

## Planning Services

IRF19/1525

### Gateway determination report

<b>LGA</b>	Ryde
<b>PPA</b>	City of Ryde Council
<b>NAME</b>	Proposal to list new heritage item
<b>NUMBER</b>	PP 2019 RYDEC 001 00
<b>LEP TO BE AMENDED</b>	Ryde Local Environment Plan 2014
<b>ADDRESS</b>	68 Denistone Rd, Denistone
<b>DESCRIPTION</b>	Lots 1-3 in DP 1096437
<b>RECEIVED</b>	7 March 2018
<b>FILE NO.</b>	IRF19/1525
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal.

## INTRODUCTION

### Description of planning proposal

The planning proposal seeks to amend Schedule 5 of Ryde Local Environmental Plan (LEP) 2014 to include 68 Denistone Road, Denistone (the site) as a local heritage item.

### Site description

The site is located south east of the Eastwood Town Centre on the north eastern corner of Denistone Road and Florence Avenue (**Figure 1**). The site is legally known as Lots 1-3 in DP 1096437.

The subject site is approximately 1,606m<sup>2</sup> in a prominent corner setting. The property contains "Lanark" an intact Inter-War California Bungalow style dwelling and associated gardens. The gardens include three palm trees, brick and stone edging to paths and garden beds (**Figures 2 and 3**). The landowner, by way of submission to Council, suggests that the property is in "extremely poor condition" noting that there are collapsed ceilings and cracks, as well as roof and internal damage.

