

Meeting Date: Tuesday 26 February 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 7.00pm

*Council Meetings will be recorded on audio tape for minute-taking purposes
as authorised by the Local Government Act 1993. Council Meetings will also be webcast.*

NOTICE OF BUSINESS

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LATE ITEM

17 68 DENISTONE ROAD, DENISTONE - PLANNING PROPOSAL TO INCLUDE AS HERITAGE ITEM

Report prepared by: Strategic Planner
File No.: GRP/09/6/11 - BP19/7

REPORT SUMMARY

This Planning Proposal seeks to amend the Ryde LEP 2014 to protect the dwelling and associated grounds at 68 Denistone Road, Denistone from any development that would have a negative impact on its heritage significance and its contribution to the surrounding landscape.

Figure 1: Photo of 68 Denistone Road, Denistone (Source: 10 December 2018 from www.realestate.com.au)



This would be achieved by including 68 Denistone Road, Denistone as a Heritage item in *Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*.

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The property is currently subject to an Interim Heritage Order (IHO) authorised by Council on 25 September 2018 in response to community concern.

An experienced heritage consultant team (including an historian and specialist heritage planner) was engaged by Council to undertake a heritage assessment of the property. Their study concludes that the property at 68 Denistone Road has heritage significance and merits inclusion in *Schedule 5 Environmental Heritage* and on the *Ryde LEP 2014 Heritage Map*.

This Planning Proposal to heritage list the site is in alignment with all relevant strategic plans, including the Greater Sydney Commission's *Our Greater Sydney 2056: Metropolis of Three Cities (Updated March 2018)* and *Our Greater Sydney 2056: North District Plan (March 2018)*, and City of Ryde's *The City of Ryde 2028 Community Strategic Plan* and *The City of Ryde Local Planning Study 2010*.

The Planning Proposal was considered on 14 February 2019 by the Ryde Local Planning Panel in accordance with the NSW Planning Framework and the Local Planning Panels Direction. Under this Direction, the Planning Proposal must be forwarded to the Ryde Local Planning Panel (the Panel) for consideration; however, the Panel can only provide advice to Council with respect to Planning Proposals, the decision to proceed with the process rests with Council.

At its meeting of 14 February 2019, the Panel deferred its decision in order to consider a submission from the Landowner, which detailed the Landowner's concerns regarding the independent heritage assessment. The panel sought advice from Council staff in relation to the matters raised by the Landowner and staff provided a response to the panel on Friday 15 February 2019. Both the Landowner's submission and the response provided by Council staff are attached (see **ATTACHMENTS 5 and 6**).

Having considered the Landowner's submission and the response provided by staff, the Panel was satisfied that the strategic merit of the proposed heritage listing was sufficient for the Planning Proposal to proceed to a Gateway Determination and thence public exhibition. The Landowner's submission to the Panel will be considered a submission to an exhibition of the Planning Proposal. The Landowner also indicated that they had commissioned their own heritage assessment and this would also be considered as part of an exhibition of the Planning Proposal. Under NSW legislation all submissions must be considered and addressed prior to final decisions being made concerning whether or not to bring the LEP amendment into effect.

This report seeks Council's resolution to request the Minister for Planning issue a Gateway Determination and, that upon receipt of the Gateway Determination the Planning Proposal be placed on community consultation.

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RECOMMENDATION:

- (a) That in the opinion of Council, 68 Denistone Road is of local significance as outlined in the attached Planning Proposal and, accordingly, Council seeks to place the item on the heritage schedule of *Ryde Local Environmental Plan 2014*.
- (b) That Council forwards the Planning Proposal to include 68 Denistone Road, Denistone in *Schedule 5 Environmental Heritage* and on the *Ryde Local Environmental Plan 2014 Heritage Map* to the Minister of Planning with a request for a Gateway Determination under 3.34 of the *Environmental Planning and Assessment Act 1979*.
- (c) That, on receipt of the Gateway Determination, the General Manager places the Planning Proposal for 68 Denistone Road, Denistone on community consultation in accordance with NSW planning legislation and any conditions forming part of the Gateway Determination.
- (d) That the outcomes of community consultation are reported to City of Ryde Council as soon as practicable after the conclusion of the exhibition period.

ATTACHMENTS

- 1 68 Denistone Road Planning Proposal
- 2 Minutes from Council Meeting - 25 September 2018
- 3 Gazette No.99 - IHO No.4
- 4 Local Planning Panels Direction - Planning Proposals
- 5 68 Denistone Road Planning Proposal - Written Submission from owner to Ryde Local Planning Panel
- 6 68 Denistone Road Planning Proposal - Memo to Ryde Local Planning Panel - February 2019

Report Prepared By:

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Report Approved By:

Lexie Macdonald
Acting Manager - Urban Strategy

Dyalan Govender
Acting Director - City Planning and Environment

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Planning Proposal Process

1. Planning proposal – this is an explanation of the effect of and justification for the proposed plan to change the planning provisions of a site or area which is prepared by a proponent or the relevant planning authority such as Council. The relevant planning authority decides whether or not to proceed at this stage. **The Planning Proposal is currently at this stage.**
2. Gateway determination – determination by the Minister for Planning or delegate if the planning proposal should proceed, and under what conditions it will proceed. This step is made prior to, and informs the community consultation process.
3. Community Consultation – the proposal is publicly exhibited (generally low impact proposals for 14 days, others for 28 days).
4. Assessment – the relevant planning authority considers public submissions. The relevant planning authority may decide to vary the proposal or not to proceed.
5. Decision – the making of the plan by the Minister (or delegate).

Background

Council on the 28 August 2018 received a Local Development Application (LDA) for the consolidation of the 3 existing lots and subdivision to create 2 lots at 68 Denistone Road, Denistone (LDA2018/340).

The LDA was available for community comment between 3 September and 19 September 2018. Council received six (6) submissions during the notification period, all objected to the development raising heritage as a concern, five (5) submissions specifically refer to the heritage of the building, and one (1) refers more generally to the heritage of the area. Council also received correspondence prior to the lodgment of the Development Application, prompted by the sale of the property in February 2018. The correspondence requested consideration be given to listing.

The potential heritage listing of 68 Denistone Rd, Denistone was considered at Council's meeting on 25 September 2018. At this meeting, Council resolved:

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- (i) *Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and*

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- (ii) *That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and*
- (iii) *That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.*
- (iv) *That a report on the outcomes of community consultation be presented to Council as soon as practicable.*

(See **ATTACHMENT 2**)

The Interim Heritage Order was gazetted on 26 September 2018. (See **ATTACHMENT 3**).

Council subsequently employed external heritage consultant Paul Davies Pty Ltd to conduct the heritage assessment of this property. The findings of this study identify this property as a rare California Bungalow style residence in Denistone. The study indicates that it is of local historical and aesthetic significance, is remarkably intact and finely detailed, and exhibits a substantial degree of integrity.

Their assessment concluded that both the house and associated grounds at this property are of local heritage significance and merit legislative protection. (Paul Davies Heritage Assessment included as appendix to **ATTACHMENT 1**).

The Interim Heritage Order

An Interim Heritage Order (IHO) is a temporary heritage protection measure against the demolition of a potential heritage item. It also provides Council with the time to further assess the heritage significance of a potential item and take the appropriate steps to list the item if warranted.

The legal effect of an IHO made by a Local Council is that approval is required for any development for the life of the order and demolition is prohibited during that period.

One of the key requirements for imposing an IHO over a property by Council is that it must consider that the subject property is being or is likely to be harmed.

A threat of harm can constitute:

- i. Council's own observations of the item (i.e. actual works to the item).
- ii. Notification of works under other legislation.
- iii. Pre development application consultation.
- iv. Lodgement of a Development Application.
- v. Community lobbying.

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This IHO was placed on the property due to a number of factors, including community lobbying, and submissions received from the lodgement of a Development Application to consolidate three lots to make way for demolition and redevelopment of the site. It is noted that the making and enforcement of the IHO is not a relevant matter for consideration with respect to the strategic merit of the Planning Proposal.

The IHO was gazetted on 26 September 2018 and will lapse on 26 March 2019 unless Council is in the opinion that the item is of significance and resolves to progress listing accordingly (see **ATTACHMENT 3**). Should Council resolve to seek to place the item on the heritage schedule of *Ryde Local Environment Plan 2014* the IHO will remain in place until such time as the listing is gazetted.

The Planning Proposal and Justification

A consultant was engaged by Council to provide a detailed heritage assessment of the house and site. Their study concludes that 68 Denistone Road Denistone warrants heritage listing under the provisions of Ryde LEP 2014 in order to protect its heritage significance.

The Planning Proposal represents the only means of protecting the heritage significance of the site. It will ensure that the site is recognised and protected from development that may adversely affect the significance of the site and its contribution to the environmental heritage of the City of Ryde.

Consultation with relevant external bodies

The Ryde Local Planning Panel was consulted and provided with a copy of both the Planning Proposal and relevant documents, as per the *Local Planning Panels Direction – Planning Proposals* made under section 9.1 of the *Environmental Planning and Assessment Act 1979* (See **ATTACHMENT 4**). Under this Direction, the Planning Proposal must be forwarded to the Ryde Local Planning Panel (the Panel) for consideration; however, the Panel can only provide advice to Council with respect to Planning Proposals, the decision to proceed with the process rests with Council.

At its meeting of 14 February 2019 the Panel deferred its decision on the Planning Proposal:

The Panel considered the material listed in item 7 [a covering report, the draft Planning Proposal and relevant attachments], and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to defer the decision pending further advice from Council. The determination will be made electronically and posted on Council's website in due course.

