Warringham Council  
 Warrumbungle Shire Council  
 Waverley Council  
 Weddin Shire Council  
 Wellington Council  
 Wentworth Shire Council  
 Willoughby City Council  
 Wingecarribee Shire Council  
 Wollondilly Shire Council  
 Wollongong City Council  
 Woollahra Municipal Council  
 Wyong Shire Council  
 Yass Valley Council  
 Young Shire Council

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SCHEDULE 2

Conditions for Local Councils to make Interim Heritage Orders

- (1) A council must not make an Interim Heritage Order (IHO) unless:
- (a) an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management of those items is in force in the Local Government Area; and
  - (b) it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the council and considers that:
    - (i) the item is or is likely to be found, on further inquiry and investigation, to be of local heritage significance;
    - (ii) the item is being or is likely to be harmed;
    - (iii) the IHO is confined to the item determined as being under threat; and
  - (c) where the IHO is made over land which includes an item which is likely to be found, on further inquiry and investigation, to be of significance to Aboriginal people, a council must refer the proposal to make an IHO to the Office of Environment and Heritage for assessment regarding significance and community consultation, before the IHO is made. Council must comply with the recommendations of the Office of Environment and Heritage made in its assessment prepared pursuant to the referral.
- (2) A council must not make an IHO where:
- (a) the item is listed on:
    - (i) an environmental planning instrument as an item of environmental heritage;
    - (ii) the item is within a heritage conservation area identified in an environmental planning instrument; or
  - (b) the item is covered by:
    - (i) an order under s.136 of the Heritage Act, 1977; or
  - (c) the council has previously placed an interim heritage order on the item; or
  - (d) a development consent (other than a complying development certificate), has been granted in relation to the item that permits the item to be harmed, and the development consent is still in force; or
  - (e) a complying development certificate has been granted for the demolition of an existing dwelling and the erection of a new single storey or two storey dwelling house, and the complying development certificate is still in force.
- (3) A council must not make an IHO in relation to item(s) that are located on land:
- (a) that is Crown land; or
  - (b) which is being developed by or on behalf of the Crown; or
  - (c) which is subject to a development for which the Minister for Planning and Infrastructure is the consent authority or approval authority under the Environmental Planning & Assessment Act 1979.
- For the purposes of this clause, "the Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. "Crown" is also taken to have the same meaning as specified in section 57(1A)(b) of the Heritage Act, 1977.
- (4) A council must not make an IHO in respect of an item (which includes a building, work, relic, or place) that is subject to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Crown, an officer or employee of the Crown or a Minister.
- For the purposes of this clause, "the Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. "Crown" is also taken to have the same meaning as specified in section 57(1A)(b) of the Heritage Act, 1977. This clause does not apply to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the council.
- (5) An IHO made by a council must contain the following condition:
- "This Interim Heritage Order will lapse after six months from the date it is made unless the local council has passed a resolution before that date; and
- (i) in the case of an item which, in the council's opinion, is of local significance, the resolution seeks to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; or
  - (ii) in the case of an item which in the Council's opinion, is of State heritage significance, the resolution requests the Heritage Council to make a recommendation to the Minister for Heritage under section 32(2) of the Heritage Act to include the item on the State Heritage Register."

- (6) A council must publish annually in its State of Environment Report or Annual Report a summary of all decisions regarding IHOs for that year and provide a copy to the Office of Environment and Heritage.

Note: A council will be responsible for defending proceedings in any Court relating to its decisions made under this authorisation (including the bearing of all costs).

#### NATIONAL PARKS AND WILDLIFE ACT 1974

Draft Amendments to the Plans of Management for  
Garigal National Park,  
Ku-Ring-Gai Chase National Park and Lion Island,  
Long Island and Spectacle Island Nature Reserves,  
Marramarra National Park, Muogamarra Nature Reserve  
and Maroota Historic Site

THE Public Exhibition Period for the draft amendments to the above plans has been extended until Friday, 19 July 2013.

These amendments can be viewed on [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) (use the 'quicklinks' to 'park management plans') and at other locations as notified in the *New South Wales Government Gazette* of 31 May 2013.