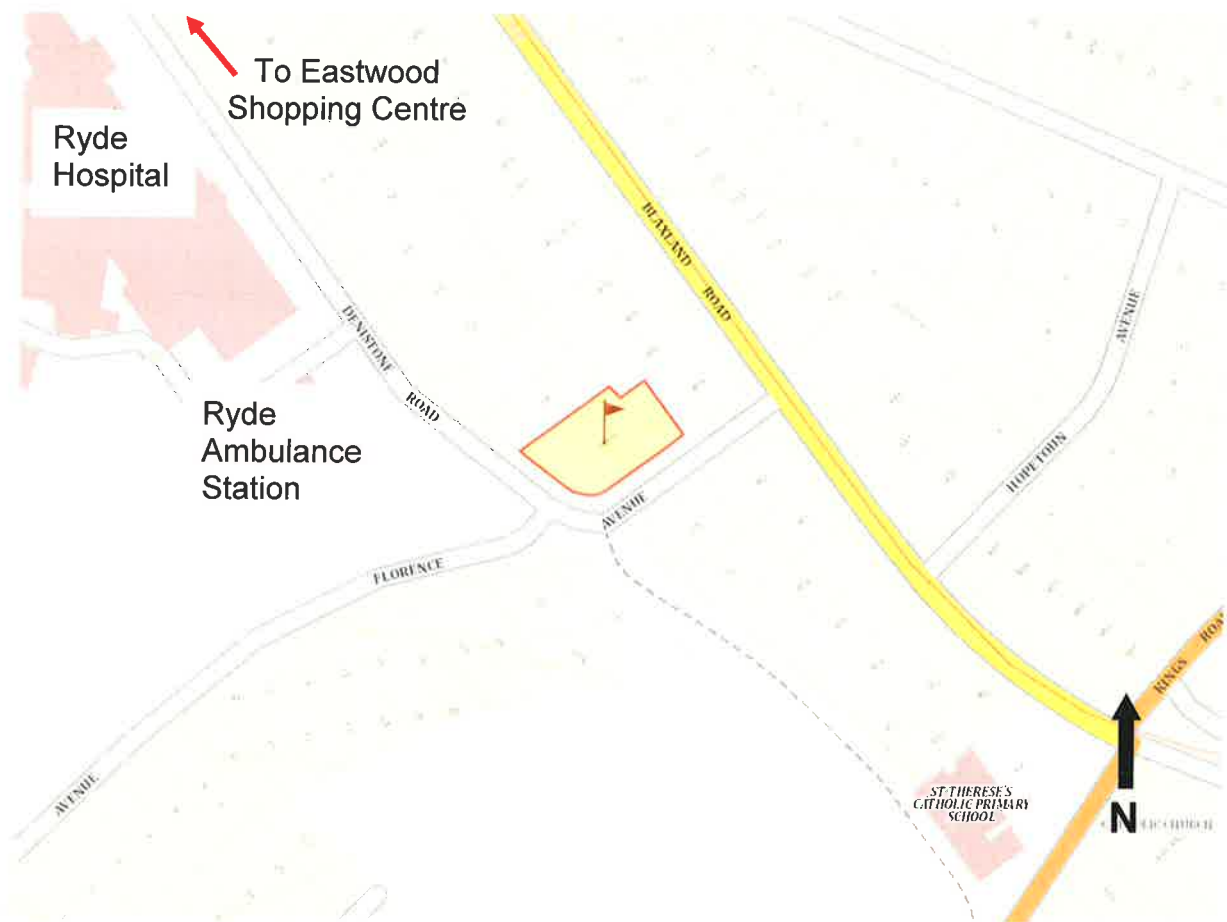


Figure 1 Subject Site (Source: Six Maps)



Figure 2 Aerial photograph of subject site (Source: Nearmap)





Figure 3 View of the subject site – south-west elevation – Denistone Road (Source: realestate.com.au)

### Existing planning controls

The site is zoned R2 Low Density Residential under Ryde LEP 2014, has a maximum permitted height of 9.5m and a maximum floorspace ratio of 0.5:1 (Figures 4-6).

Under the R2 zone a range of uses are permitted with development consent including bed and breakfast accommodation, boarding houses, home and centre-based childcare facilities, dual occupancies (attached), dwelling houses, group homes, health consulting rooms, multi dwelling housing and secondary dwellings.

Under LEP 2014 the minimum lot size is 580m<sup>2</sup>.

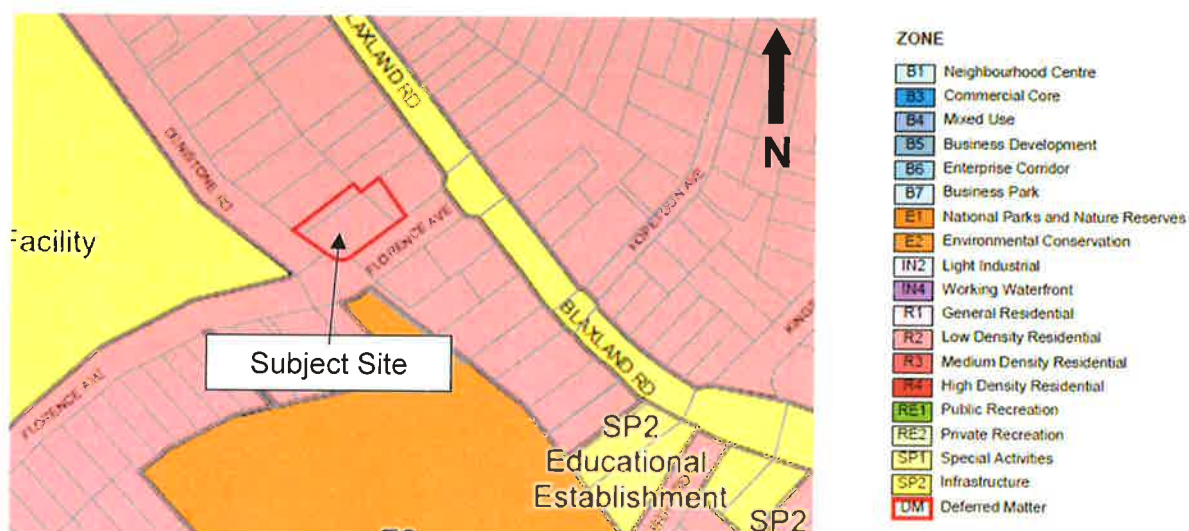


Figure 4 Ryde LEP 2014 Land Zoning Map (LZM\_002)