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The advice sought was in relation to the Landowner's submission, which contained a number of concerns summarised in the table below (see Table 1: Summary of Landowner's Submission and Council Response). Staff provided advice to the Panel on Friday 15 February 2019, it is also summarised in the following table. Both the Landowner's submission and the response provided to the Panel by Council staff are attached (see **ATTACHMENTS 5 and 6**).

Table 1: Summary of Landowner's Submission and Council Response

Landowner's Submission	Council Response
The building does not reach the thresholds for heritage listing and the interwar building typology is not rare in Ryde	<p>The Heritage Assessment provided by Paul Davies Pty Ltd demonstrates sufficient heritage significance and therefore strategic merit for the proposed LEP amendment to proceed to Gateway Determination and Community Consultation.</p> <p>The landowner's heritage assessment will be considered in detail during the consultation phase of the Planning Proposals process and a peer review of both the owner's and Paul Davies heritage assessments will be commissioned.</p>
The condition of the building requires significant repair and potential structural works, including replacing the roof.	This is not a relevant consideration with respect to the strategic merit of the Planning Proposal, or the heritage significance of the building and site.
<p>The author of the heritage assessment prepared on behalf of Council did not disclose a potential conflict of interest as a result of a request by the owner's solicitor to prepare a heritage assessment for the site.</p> <p>It is asserted that confidential information was disclosed to Chery Kemp and cites as evidence references to "illegal" building work within the Paul Davies Pty Ltd Heritage Assessment.</p>	<p>The confidential information claimed to be provided to the heritage consultant is not a relevant consideration with respect to the strategic merit of the Planning Proposal.</p> <p>It is the view of Council staff that no conflict of interest could arise, or be construed to arise, from the owner's contact with one of the authors of the report. The Paul Davies Report had several contributors, including Dr Anne-Maree Whitaker, historian, Chery Kemp, heritage specialist and a photographer.</p> <p>Notwithstanding, should concerns regarding the heritage assessment persist, Council may elect to peer review the assessment or commission a further assessment. This would</p>

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Landowner's Submission	Council Response
	be done prior to reporting to Council on the results of the public exhibition, should a Gateway Determination be issued.
The photos of the interior of the building contained in the heritage assessment were taken without the consent of the owner and constitute trespass.	Should the landowner wish to take further action with respect to "trespass," it will have no bearing on the veracity of the heritage assessment and the strategic merit of the Planning Proposal. It is also noted that the Panel and Council's Heritage officer were invited onto the site for an inspection prior to the Panel meeting and were able to view the site first hand on 14 February 2019.

Having considered the Landowner's submission and the response provided by staff, the Panel confirmed their advice electronically:

The Ryde Local Planning Panel recommends to Council that:

The Planning Proposal seeking to include 68 Denistone Road, Denistone as a Heritage item in Ryde LEP 2014, Schedule 5 Environmental Heritage and include the property in Ryde LEP 2014 Heritage Map be forwarded to the Minister of Planning for Gateway Determination under 3.34 of the Environmental Planning and Assessment Act 1979.

Critical Dates and Timeframe

Interim Heritage Order No. 4 is due to lapse on 26 March 2019, and will thereafter cease to protect to the house and grounds at 68 Denistone Road, Denistone from damage and/or demolition. Heritage listing of this property should therefore proceed as quickly as practicable to reduce risk of damage to the property. The IHO will not lapse if Council resolves to "place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item" before the 26 March 2019 (See **ATTACHMENT 3**).

Financial Implications

Adoption of the recommendation may have a minor financial impact. Should a Gateway Determination be issued by the Minister for Planning, it will specify minimum public exhibition requirements. Assessment of submission may include further heritage assessment or peer review of existing assessments. This will be funded from the existing budget allocated to the processing of Planning Proposals.

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Options

Option 1 (Recommended): That Council progress the Planning Proposal to Gateway

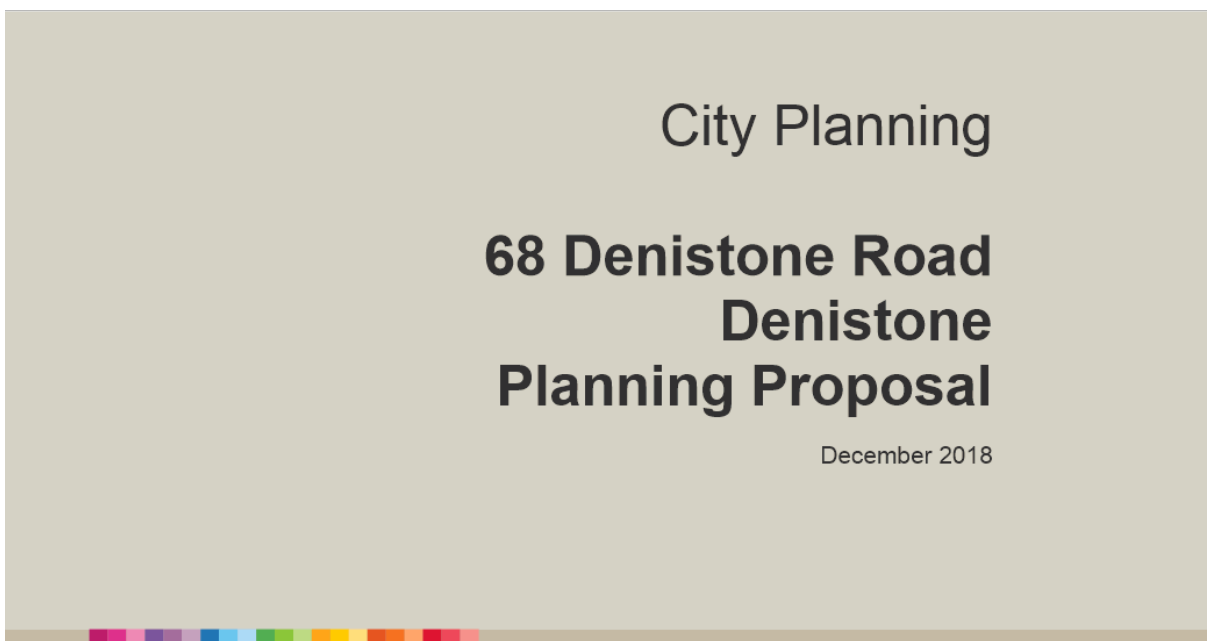
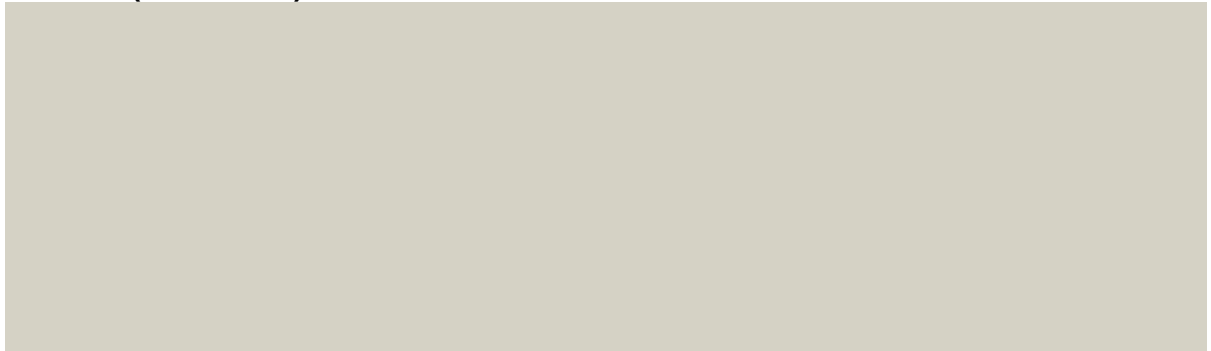
This is the recommended option as the property has been identified as having local heritage significance in an assessment report by appropriately qualified heritage professionals, and is in accordance with the advice of the Local Planning Panel. This would ensure the IHO remains in place until such time as the appropriate listing, providing long term protections, can be gazetted.

Option 2: That Council does not progress the Planning Proposal to Gateway

This option would afford no protection to the property and mean that the IHO would lapse on 26 March 2019. The property could then be demolished or substantially altered, resulting in the loss of a building that has been identified as having local heritage significance. It is noted that the community raised concerns in relation to the anticipated demolition of this property.

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6.0 Community Consultation

7.0 Project Timeline

Attachments

- 1. Ryde Local Environmental Plan 2014 Site Identification Map**
- 2. Interim Heritage Order No. 4 published in Government Gazette No.99 dated Wednesday, 26 September 2018**
- 3. Mayoral Minute – 25 September 2018 MM12/18 “Heritage Protection – 68 Denistone Road, Denistone”**
- 4. Heritage Study – to be attached**
- 5. Schedule 5 Environmental heritage and Draft Heritage Map**



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Executive Summary

This planning proposal seeks to amend the Ryde Local Environmental Plan (LEP) 2014 to protect the dwelling and associated landscaped grounds at 68 Denistone Road, Denistone from any development which would have a negative impact on its heritage significance and its contribution to the surrounding landscape.

This would be achieved by including 68 Denistone Road, Denistone as a Heritage item in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*.

The property is currently subject to an Interim Heritage Order authorised by Council on 25 September 2018 and notified in the Government Gazette 26 September 2018, which is a temporary measure protecting a potential heritage item from demolition while the necessary investigations are carried out to determine its heritage significance.