They are also available free of charge from the Bobbin Inn Visitor Centre, Ku-ring-gai Chase National Park, Bobbin Head Road, Mount Colah (ph 9472 8949) and the OEH Information Centre, Level 14, 59-61 Goulburn Street, Sydney.

Written submissions on the draft plan should be forwarded by 19 July 2013, to 'The Planner', Metropolitan North East Region, NPWS, PO Box 3031, Asquith NSW 2077, by email to [mne.planning@environment.nsw.gov.au](mailto:mne.planning@environment.nsw.gov.au) or they can be submitted on-line at [www.environment.nsw.gov.au/consult](http://www.environment.nsw.gov.au/consult).

All submissions received by NPWS are a matter of public record and are available for public inspection upon request. Your comments on these documents may contain information that is defined as 'personal information' under the NSW Privacy and Personal Information Protection Act 1998. The submission of personal information with your comments is voluntary.

#### PESTICIDES ACT 1999

Notice under Section 48 (4)

NOTICE is hereby given, pursuant to section 48(4) of the Pesticides Act 1999, that I have granted a Pilot (Pesticide Rating) Licence, particulars of which are stated in the Schedule.

SEAN NUNAN,  
Team Leader,  
Chemicals and Radiation Licensing,  
Hazardous Materials, Chemicals and Radiation Section,  
Environment Protection Authority  
(by delegation)

#### SCHEDULE

Pilot (Pesticide Rating) Licence

Name and Address  
of Licensee

Nicholas MASON,  
PO Box SM232,  
Mildura South VIC 3501.

Date of Granting  
of Licence

5 July 2013.

#### POISONS AND THERAPEUTIC GOODS ACT 1966

Order under Clause 175(1),  
Poisons and Therapeutic Goods Regulation 2008

Withdrawal of Drug Authority

IN accordance with the provisions of Clause 175(1) of the Poisons and Therapeutic Goods Regulation 2008, an Order has been made on Dr Nandini POLEPALLI, DEN0001677187, of Suite 1, 9 Station Street, Fairfield NSW 2165, prohibiting her until further notice, as a dental practitioner from supplying or having possession of drugs of addiction as authorised by Clause 101 of the Regulation and issuing a prescription for a drug of addiction as authorised by Clause 77 of the Regulation.

This Order is to take effect on and from 7 June 2013.

Dr MARY FOLEY,  
Director-General

Ministry of Health, New South Wales.  
3 June 2013.

#### SUBORDINATE LEGISLATION ACT 1989

Erratum

IN *New South Wales Government Gazette* No. 87, dated 5 July 2013, at Folio 3392, the text of the notice relating to the Subordinate Legislation Act 1989, omitted the word 'Tribunal' in referring to the proposed Dust Diseases Tribunal Regulation 2013 and the Dust Diseases Tribunal Regulation 2007. The gazettal date remains the same, 5 July 2013.

#### THREATENED SPECIES CONSERVATION ACT 1995

Notice of Preliminary Determination

THE Scientific Committee has made a Preliminary Determination proposing that the following be listed in the relevant Schedule of the Threatened Species Conservation Act 1995.

**Critically Endangered Ecological Community** (Part 2 of Schedule 1A)

Hygrocybeae community of Lane Cove Bushland Park in the Sydney Basin Bioregion

Any person may make a written submission regarding this Preliminary Determination. Send submissions to Suzanne Chate, NSW Scientific Committee Unit, PO Box 1967, Hurstville BC 1481. Submissions close 6th September 2013.

A copy of the Determination, which contains the reasons for the determination, may be obtained free of charge on the Internet [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au), by contacting the Scientific Committee Unit, PO Box 1967, Hurstville BC 1481. Tel.: (02) 9585 6940 or Fax (02) 9585 6606, or in person at the Office of Environment and Heritage Information Centre, Level 14, 59-61 Goulburn Street, Sydney. Copies of the determination may also be obtained from National Parks and Wildlife Service Area Offices and Visitor Centres, subject to availability.

Associate Professor MICHELLE LEISHMAN,  
Chairperson,  
Scientific Committee