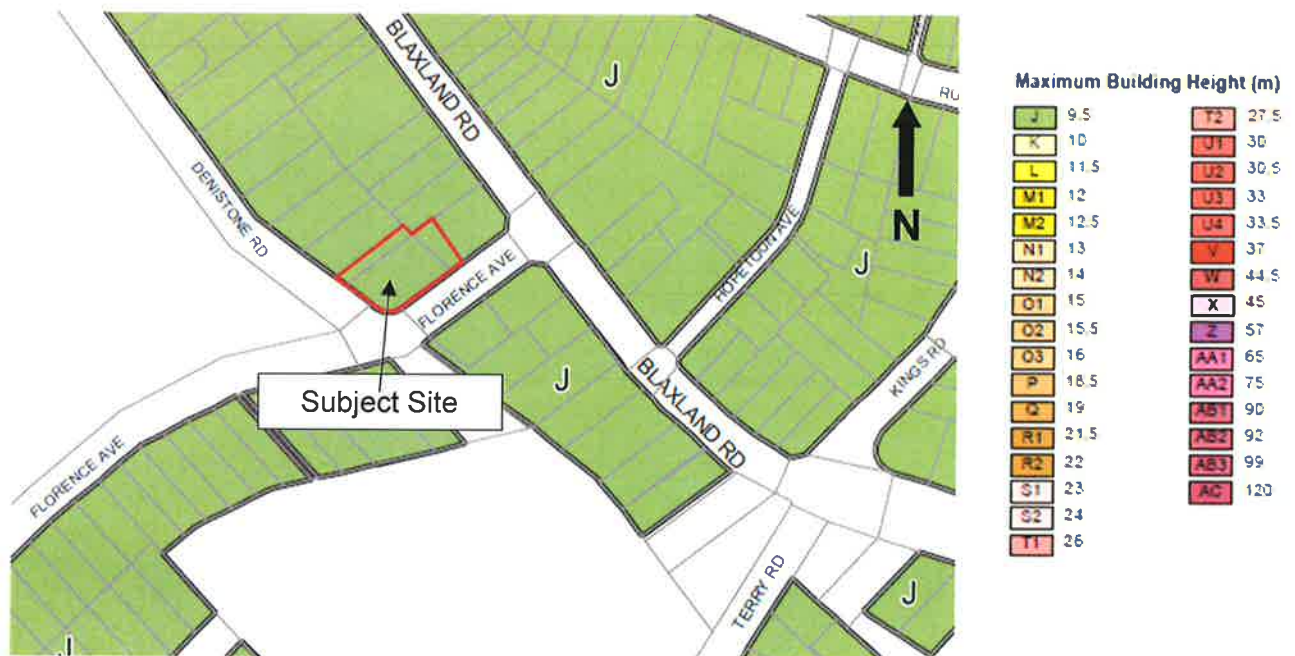


Figure 5 Ryde LEP 2014 Height of Buildings Map (HOB\_002)