An experienced heritage consultant was subsequently engaged by Council to undertake a heritage assessment of the property in accordance with NSW Heritage Office guidelines. The assessment concludes that the property at 68 Denistone Road has heritage significance and merits inclusion in *Ryde LEP 2014, Schedule 5 Environmental Heritage* and in the *Ryde LEP 2014 Heritage Map*.

This planning proposal is in alignment with all relevant strategic plans, including the Greater Sydney Commission's *Our Greater Sydney 2056: Metropolis of Three Cities (Updated March 2018)* and *Our Greater Sydney 2056: North District Plan (March 2018)*, and City of Ryde's *The City of Ryde 2028 Community Strategic Plan* and *The City of Ryde Local Planning Study 2010*.



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ATTACHMENT 1

1. Introduction

This planning proposal has been prepared in accordance with the requirements of the Environmental Planning and Assessment Act 1979 (in particular section 3.33) and relevant guidelines produced by the Department of Planning and Environment. It explains the intended effect of a proposed amendment to the Ryde Local Environmental Plan (LEP) 2014 and sets out the justification for making that amendment.

The Department of Planning and Environment requires a planning proposal to contain the following information, which have determined the structure of this document.

Section 3.33 Part 2 states:

The planning proposal is to include the following:

- (a) a statement of the objectives or intended outcomes of the proposed instrument, (see 2.0)*
- (b) an explanation of the provisions that are to be included in the proposed instrument, (see 3.0)*
- (c) the justification for those objectives, outcomes and provisions and the process for their implementation (including whether the proposed instrument will give effect to the local strategic planning statement of the council of the area and will comply with relevant directions under section 9.1), (see 4.0)*
- (d) if maps are to be adopted by the proposed instrument, such as maps for proposed land use zones; heritage areas; flood prone land—a version of the maps containing sufficient detail to indicate the substantive effect of the proposed instrument, (see 5.0)*
- (e) details of the community consultation that is to be undertaken before consideration is given to the making of the proposed instrument. (see 6.0)*

1.1 Planning Proposal

This planning proposal aims to amend the existing Ryde LEP 2014 to;

- Conserve and protect the heritage of the built environment of the property to which this plan applies,
- To ensure that any new development on the land does not adversely affect the heritage significance of the building(s) and their setting and
- Include the property 68 Denistone Road, Denistone in LEP 2014 as a Heritage Item in *Schedule 5 Environmental Heritage* and on the *Heritage Map*

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1.2 Site Description

This planning proposal applies to the land known as: **68 Denistone Road, Denistone (Lots 1-3 DP 1096437)** identified on the map titled *Draft Site Identification Map* shown in Figure 1 (Refer also to Attachment 1)

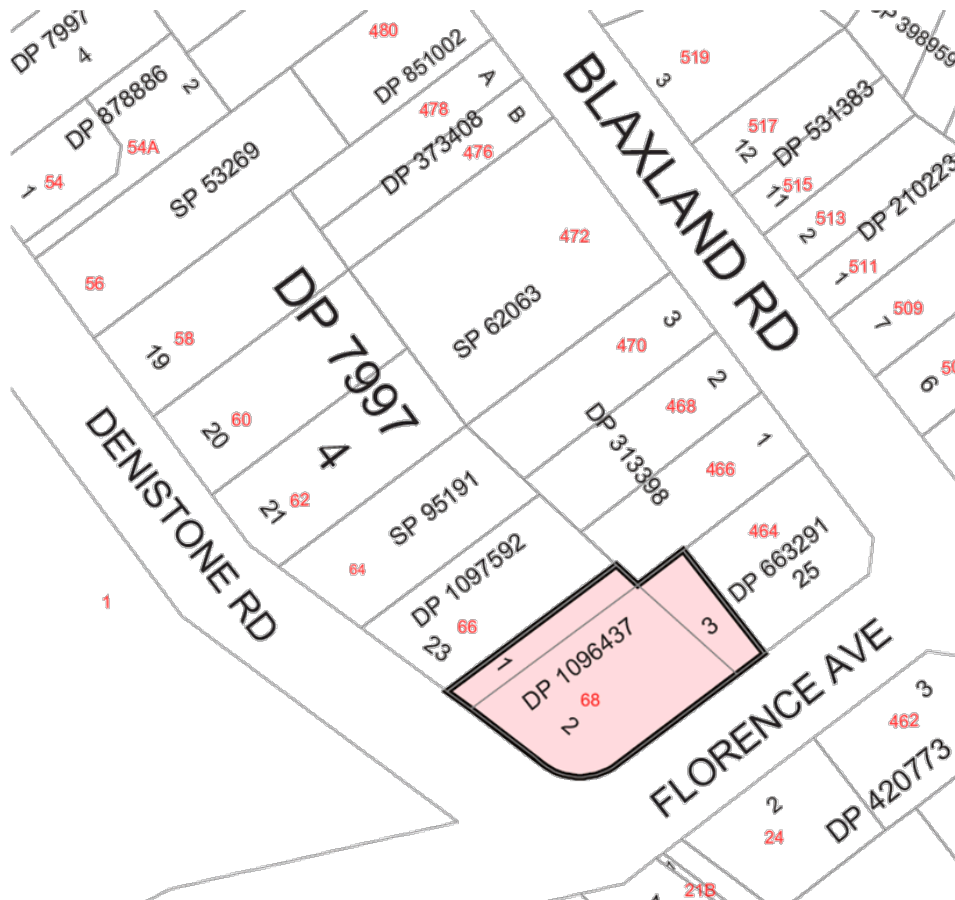


Figure 1: Subject site, 68 Denistone Rd, Denistone

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A site location plan is shown at **Figure 2** and an aerial photo of the site is shown at **Figure 3**. Ground level photographs of the site and building interior are shown at **Figure 4**.

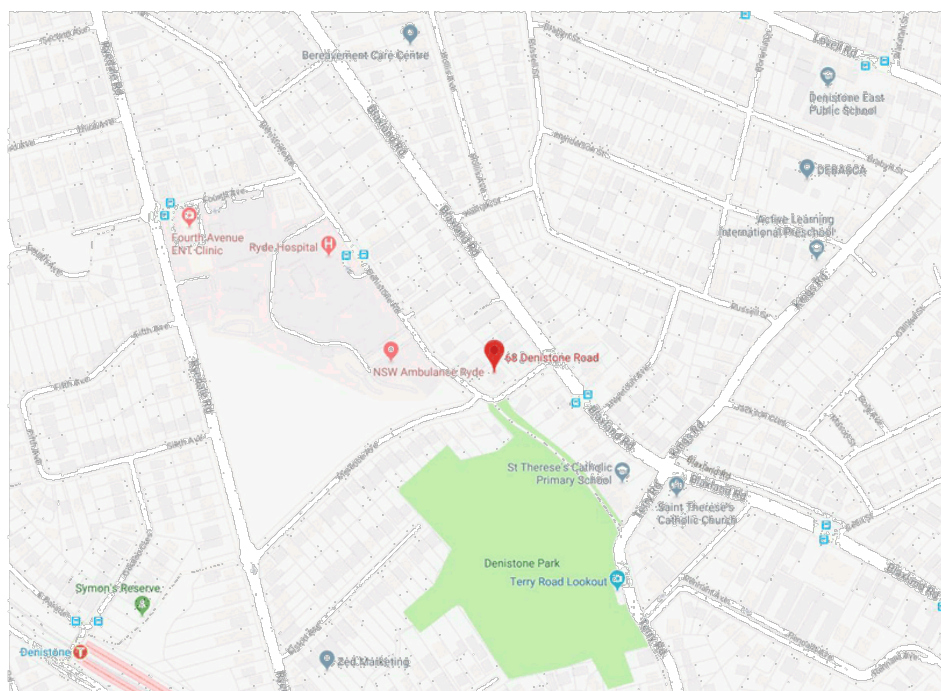


Figure 2: the site located at the red drop pin

The subject site which is approximately 1,606m² contains an intact inter-war California Bungalow style dwelling and associated gardens as shown in Figures 3 and 4.

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Figure 3: Aerial Photograph of the site (Source: Paul Davies Pty Ltd, Heritage Assessment Report p7)



Figure 4: Front Façade of 68 Denistone Road, Denistone (top) and photographs indicating intact interior and architectural detail of this California bungalow style building (bottom). (Sourced 10 Dec 18: <https://www.realestate.com.au/sold/property-house-nsw-denistone-127703430>)

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1.3 Context

The site is located south east of the Eastwood Town Centre at the intersection of Denistone Road and Florence Avenue (just off Blaxland Road) in the suburb of Denistone. The site is in the vicinity of a number of local heritage items listed under the RLEP 2014.

Excerpt of Ryde LEP 2014 Schedule 5 Environmental Heritage

Suburb	Item name	Address	Property description	Significance	Item no
Denistone	"Denistone House" and "Trigg House" (Ryde Hospital)	1 Denistone Road	Lot I, DP 869614	Local	47
Denistone East	"Highbury House"	495 Blaxland Road	Lot 1, DP 514007	Local	18
Denistone	Open space, Denistone Park	62 Terry Road		Local	125
Denistone	Stone marker	Road reserve (outside 456 Blaxland Road)		Local	26
Denistone	House	89-91 Terry Road	Lot 5, DP 29054	Local	126
Denistone	House	37 Pennant Avenue	Lot I, DP 1005675	Local	91
Denistone	Open Space	Darvall Park, Chatham Road		Local	26
Eastwood	Seat	East Parade (outside 36A)		Local	50
Eastwood	House	2 Second Avenue	Lot I, DP 931131	Local	114

Locations of local heritage items in the vicinity of the site are shown in Figure 5. The subject site is outlined in black.

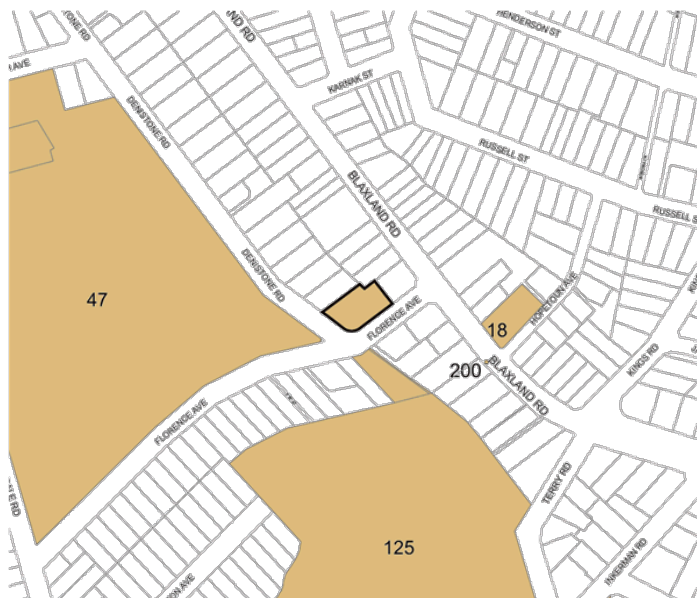


Figure 5: Heritage Items in the vicinity of the property

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1.4 Current Planning Controls Environmental Planning Instruments

Ryde LEP 2014 is the principle planning instrument applying to the site.

Zoning

The site is currently zoned under the Ryde LEP 2014 as R2 – Low Density Residential (see Figure 6).

Under the zone the following uses are permitted with consent;

Bed and breakfast accommodation; Boarding houses; Business identification signs; Centre-based child care facilities; Community facilities; Dual occupancies (attached); Dwelling houses; Environmental protection works; Group homes; Health consulting rooms; Home-based child care; Home businesses; Home industries; Hospitals; Multi dwelling housing; Places of public worship; Recreation areas; Residential care facilities; Respite day care centres; Roads; Secondary dwellings.

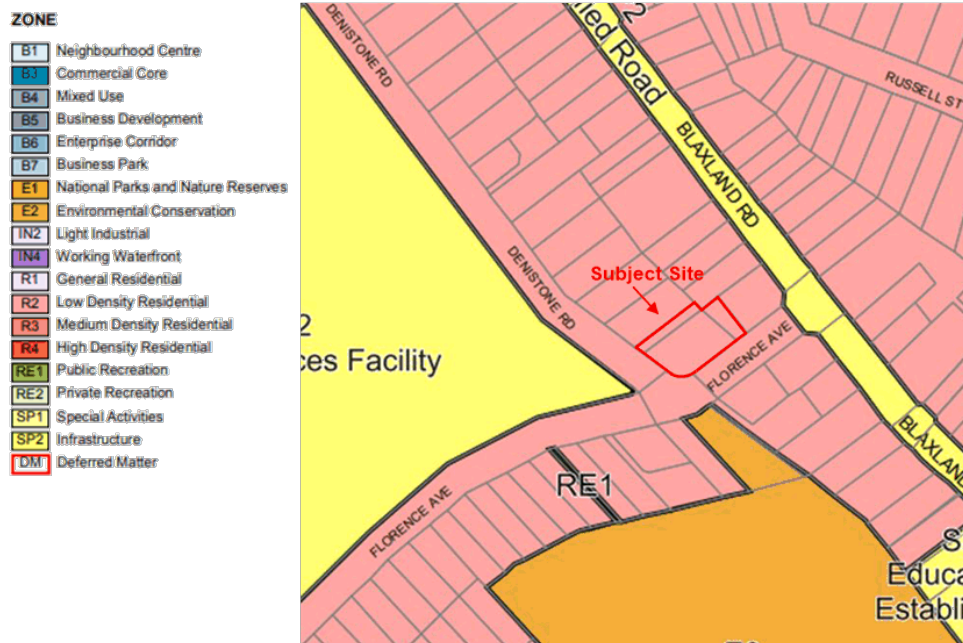


Figure 6: Current Site Zoning (Land Zoning Map – Sheet LZN_002 of the RLEP2014)

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Building Height

The maximum building height relating to the site, is 9.5m as per Ryde LEP 2014 Height of Buildings Map. (see Figure 7 below)

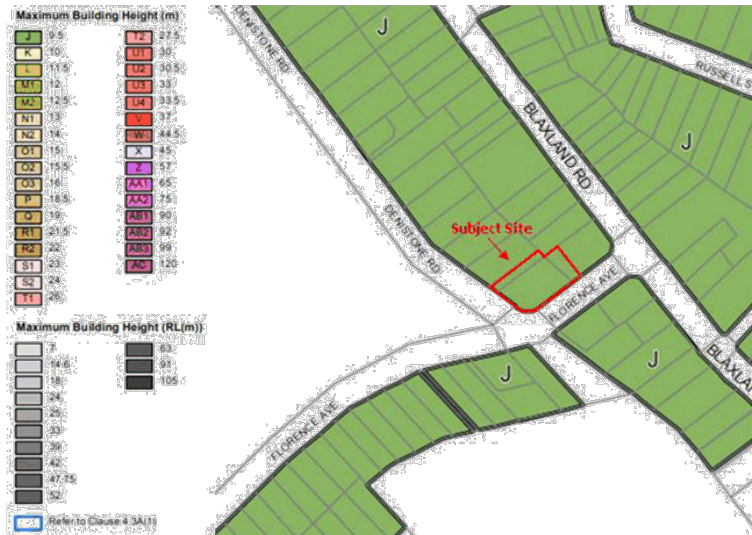


Figure 7: Current Height of Buildings (Height of Buildings Map – Sheet HOB_002 of the RLEP2014)

Floor Space Ratio

The maximum floor space ratio relating to the site is 0.50:1 as per Ryde LEP 2014 Floor Space Ratio Map. (See Figure 8 below)

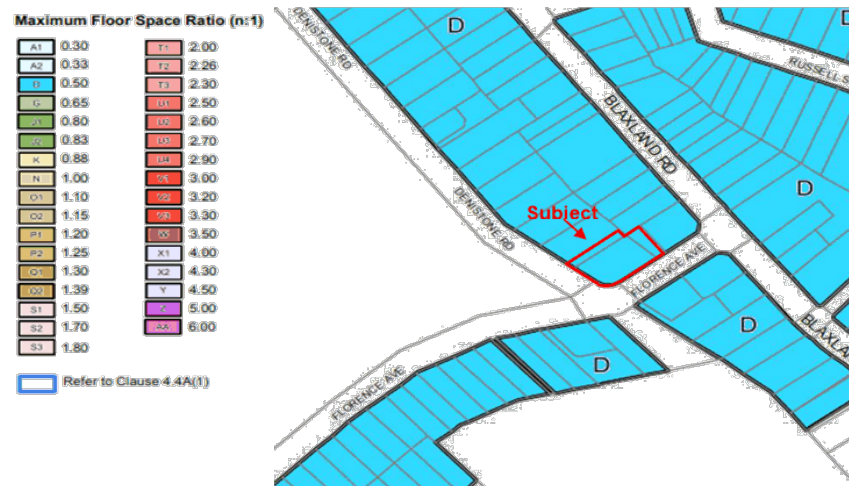


Figure 8: Current Floor Space Ratio as per Ryde LEP 2014

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1.5 Background

Ryde Heritage Study 2010 was commenced in 2003 and approximately 71 properties were identified and recommended for heritage listing, together with amendments to existing heritage listings. On 17 August 2010, Council considered the *Draft Ryde Heritage Study 2010*, and resolved not to pursue the heritage listing of any property unless the land owner applied for a heritage listing.

As a result of the *Ryde Heritage Study 2010*, 14 items were heritage listed including 3 dwellings, 2 public buildings and 9 stone markers. Since 2010, a study of the 57 buildings that were recommended but not listed reveals that;

- 1 has been significantly damaged by fire and is beyond salvageable repair,
- 9 have been demolished or consent granted for demolition, and
- Several have been the subject of DAs for alterations and additions.

68 Denistone Road, Denistone is not listed as an item of heritage significance under the provisions of Ryde Local Environmental Plan 2014, nor was it identified as part of the *Ryde Heritage Study 2010*. Council did receive correspondence requesting heritage consideration for the property when it appeared on the market in February 2018.

A Local Development Application (LDA) was received by Council on the 28 August 2018 to consolidate the existing 3 lots at 68 Denistone Road, Denistone, and subdivide them into 2 new lots. The LDA does not explicitly propose demolition of the existing dwelling, but is accompanied by an indicative site plan which shows the Applicant's redevelopment intentions (including the construction of a duplex and triplex that would be subject to future development applications). Council received six submissions during the notification period for this LDA, all of which cited heritage value as their primary concern for the property.