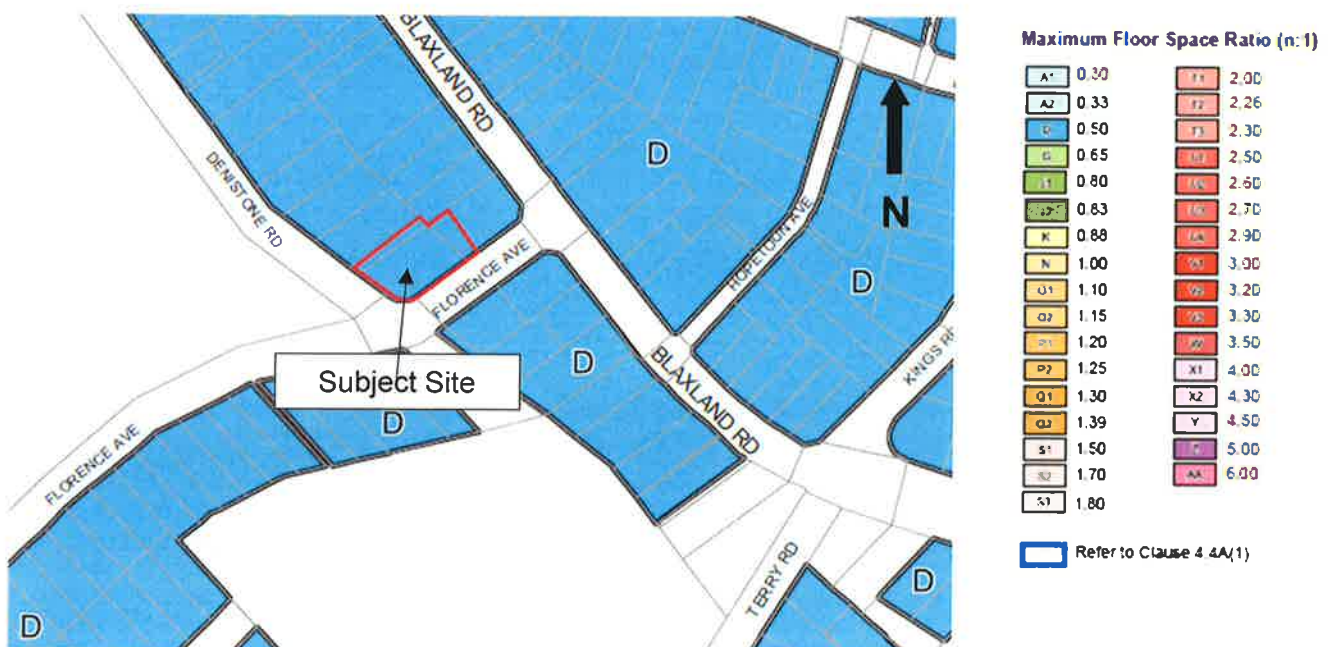


Figure 6 Ryde LEP 2014 Floor Space Ratio Map (FSR\_002)

### Surrounding area

The subject site is located on the eastern side of Denistone Road, on the north-eastern corner of the intersection of Denistone Road and Florence Avenue, west of Blaxland Road. The site is approximately 1.5kms south-east of the Eastwood Town Centre in the suburb of Denistone. The site encompasses three separate allotments within the same DP; Lots 1, 2 and 3 in DP1096437. The house is located on Lot 2 (Figure 2).

The site is in vicinity of a number of local heritage items listed under the Ryde LEP 2014 (Figure 7). These heritage items include 'Denistone House' and 'Trigg House'



forming part of Ryde Hospital opposite the site in Denistone Road; 'Highbury House', 495 Blaxland Road house, 89-91 Terry Rd (item 126) and Denistone Park.

To the south, along the southern side of Florence Avenue, is a mixture of single storey and two storey brick dwellings of varying ages and styles.

The eastern side of the site features several inter-war California Bungalow houses facing Blaxland Rd.

To the north and next to the site is a smaller California Bungalow and opposite, directly to the west is the Ryde Hospital grounds.

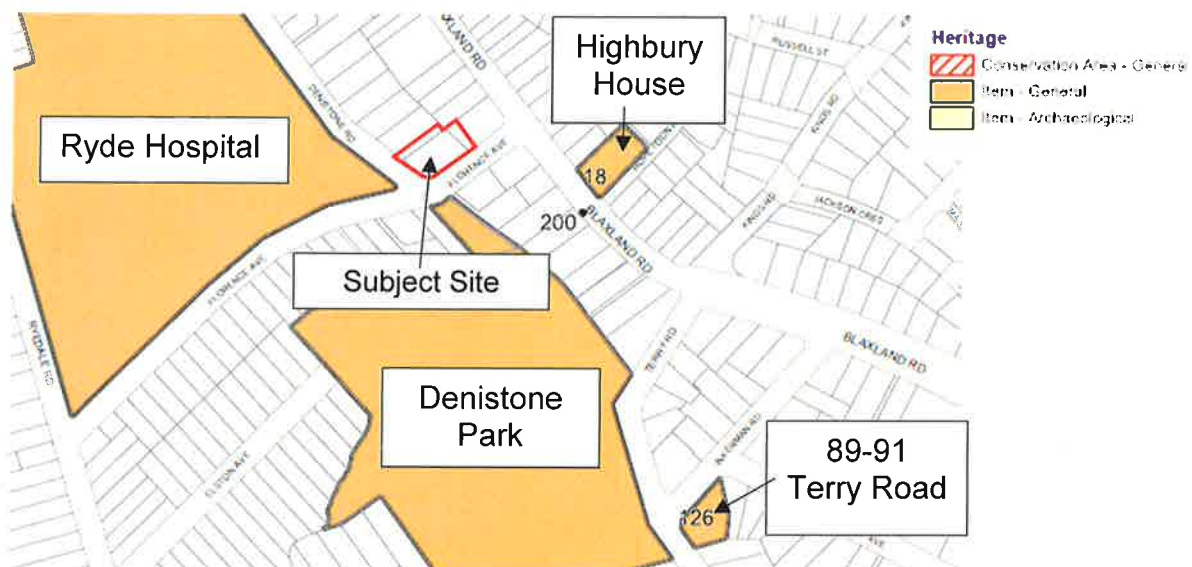


Figure 7 Ryde LEP 2014 Heritage Map (HER\_002)

## Background

Council has completed three heritage studies in 1988, 2003 and a community based heritage study in 2010. Most recently, Ryde Heritage Study 2010 commenced in 2003 and approximately 71 properties were identified and recommended for heritage listing. None of the three studies completed identify the site as potentially having heritage significance.