In response Council, on 25 September 2018, resolved:

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- (i) Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and*
- (ii) That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and*
- (iii) That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.*
- (iv) That a report on the outcomes of community consultation be presented to Council as soon as practicable.*

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An IHO is a temporary heritage protection measure against the demolition of a potential heritage item. It also provides time to assess the heritage significance of a potential item and take the appropriate steps to list the item if warranted. The legal effect of an IHO made by a Local Council is that approval is required for any development for the life of the order and demolition is prohibited during that period. One of the key requirements for Council imposing an IHO over a property is that it must consider the property is being or is likely to be harmed.

Interim Heritage Order No. 4 (IHO) which relates to the subject property (68 Denistone Road, Denistone) was published in the Government Gazette No.99 dated Wednesday, 26 September 2018. (See attachment 2)

An experienced heritage consultant was subsequently engaged by Council to undertake a heritage assessment of the property. The study concludes that the property at 68 Denistone Road has heritage significance as follows:

The house Lanark Brae at 68 Denistone Road (corner Florence Avenue), Denistone is of local historical significance as evidence of the suburban subdivision of the 19th century Denistone Estate, specifically the development of the Denistone Estate Subdivision No. 2, lots of which were offered for sale from December 1914, and of the operation of a building covenant on the land.

The house and property are of local aesthetic significance, as the house is a finely detailed, substantial representative example of the Inter-war California Bungalow style, built within the core period for this house style, on a large prominent corner site within a garden setting which retains significant inter-war period garden features including three palm trees, and brick and stone edging to paths and garden beds. The house is remarkably intact and features distinctive exterior elements of the style including leadlight timber-framed casement windows, bay windows, return verandah and a small eastern verandah, dark face brickwork, terracotta tiled hipped and gabled roof, gable ends featuring timber shingling and imitation half timbering, brick verandah balustrades with timber posts above, and distinctive internal elements of the style including timber fretwork frieze and timber pilasters between main hallway and lounge/dining area, tiled fireplaces with timber mantelpieces to formal rooms, timber paneled doors, timber floors and decorative plaster ceilings.

The house and property are rare at a local level as a substantial Inter-war California Bungalow style house on a prominent corner property retaining a substantial garden setting including interwar period garden features.

The heritage study recommends that the City of Ryde Council proceed with the process of heritage listing the site by amending the Ryde LEP 2014 to include the site as a heritage item under Schedule 5 Part 1: Heritage Items of the Ryde LEP 2014 (See attachment 4)

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2.0 Objectives and Intended Outcomes

This part of the planning proposal responds to Section 3.33 (2a) of the Environmental Planning and Assessment Act 1979 which requires an explanation of what is planned to be achieved by the proposed amendments to the Ryde LEP 2014.

This Planning Proposal seeks to amend RLEP 2014 by including the property 68 Denistone Road, Denistone as a Heritage item in *Schedule 5 Environmental Heritage* and including the property in *Ryde LEP 2014 Heritage Map*

The intended outcome of the Planning Proposal is;

- To ensure the protection of the dwelling and associated grounds 68 Denistone Road, Denistone from any development which could adversely affect the heritage significance of the property, and
- To preserve the contribution this site provides to the environmental heritage of Ryde
- To permit future use and development of this property consistent with the cultural significance of the item.



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ATTACHMENT 1

3.0 Explanation of Provisions

The planning proposal seeks to:

- Amend *Ryde LEP 2014 Schedule 5 Environmental Heritage* - to include the property 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) (see Figure 9)
- Amend *Ryde LEP 2014 Heritage Map* – to include 68 Denistone Road, Denistone (Lots 1-3 DP 1096437) (see excerpt below)

A draft Schedule 5 Environmental heritage and Draft Heritage Map are included at **Attachment 5**

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

Excerpt: Proposed Amendment to Ryde LEP 2014 Schedule 5 Environmental Heritage (Amendment shown in red)

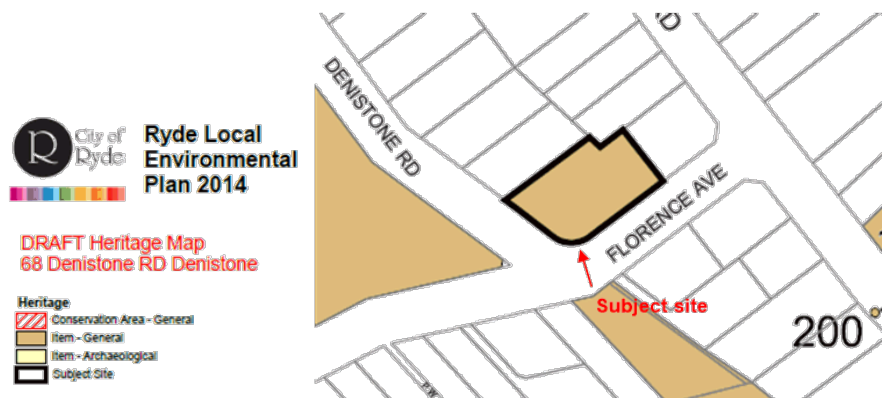


Figure 9: Excerpt of Proposed Heritage Map

ITEM 17 (continued)

ATTACHMENT 1



4.0 Justification

Section 3.33 (3) of the Environmental Planning and Assessment Act 1979 enables the Planning Secretary to issue requirements with respect to the preparation of a planning proposal.

4.1 Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

The property is the subject of an Interim Heritage Order published in the Government Gazette No. 99 on Wednesday 26 September 2018.

A consultant was subsequently engaged by Council to provide a detailed heritage assessment of the house and site. The findings of this study identify this property as a rare California Bungalow style residence in Denistone. The study indicates that it is of local historical and aesthetic significance, is remarkably intact and finely detailed, and exhibits a substantial degree of integrity.

The study concludes that 68 Denistone Road Denistone warrants heritage listing under the provisions of Ryde LEP 2014 in order to protect its heritage significance.

Is the planning proposal the best means of achieving the objectives or intended outcomes?

This Planning Proposal represents the only means of ensuring the heritage significance of the site. This will ensure that the site is recognised and protected from development that may adversely affect the significance of the site and its contribution to the environmental heritage of the City of Ryde.



ITEM 17 (continued)

ATTACHMENT 1

4.2 Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The strategic planning context for the consideration of this Planning Proposal includes:

Our Greater Sydney 2056 – North District Plan (March 2018)

The North District Plan (NDP) is the Greater Sydney Commission's plan for priorities and actions for growth and development of the Northern District. The Greater Sydney's North District includes the local government areas of Hornsby, Hunters Hill, Ku-ring-gai, Lane Cove, Northern Beaches, Mosman, North Sydney, City of Ryde and Willoughby.

The NDP provides the means by which the Greater Sydney Region Plan (*A Metropolis of Three Cities (March 2018 Updated)*) can be implemented on a local level, by providing opportunities, priorities and actionable growth and development opportunities for the North District. This Planning Proposal supports the following Planning Priority in the retention and renewing of local heritage:

Planning Priority N6 – "Creating and renewing great places and local centres, and respecting the District's heritage"

This planning priority promotes local heritage as an important component of local identity that creates a distinctive built character. The NDP states that "*Identifying, conserving, interpreting and celebrating Greater Sydney's heritage values leads to a better understanding of history and respect for the experiences of diverse communities. Heritage identification, management and interpretation are required so that heritage places and stories can be experienced by current and future generations.*" (NDP, p49)

The heritage study attached to this Planning Proposal confirms the importance of 68 Denistone Road, Denistone as a place of heritage significance. The listing of this property under the Ryde LEP 2014 Schedule 5 Part 1 will ensure that future generations can appreciate the unique aesthetic significance of this property, which supports *Planning Priority N6* as a property that respects the District's heritage and can retain character of Denistone and the local centres in the City of Ryde.

Thus, the recognition and protection of 68 Denistone Road, Denistone as containing a building and grounds which are representative of dwellings during the inter-war period and contribute to the heritage of the City of Ryde, supports the Goals and Directions of *Our Greater Sydney 2056 North District Plan (March 2018)*.

ITEM 17 (continued)

ATTACHMENT 1

Is the planning proposal consistent with the local council's local strategy, or other local strategic plan?

City of Ryde Strategic Plans:

1. The City of Ryde 2028 Community Strategic Plan

The Community Strategic Plan sets out the future vision for the City of Ryde. The plans set the desired outcomes and the aspirations of the community, and the goals and strategies on how they will be achieved. The seven outcomes for the City of Ryde are;

- Our vibrant and liveable city
- Our active and healthy city
- Our natural and sustainable city
- Our smart and innovative city
- Our connected and accessible city
- Our diverse and inclusive city
- Our open and progressive city

The Planning Proposal is in line with the goals and strategies of the Community Strategic Plan 2028. It speaks to both outcome one: Our Vibrant and Liveable City; and to outcome six: Our Diverse and Inclusive City.

Outcome one describes a city "designed with a strong sense of identity and place" (p16), relates the community's desire to "protect and maintain Ryde's character and heritage" (p17), and includes goals to "uphold and protect its unique character" (p17). The Planning Proposal responds to this vision by creating a legislative protection against character-damaging redevelopment of the Denistone area and streetscape.

Outcome six describes a city with a "rich social, cultural, historical and creative tapestry [which] provides an enduring legacy for future generations" (p26) and "a distinct local identity built on our city's character and rich cultural heritage" (p27). The Planning Proposal responds to this vision by protecting key elements of the landscape which contribute to Ryde's historical and cultural legacy.

2. The City of Ryde Local Planning Study (December 2010)

Council adopted the *Ryde Local Planning Study (December 2010)* in response to the NSW Government's *Metropolitan Strategy* and draft *Inner North Draft Subregional Strategy* to outline a vision for development of Ryde over the next 20 years. The Local Planning Study was the basis for the preparation of the Ryde LEP 2014. One of the aims of Ryde LEP 2014 that was derived from the Local Planning Study was;

(d) to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development, (Ryde LEP 2014 Clause 1.2(d))

The Planning Proposal is consistent with both the Study and Ryde LEP 2014.

ITEM 17 (continued)

ATTACHMENT 1

Is there a net community benefit?

The Planning Proposal will facilitate the retention of an item of local heritage significance that contributes to the character and identity of the City of Ryde and will assist to connect the local community to place. The item illustrates the history and development of Ryde.

The inclusion of 68 Denistone Road, Denistone in Ryde LEP 2014 Schedule 5 Environmental Heritage will enable Council to ensure;

- The protection of local heritage significance to the City of Ryde from any development that would adversely impact on the heritage value of the buildings and grounds.

The above outcome of the proposal is considered to be in the public's interest and responds to demonstrable community interest.

Is the planning proposal consistent with applicable state environmental planning policies?

A summary assessment of the Planning Proposal in terms of State Environmental Planning Policies is contained in the table below (Table 1).

This assessment indicates that the draft LEP contained in this Planning Proposal is consistent with all relevant State Environmental Planning Policies

Table 1 – Consistency with relevant SEPP's

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	Yes	No		
State Environmental Planning Policy No 19 - Bushland in Urban Areas			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 21 - Caravan Parks.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 30 - Intensive Agriculture.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 33 - Hazardous and Offensive Development.			✓	Applies to the whole of the State. Not relevant to proposed amendment

ITEM 17 (continued)

ATTACHMENT 1

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	Yes	No		
State Environmental Planning Policy No 50 - Canal Estate Development.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 55 - Remediation of Land.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 62 - Sustainable Aquaculture.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 64 - Advertising and Signage.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development.			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy No 70- Affordable Housing (Revised Schemes)			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Infrastructure) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (State Significant Precincts) 2005			✓	Applies to the whole of the State. Not relevant to proposed amendment

ITEM 17 (continued)

ATTACHMENT 1

State Environmental Planning Policies (SEPPs)	Consistent		N/A	Comment
	Yes	No		
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (State and Regional Development) 2011			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Education Establishments and Child Care Facilities) 2017			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Affordable Rental Housing) 2009			✓	Applies to the whole of the State. Not relevant to proposed amendment
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017			✓	Applies to the whole of the State. Not relevant to proposed amendment
Deemed SEPPs				
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005			✓	Applies to the whole of the State. Not relevant to proposed amendment
Proposed SEPPs				
State Environmental Planning Policy (Environment)			✓	Applies to the whole of the State. Not relevant to proposed amendment

ITEM 17 (continued)

ATTACHMENT 1

Is the planning proposal consistent with applicable Ministerial Directions (Section 9.1)?

A summary assessment of the Planning Proposal in terms of the Directions issued by the Minister for Planning under section 9.1 of the EP&A Act is set out in Table 2.

The following is a list of Directions issued by the Minister for Planning to relevant planning authorities under section 9.1 of the *Environmental Planning and Assessment Act 1979*. These directions apply to planning proposals lodged with the Department of Planning on or after the date the particular direction was issued:

Table 2: Consideration of Relevant Section 9.1 Directions applying to planning proposal

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
1. Employment and Resources				
1.1 Business and Industrial Zones Objectives: (a) Encourage employment growth in suitable locations, (b) Protect employment land in business and industrial zones, and (c) Support the viability of identified centres			*	
1.2 Rural Zones Objective: To protect the agricultural production value of rural land			*	
1.3 Mining, Petroleum Production and Extractive Industries Objective: To ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development			*	
1.4 Oyster Aquaculture Objectives: (a) To ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (b) To protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.			*	
1.5 Rural Lands Objectives: (a) To protect agricultural production value of rural land (b) facilitate the orderly and economic development of rural lands for rural and related purposes.			*	

ITEM 17 (continued)

ATTACHMENT 1

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
2. Environmental Heritage				
2.1 Environment Protection Zones Objective: To protect and conserve environmentally sensitive areas			*	
2.2 Coastal Management: Objective: To protect and manage coastal areas of NSW.			*	
2.3 Heritage Conservation Objective: to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	✓			This PP aims to heritage list a property of heritage significance
2.4 Recreation Vehicle Areas Objective: To protect sensitive land or land with conservation values from adverse impacts from recreation vehicles.			*	
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs Objective: To ensure that a balanced and consistent approach is taken when applying environmental protection zones and overlays to land on the NSW Far North Coast			*	
3. Housing, Infrastructure and Urban Development				
3.1 Residential Zones Objectives: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.			*	The subject land is zoned <i>R2 Residential Low Density</i> . Residential development is permitted in the zone. No change is proposed to the land use zone. The intent of the PP is to identify the land as a heritage item under Schedule 5 of Ryde LEP 2014. The subject land is currently used as a dwelling house.
3.2 Caravan Parks and Manufactured Home Estates Objectives: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates			*	
3.3 Home Occupations Objective: To encourage the carrying out of low-impact small businesses in dwelling houses			*	

ITEM 17 (continued)

ATTACHMENT 1

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
3.4 Integrating Land Use and Transport Objectives: The objective of this direction is to ensure that urban structure, building forms, land use locations, development designs, subdivision and street layouts achieved the following planning objectives: <ul style="list-style-type: none"> (a) improving access to housing, jobs, and services by walking, cycling and public transport, and (b) increasing choice of available transport and reduce dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight. 			*	
3.5 Development Near Licensed Aerodromes Objective: <ul style="list-style-type: none"> (a) to ensure effective and safe operation of aerodromes (b) to ensure operation is not compromised by development that constitutes and obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measure so that the development is not adversely affected by aircraft noise. 			*	
3.6 Shooting Ranges Objectives: <ul style="list-style-type: none"> (a) To maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) To reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) To identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range. 			*	
4. Hazard and Risk				
4.1 Acid Sulfate Soils Objective: To avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.			*	

ITEM 17 (continued)

ATTACHMENT 1

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
4.2 Mine Subsidence and Unstable Land Objective: to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.			*	
4.3 Flood Prone Land Objectives: (a) To ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and (b) To ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts on both on and off the subject land.			*	
4.4 Planning for Bushfire Protection Objectives: (a) To protect life, property and the environment from bushfire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) To encourage sound management of bushfire prone areas.			*	
5. Regional Planning				
5.1 Implementation of Regional Strategies (Revoked 17 October 2017)			*	
5.2 Sydney Drinking Water Catchment Objective: to protect water quality in the Sydney drinking water catchment.			*	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast Objectives: (a) to ensure that the best agricultural land will be available for current and future generations to grow food and fibre, (b) to provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and (c) to reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas.			*	

ITEM 17 (continued)

ATTACHMENT 1

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast Objectives: (a) To protect the Pacific Hwy's function, that is to operate as the North Coast's primary inter- and intra- regional road traffic route; (b) To prevent inappropriate development fronting the highway; (c) To protect public expenditure invested in the Pacific Highway; (d) To protect and improve highway safety and highway efficiency (e) To provide for the food, vehicle service and rest needs of travellers on the highway; and (f) To reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.			*	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)			*	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)			*	
5.7 Central Coast (Revoked 10 July 2008)			*	
5.8 Second Sydney Airport: Badgerys Creek Objective: The objective of this direction is to avoid incompatible development in the vicinity of any future second Sydney Airport at Badgerys Creek.			*	
5.9 North West Rail Link Corridor Strategy Objectives: (a) To promote transit oriented development and manage growth around the stations of the North West Rail Link (NWRL) (b) Ensure development within the NWRL corridor is consistent with the proposal set out in the NWRL Corridor Strategy and precinct Structure Plans			*	
5.10 Implementation of Regional Plans Objective: to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.			*	
6. Local Plan Making				
6.1 Approval and Referral Requirements Objective: to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	✓			

ITEM 17 (continued)

ATTACHMENT 1

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
6.2 Reserving Land for Public Purposes Objectives: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	✓			
6.3 Site Specific Provisions Objective: to discourage unnecessarily restrictive site specific planning controls.			*	
7. Metropolitan Planning				
7.1 Implementation of the Metropolitan Plan for Sydney Objective: to give legal effect to the planning principles; directions; and priorities for subregions, strategic centres and transport gateways contained in A Plan for Growing Sydney.	✓			The acknowledgement and protection of 68 Denistone Road Denistone as an item of local heritage significance within the City of Ryde supports the Goals and Directions of A Plan for Growing Sydney
7.2 Implementation of Greater Macarthur Land Release Investigation Objective: to ensure development within the Greater Macarthur Land Release Investigation Area is consistent with the Greater Macarthur Land Release Preliminary Strategy and Action Plan (the Preliminary Strategy).			*	
7.3 Parramatta Road Corridor Urban Transformation Strategy Objectives: (a) facilitate development within the Parramatta Road Corridor that is consistent with the <i>Parramatta Road Corridor Urban Transformation Strategy (November, 2016)</i> and the <i>Parramatta Road Corridor Implementation Tool Kit</i> (b) to provide a diversity of jobs and housing to meet the demands of a broad cross-section of the community, and (c) guide the incremental transformation of the Parramatta Road Corridor in line with the delivery of necessary infrastructure.			*	

ITEM 17 (continued)