On 28 November 2018, during consideration of a previous Interim Heritage Order, Council resolved to undertake a City wide heritage study to ensure that items of heritage significance are identified. Council noted that the completion of such a study will ensure certainty in the development process. It is understood this study is currently underway.

Under the Ryde LEP 2014 the site is not listed as an item of heritage significance and it was not identified as part of the Ryde Heritage Study 2010. Correspondence from a member of the public was received by Council requesting consideration of heritage listing when the property went on the market for sale in February 2018. However at this time the property was not under threat, as no development was proposed for the site.

The property is the subject of Development Application (DA) number LDA2018/0340 received by Council on 28 August 2018, which seeks to consolidate the existing three allotments and subdivide the site into two new lots. The DA does not propose

demolition of the existing dwelling but shows an indicative site plan including the construction of a duplex and triplex over the two allotments intended to be created by LDA2018/0340. These built form developments are expected to be the subject of a future development application(s).

Council received six submissions during the notification period for this DA. The property's heritage value was cited as the primary concern in all the submissions. Council considers the DA to be a threat to the existing house on the property. A Mayoral Minute was moved on 25 September 2018 which sought to place an Interim Heritage Order over the property and was resolved unanimously by Council. The IHO was notified on 26 September 2018 and specified that the IHO would lapse in six months, unless Council has resolved to list the item prior to that date.

On 31 October 2018 Council refused LDA2018/0340 for the proposed subdivision of the site on the basis that:

- 1. The proposal will require demolition of a building subject to an Interim Heritage Order under the Heritage Act 1977. The Interim Heritage Order prevents the buildings on the site from being demolished until further investigation regarding the site's heritage significance has occurred. Therefore, approval of this application would conflict with the Interim Heritage Order.*
- 2. The development does not achieve the objectives of Clause 5.10 of the Ryde Local Plan 2014 in that it does not conserve the environmental heritage of the area.*
- 3. The development is not considered suitable for the site, as subdivision is not possible without the demolition of the existing dwelling.*
- 4. The development is not considered to be in the public interest.*

Council engaged heritage consultant, Paul Davies Pty Ltd, who commenced a heritage assessment of the property in November 2018. Paul Davies Pty Ltd concluded that the property was of heritage significance on the basis that:

- there is evidence of the original subdivision of the 19<sup>th</sup> century Denistone Estate;
- the house is a finely detailed and substantial representative example of the Inter-War California Bungalow internally and externally;
- the property retains intact inter-war garden features such as palm trees, brick and stone edging to paths and garden beds;
- the house is remarkably intact and has distinctive exterior elements such as leadlight windows, bay windows, verandas, tiling and internal elements such as timber fretwork and tiles fireplaces; and
- the house and property are of local aesthetic significance on a prominent corner position.

Photos taken by the Heritage Consultant, Paul Davies Pty Ltd on November 2018 show neglect of the property, damage to the exterior roof and interior. They noted

that some illegal building works have taken place including removal of plasterwork from sections of the interior walls. The photos also show damage to the ceilings and acknowledge that this could have occurred prior to the Interim Heritage Order.

On 14 February 2019, the planning proposal was considered by the Ryde Local Planning Panel in accordance with the NSW Planning Framework and the Local Planning Panels Direction. The Panel deferred its decision to consider a submission from the landowner.

On 15 February 2019, Council staff provided a response to the Panel concerning issues raised by the landowner, including trespassing. The Panel was satisfied that the heritage listing had strategic merit and the planning proposal should proceed to Gateway.

In a brief submission attached to the response to the Panel from the landowner included a preliminary report from heritage consultant, Stephen Davies of Urbis (**Attachment I**). Mr Davies disagrees with the findings of Council's consultant Paul Davies Pty Ltd and states that:

- the house does not meet the threshold for heritage listing on historic or aesthetic grounds and the Inter-War typology is not rare in Ryde;
- no interior inspection was made by Paul Davies Pty;
- the building requires significant repair and potential structural works including relacing the roof;
- the house is not by a well-known designer or exceptional architecturally;
- no historic event or person is associated with the site;
- the Council did not consider the house to meet its criteria for heritage listing in a survey of heritage buildings completed in 2010;
- the building is not a contributing structure to the character of the area; and
- real estate photos are no indication of condition (Figure 9).