ATTACHMENT 1

Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979	Consistent			Comment
	Y	N	N/A	
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan Objective: to ensure development within the North West Priority Growth Area is consistent with the North West Priority Growth Area Land Use and Infrastructure Strategy.			*	
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan Objective: to ensure development within the Greater Parramatta Priority Growth Area is consistent with the Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan dated July 2017			*	
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan Objective: to ensure development within the Wilton Priority Growth Area is consistent with the Wilton Interim Land Use and Infrastructure Implementation Plan and Background Analysis.			*	
7.7 Implementation of Glenfield to Macarthur Urban Renewal Corridor Objective: to ensure development within the precincts between Glenfield and Macarthur is consistent with the plans for these precincts.			*	
7.8 Implementation of Western Sydney Aerotropolis Interim Land Use and Infrastructure Implementation Plan Objective: to ensure development within the Western Sydney Aerotropolis is consistent with the Stage 1 Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan dated August 2018.			*	
7.9 Implementation of Bayside West Precincts 2036 Plan Objective: to ensure development within the Bayside West Precincts (Arncliffe, Banksia and Cooks Cove) is consistent with the Bayside West Precincts 2036 Plan.			*	
7.10 Implementation of Planning Principles for the Cooks Cove Precinct Objective: to ensure development within the Cooks Cove Precinct is consistent with the Cooks Cove Planning Principles.			*	

ITEM 17 (continued)

ATTACHMENT 1



On the 27 September 2018, the Minister for planning gave an additional direction under 9.1 of the *Environmental Planning and Assessment Act 1979* with the objective of identifying the types of planning proposal 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 will be referred to the local planning panel in early 2019 and prior to Council considering the outcomes of community consultation.



ITEM 17 (continued)

ATTACHMENT 1

4.3 Environmental, social and economic impacts

Impact on Critical Habitat, Threatened Species and Ecological Communities

The land is situated in a suburban context and is currently used as a dwelling house. The wider area has historically been developed for low density residential housing within an urban context.

The Planning Proposal will not affect any critical habitat, threatened species, populations, ecological communities, or their habitats nor is it expected to have any adverse environmental effects.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Environmental effects

The subject site is not subject to flooding, bushfire hazard, soil instability, or noise impact. Furthermore, the property does not contain habitat, threatened species populations, ecological communities, or their habitats.

Therefore, this Planning Proposal is not expected to have any adverse environmental effects.

Heritage

The Planning Proposal aims to list the property 68 Denistone Road, Denistone as a heritage item within the Ryde LEP 2014, so that the property will be protected through *Clause 5.10 Heritage conservation* of LEP 2014 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.

Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal will have a positive impact on the social fabric of Ryde by ensuring that the streetscape maintains a strong sense of place and illustrates local cultural and developmental history. The impact of the listing on the value of the property is not known. The listing is not expected to impact on the viability of the area as a residential suburb.

ITEM 17 (continued)

ATTACHMENT 1



4.4 State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposed?

There is extensive public utility service infrastructure available in this area which supports the existing residential use of the site and the surrounding development.

What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

Any State or Commonwealth authority that is identified in the Gateway determination as needing to be consulted will be consulted following that determination.

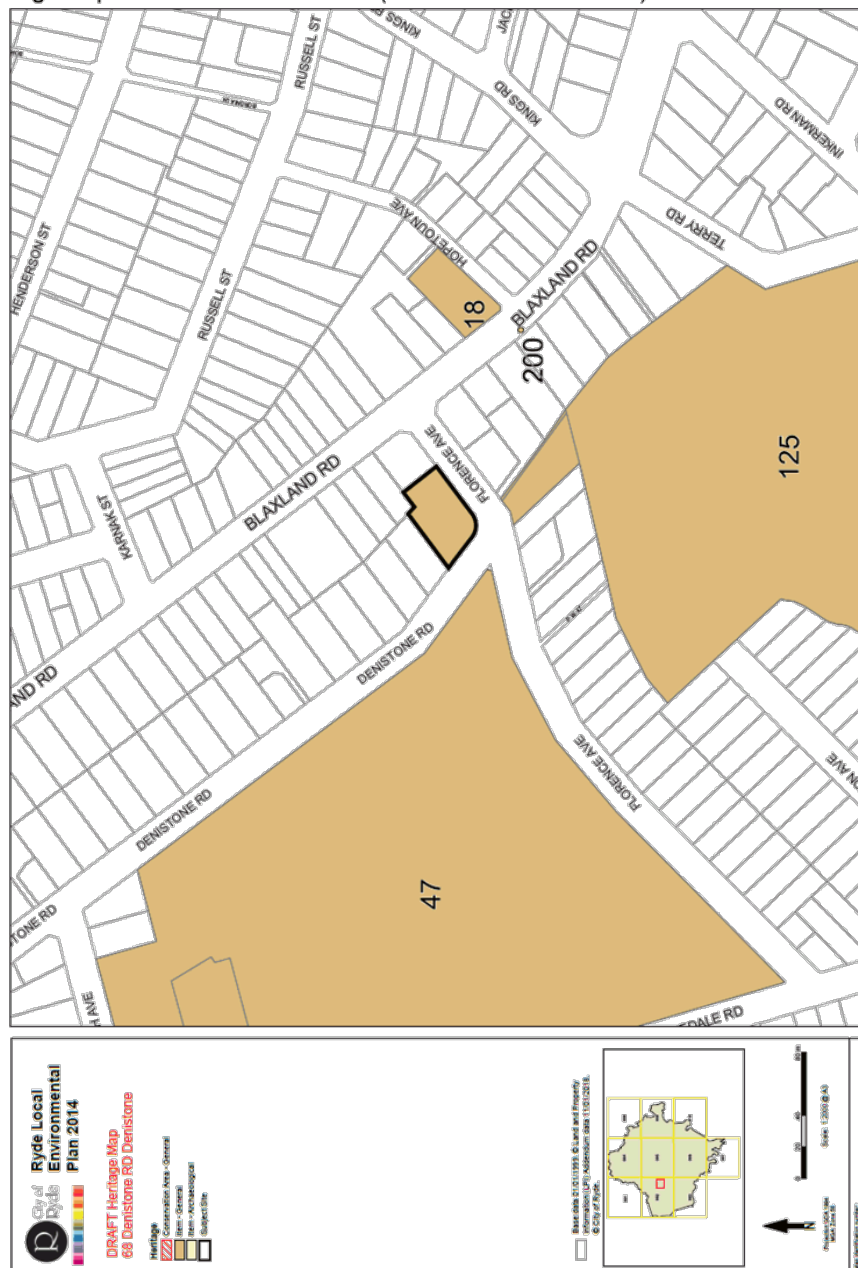


ITEM 17 (continued)

ATTACHMENT 1

5.0 Mapping

Proposed Draft Ryde LEP 2014 Heritage Map, indicating the proposed amendment being sought is provided in Attachment 5. (Preview included below)



ITEM 17 (continued)

ATTACHMENT 1



6.0 Community Consultation

This section provides details of the community consultation that is to be undertaken on the planning proposal:

The community consultation process for this Planning Proposal will be undertaken in accordance with the conditions of a Gateway Determination, should it be issued.

It is anticipated that consultation will be for a 28 day period as follows:

- Written notice given
 - o In the local newspaper circulating in the area
 - o On Council's webpage
 - o To affected landowners
 - o To local state government representatives
 - o State and Commonwealth authorities as required
- The written notice will
 - o Provide a brief description of the objectives and intended outcomes of the planning proposal,
 - o Indicate the land affected,
 - o State where the planning proposal can be inspected,
 - o Indicate the last date for submissions and
 - o Confirm whether the Minister has chosen to delegate the making of the LEP
- The following materials will be placed on exhibition
 - o The planning proposal and supporting documents
 - o The Gateway Determination



ITEM 17 (continued)

ATTACHMENT 1



8.0 Project Timeline

Following is an indicative timeline

Milestone	Date
1. Resolution of Council to prepare Planning Proposal	September 2018
2. Planning Proposal submitted with request for Gateway Determination	December 2018
3. Gateway Determination received by Council	January/February 2019
4. Community Consultation (anticipated 28 days)	March/April 2019
5. Outcomes of Community Consultation presented to Council	May/June 2019
6. Planning Proposal submitted to Department of Planning and Environment requesting notification on Government website	July 2019



ITEM 17 (continued)

ATTACHMENT 1



ATTACHMENT 1

Ryde Local Environmental Plan 2014 Site Identification Map



ITEM 17 (continued)

ATTACHMENT 1



ATTACHMENT 2

**Interim Heritage Order No. 4 published in Government Gazette
No.99 dated Wednesday, 26 September 2018**



ITEM 17 (continued)

ATTACHMENT 1



ATTACHMENT 3

Mayoral Minute – 25 September 2018

**MM22/18 “Heritage Protection – 68 Denistone Road,
Denistone”**



ITEM 17 (continued)

ATTACHMENT 1



ATTACHMENT4

Heritage Study



ITEM 17 (continued)