Figure 8 Photo of the lounge room, November 2018, taken through the front bay window showing damage to wall and ceiling (source: Paul Davies Pty Ltd)



Figure 9 Photo of the lounge room taken for the sale of the house in February 2018. (source: realestate.com.au)



On 26 February 2019, Council considered the Panel's advice and resolved to place the item on the heritage schedule and forward a planning proposal to the Department for Gateway determination.

### Summary of recommendation

It is recommended that the planning proposal proceed as submitted because:

- the dwelling is subject to an Interim Heritage Order that was gazetted on 26 September 2018;
- it is supported by an independent heritage assessment that identifies the subject site as being of local heritage significance;
- it is consistent with the Northern District Plan and relevant Ministerial Section 9.1 Directions to retain and conserve heritage values of a local area; and
- the community has raised concerns about the potential loss of the dwelling, which is considered to be an item of heritage value.

## PROPOSAL

### Objectives or intended outcomes

The planning proposal documentation states that the proposal seeks to amend Ryde LEP 2014 to include 68 Denistone Road, Denistone as a local heritage item. This is consistent with the findings of the heritage assessment undertaken by Heritage Consultants, Paul Davies Pty Ltd, submitted with the planning proposal.

The intended outcome of the planning proposal is to:

- ensure the protection of the dwelling and associated grounds at 68 Denistone Rd, Denistone;
- preserve the contribution this site provides to the environmental heritage of Ryde; and
- permit future use and development of this property consistent with the heritage significance of the item.

### Explanation of provisions

The planning proposal seeks to amend the following under Ryde LEP 2014:

- Schedule 5 Part 1 Environmental Heritage to include the property 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) (**Table 1**); and
- Heritage Map to include 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) as set out in **Figure 10**.

Locality	Item name	Address	Property description	Significance	Item No.
Denistone	'Poynton' (house)	25 Commissioners Road	Lot A, DP 28226	Local	36
Denistone	'Denistone House' and 'Trigg House' (Ryde Hospital)	1 Denistone Road	Lot I, DP 869614	Local	47
Denistone	House	68 Denistone Road	Lots 1-3, DP 1096437	Local	224
Denistone	House	22 Miriam Road	Lot 80A, DP 6272	Local	219

Table 1 Proposed amendment to Ryde LEP 2014 Schedule 5 Environmental heritage shown in red

## Mapping

The proposal requires amendments to the Ryde LEP 2104 Heritage Maps (sheet HER\_002) by applying an “item – General” classification to 68 Denistone Road, Denistone. A map extract is included showing the proposed change (**Figure 10**).



Figure 10 Extract of the proposed heritage map

## NEED FOR THE PLANNING PROPOSAL

The planning proposal states that the need to amend Ryde LEP 2014 arose from concerns that the property was in danger of being demolished due to the land owner’s intention to subdivide the site and potentially redevelop the site for multi-dwelling housing as indicative plans accompanying the development application showed new construction in place of the existing house. The site’s heritage listing was recommended by Paul Davies Pty Ltd.

Council has previously completed three heritage studies in 1988, 2003 and a community based study in 2010. None of these studies identified the site as potentially having heritage significance, despite its fairly prominent location and proximity to other items of significance such as “Highbury House” and items within Ryde Hospital, “Denistone House” and “Trigg House”. As outlined above, Council was alerted to the potential significance of this item upon the sale and subsequent threat of demolition.

The planning proposal intends to recognise the local heritage values of the house including the interiors and the grounds at the site. The Paul Davis Pty Ltd heritage report found that the house, Lanark, 68 Denistone Road, Denistone is of local historical significance as it is evidence of the suburban subdivision of the late 19<sup>th</sup> century Denistone Estate, specifically the second phase of the subdivision which offered lots for sale from December 1914.

The Paul Davies Pty Ltd report found that the property was of local significance as the house was an intact, finely detailed and substantial representative example of the Inter-war California Bungalow style.

Listing of the property can help ensure the heritage significance of the property including the interior and garden are conserved. Without the listing, Council's power to protect the property from any development that would adversely impact on the heritage value of the buildings and grounds including demolition as complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

It is noted that the landowner contends that the house is not intact and that an internal inspection was not carried out to properly ascertain the condition of the building. It is recommended that a condition be applied to the Gateway determination requiring that an internal inspection be carried out and that the report be updated to record the findings of this inspection and the building's current condition.

## **STRATEGIC ASSESSMENT**

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### **State**

#### **Greater Sydney Region Plan**

The Greater Sydney Region Plan was released on 18 March 2018 and seeks to manage growth and change and guide infrastructure delivery across this region. It sets a strategy for Greater Sydney that will be implemented through district plans at a local level.

The Plan contains 10 Directions centred on liveability, productivity and sustainability for the region over the next 40 years. Objectives and actions help to implement the directions.

The planning proposal does not address the priorities, actions or objectives of the Region Plan and a condition is recommended to require the planning proposal to be updated to do so prior to public exhibition.

Of relevance to the planning proposal is *Objective 13 – Environmental heritage is identified, conserved and enhanced*. This objective seeks to protect environmental heritage for its social, aesthetic, economic, historic and environmental values.

The objective also identifies a strategy that comprises three components:

- “engaging with the community early in the planning process to understand heritage values and how they contribute to the significance of place”;
- “applying adaptive re-use and interpreting heritage to foster distinctive local places”; and
- “managing and monitoring the cumulative impact of development on the heritage values and character of places”.

The proposal is consistent with the Region Plan as it seeks to protect and conserve the property at the subject site, which has been identified as being of local heritage significance by a heritage consultant. The community will have the opportunity to comment on the heritage significance of the item when the planning proposal is publicly exhibited.

As such, the proposal is considered to be consistent with the Region Plan.

### **Regional / District**

#### **North District Plan**



The Northern District Plan was released in March 2018 and supports the implementation of the Region Plan at a district level. The proposal is consistent with the outcomes and directions outlined in the plan, particularly those associated with heritage.

The relevant Planning Priority N6 requires *“creating and renewing great places and local centres and respecting the District’s heritage”*. This priority implements Objective 13 of the Region Plan discussed above.

The plan identifies the importance of heritage in establishing a place’s character and the need to identify and conserve heritage to ensure that the stories of the place can be experienced by future generations.

The plan identifies an action to identify, conserve and enhance environmental heritage. The planning proposal is consistent with this action as it seeks to identify an item of heritage significance and allow for it to be conserved through the existing mechanisms of the Ryde LEP 2014.

### **Local**

The City of Ryde 2028 Community Strategic Plan sets out the future vision for the City of Ryde. The planning proposal is consistent with the goals and strategies of the Community Strategic Plan 2028.

Outcomes of the Plan describes a city *“designed with a strong sense of identity and place”*, relates to the community’s desire to *“protect and maintain Ryde’s character and heritage”* and includes goals to *“uphold and protect its unique character”*. The planning proposal responds to this vision by creating a legislative protection against character damaging redevelopment of the site and its contribution to streetscape.

The Plan also describes a city with a *“rich social, cultural, historical and creative tapestry [which] provides an enduring legacy for future generations”* and a *“distinct local identity built on our city’s character and rich cultural heritage”*. Protecting key elements of Ryde’s cultural and historical legacy is in line with Council’s 2028 Community Strategic Plan and the planning proposal responds to this vision by conserving the property.

The planning proposal is consistent with both the Community Strategic Plan and Ryde LEP 2014.

### **Section 9.1 Ministerial Directions**

#### **Direction 2.3 Heritage Conservation**

This direction applies to the planning proposal as it affects a property thought to be of heritage significance.

Part 4(a) of Direction requires that a planning proposal contains provisions that facilitate the conservation of heritage items in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area.

The proposal is consistent with this direction as it proposes to amend Schedule 5 of the Ryde LEP 2014 to reflect the heritage significance of the property.

### EPAA 1979 No 203 Division 2.5 Local Planning Panels

On 27 September 2018, the Minister for Planning issued a Direction under section 9.1 of the *Environmental Planning and Assessment Act 1979* with the objective of identifying the types of planning proposals that are to be advised on by Local Planning Panels on behalf of councils in the Greater Sydney Region and Wollongong, and to establish the procedures in relation to those matters. This Direction is relevant to this planning proposal, and the proposal was referred to the Ryde Local Planning Panel in February 2019 and will be referred again prior to Council considering the outcomes of community consultation.

### **State environmental planning policies (SEPPs)**

The proposal is considered to be consistent with all relevant State Environmental Planning Policies.

## **SITE-SPECIFIC ASSESSMENT**

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### **Social and Economic**

The public exhibition of the planning proposal will provide an opportunity for the owners of the property and the wider community to make a submission on whether the listing of the site as a heritage item as being appropriate.

Listing the site as a heritage item will provide the owner and community with greater certainty about the heritage significance (or not) of this site. The property at 68 Denistone Road, Denistone forms part of a low to medium density residential area with varying house styles and ages. The economic impact of heritage listing on the value of property is not known, however it will likely prevent the redevelopment of the site to the scale sought by the owner as seen in the most recent DA.

### **Environmental**

The planning proposal will not adversely affect any critical habitat or threatened species, populations or ecological communities or their habitats. It is not subject to flooding, bushfire hazard, soil instability or noise impact.

### Heritage

The need for the planning proposal has arisen from the findings of the heritage assessment conducted by Heritage Consultants, Paul Davies Pty Ltd. The proposed amendments will list and thereby facilitate the conservation of the item for heritage purposes.

It will also allow the community to have a clear understanding of the heritage significance of the item during the public exhibition period.

If the planning proposal proceeds to an LEP amendment, listing of 68 Denistone Road, Denistone as a local heritage item will protect the property through *Clause 5.10 Heritage conservation* of the LEP from work that would adversely affect the heritage significance of the site. This will result in a positive impact on the built environment and protection against damage to its character.

### **Infrastructure**

The proposal does not involve amendments to the planning controls that will intensify development on the site. There is extensive public utility service infrastructure available in this area which supports the existing residential use of the site and the surrounding development.

No significant infrastructure demand will result from the planning proposal. Current services for this site are suitable for the proposal.

## **CONSULTATION**

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### **Community**

Council has proposed a public exhibition period of 28 days. This period is considered to be appropriate as reflected in the Gateway conditions. Council has undertaken for a written notice to be given:

- in the local newspaper circulating in the area;
- on Council's webpage; and
- to the affected landowners.

### **Agencies**

Council has undertaken for written notice to be given:

- to local members of the NSW Parliament; and
- to State and Commonwealth authorities as required.

Consultation with the Office of Environment and Heritage is recommended as a condition of the Gateway determination.

## **TIME FRAME**

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Council has proposed a timeframe for completion of the LEP in five months. Given the nature of the plan and lack of consensus on whether the property should be listed between Council and the owner of the land, a nine month timeframe is considered appropriate to allow enough time for community consultation, assessment and reporting.

## **LOCAL PLAN-MAKING AUTHORITY**

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Council is seeking delegation of the plan-making steps under section 3.36 of the Act, as this matter is of local significance. As the owner of the land does not support the heritage listing the Department is recommended to be the local plan-making authority in this instance.

## **CONCLUSION**

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The planning proposal is supported to proceed subject to conditions as outlined below. It is recommended that the planning proposal proceed as submitted because:

- the dwelling is subject to an Interim Heritage Order that was gazetted on 26 September 2018;
- it is supported by an independent heritage assessment that identifies the subject site as being of local heritage significance;
- it is consistent with the Northern District Plan and relevant Ministerial Section 9.1 Directions to retain and conserve heritage values of a local area; and
- the community has raised concerns about the potential loss of the dwelling, which is considered to be an item of heritage value.



## RECOMMENDATION

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It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. Prior to consultation, the proposal is to be updated to:
  - (a) address consistency with the Greater Sydney Region Plan, and
  - (b) include an amended Heritage Assessment Report which addresses the current condition of the dwelling and if practical be based on internal inspection, subject to access being granted by the owner.
2. The planning proposal should be made available for community consultation for a minimum of 28 days.
3. Consultation is required with Office of Environment and Heritage.
4. The time frame for completing the LEP is to be nine months from the date of the Gateway determination.
5. Given the nature of the planning proposal, Council is not authorised to be the local plan-making authority.
6. The planning proposal is to be updated to address consistency with the Greater Sydney Region Plan.

 4/4/19

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 4/4/19  
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