ATTACHMENT 1



ATTACHMENT 5

Schedule 5 Environmental Heritage and Draft Heritage Map

Ryde Local Environmental Plan 2014

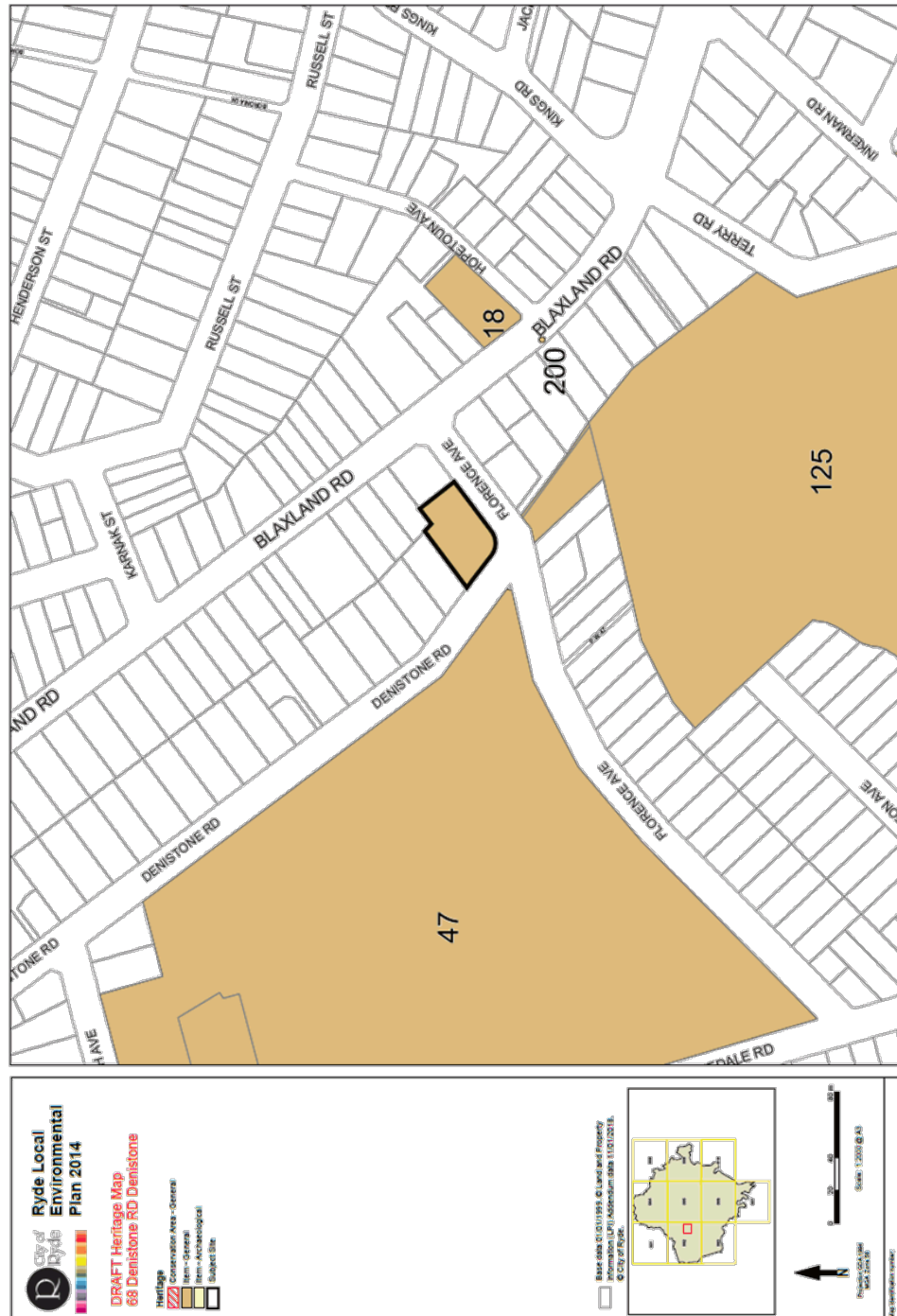
Inserted in alphabetical order item 224 shown red

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



ITEM 17 (continued)

ATTACHMENT 1



ITEM 17 (continued)

ATTACHMENT 2

Council Meeting
MINUTES OF MEETING NO. 12/18

Meeting Date: Tuesday 25 September 2018
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 7.00pm

Councillors Present: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Lane, Maggio, Moujalli, Pedersen, Purcell, Yedelian OAM and Zhou.

Apologies: Nil.

Leave of Absence: Councillor Kim.

Staff Present: General Manager, Director – Customer and Community Services, Director – Corporate Services, Director – City Planning and Environment, Director – City Works, General Counsel, Manager – Communications and Engagement, Manager – Urban Strategy, Development Contributions Coordinator, Heritage Officer, Executive Officer – Ryde Central, Communications Coordinator, Digital Communications Coordinator, Civic Services Manager and Senior Coordinator – Civic Support.

PRAYER

Councillor Maggio offered prayer prior to the commencement of the meeting.

NATIONAL ANTHEM

The National Anthem was sung prior to the commencement of the meeting.

DISCLOSURES OF INTEREST

The Mayor, Councillor Laxale disclosed a Less than Significant Non-Pecuniary Interest in Notice of Motion 3 – Interfaith Morning Tea, for the reason that his wife is on the Prayer Breakfast Taskforce.

TABLING OF PETITIONS

No Petitions were tabled.

**PRESENTATION OF HIGHLY COMMENDED AWARD FOR THE 2018
STORMWATER NEW SOUTH WALES AWARDS FOR EXCELLENCE**

The General Manager presented the Mayor, Councillor Laxale with the Highly Commended Award for the Stormwater New South Wales Awards for Excellence for the 'Get the Site Right Sediment and Erosion Control Campaign' Project.

ITEM 17 (continued)

ATTACHMENT 2

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
John Court	MM 22/18 – Heritage Protection – 68 Denistone Road, Denistone
John Court (on behalf of William Lloyd)	MM 22/18 – Heritage Protection – 68 Denistone Road, Denistone
Patricia Lloyd	MM 22/18 – Heritage Protection – 68 Denistone Road, Denistone
Ronald McKeown	MM 22/18 – Heritage Protection – 68 Denistone Road, Denistone
Peter Raptis	Item 5 – Planning Proposal – Dunbar Estate Marsfield – Outcomes of Community Consultation
Salomon Omar (representing the Baha'i Community of Ryde)	Notice of Motion 3 – Interfaith Morning Tea
Gil Tabucanon (representing Baha'i Faith)	Notice of Motion 3 – Interfaith Morning Tea
Sara Ahadzadeh	Notice of Motion 3 – Interfaith Morning Tea
Jim Dolan	Notice of Motion 4 – City of Ryde Dog Recreation Needs Strategy - Review
Guy Williamson	Notice of Motion 4 – City of Ryde Dog Recreation Needs Strategy – Review
Kylee Blackwell	Notice of Motion 4 – City of Ryde Dog Recreation Needs Strategy - Review
Peter Watkins (representing St Charles Catholic Primary School)	Notice of Motion 5 – St Charles Catholic Primary School – 160 th Anniversary
Sharon Garrard (representing Street Paws Festival)	Notice of Motion 6 – Street Paws Festival

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
Janet McLennan	Request urgent meeting with Ryde Council regarding Cedrus Lebanese Restaurant at 1/100 Belmore Road, Ryde (in Block A of our complex) and associated noise and unapproved use
Alan McKay	Representation on a non-complying development at 5 Walker Street, Putney. Council's complying development response inadequate – DA required

Note: Livio Panozzo was called to address Council, however he was not present in the Chamber.

ITEM 17 (continued)

ATTACHMENT 2

PUBLIC PARTICIPATION

RESOLUTION: (Moved by Councillors Maggio and Yedelian OAM)

That the speakers who submitted late Requests to Address Council on Items listed on the Agenda and Items not listed on the Agenda be allowed to address the Meeting, the time being 7.54pm.

Record of the Voting

For the Motion: Unanimous

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
Ben Seale	Notice of Motion 1 – Recreational Fishers – Stop the Lockout Campaign
Clare Brown (representing Buildex Pty Ltd)	Item 14 – Offer to Enter into Voluntary Planning Agreement – 312 Victoria Road, Gladesville

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
David Faulkner (representing the Owners Corporation, 20 Porter Street)	Compliance Issues – Cedrus Restaurant
Javier Greco (representing the Owners Corporation, 100 Belmore Street)	Compliance Issues – Cedrus Restaurant
Abdul Nahi	Noise Complaints regarding apartment building

ORDER OF BUSINESS

RESOLUTION: (Moved by Councillors Yedelian OAM and Purcell)

That Council now consider the following Items, the time being 8.14pm:-

- **MM 22/18** – Heritage Protection – 68 Denistone Road, Denistone
- **Item 5** – Planning Proposal – Dunbar Estate Marsfield – Outcomes of Community Consultation

ITEM 17 (continued)

ATTACHMENT 2

- **Notice of Motion 3** – Interfaith Morning Tea
- **Notice of Motion 4** – City of Ryde Dog Recreation Needs Strategy – Review
- **Notice of Motion 5** – St Charles Catholic Primary School – 160th Anniversary
- **Notice of Motion 6** – Street Paws Festival
- **Notice of Motion 2** – The Development of a City of Ryde Reconciliation Action Plan
- **Notice of Motion 1** – Recreational Fishers – Stop the Lockout Campaign

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Maggio, Moujalli, Pedersen, Purcell, Yedelian OAM and Zhou

Against the Motion: Councillor Lane

MAYORAL MINUTE

22/18 HERITAGE PROTECTION - 68 DENISTONE ROAD, DENISTONE - Mayor Jerome Laxale

Note: John Court (on behalf of himself and on behalf of William Lloyd), Patricia Lloyd and Ronald McKeon addressed the meeting in relation to this Item.

Note: Correspondence from William Lloyd dated 25 September 2018 was tabled in relation to this Item and a copy is ON FILE.

Note: Correspondence from Patricia Lloyd dated 25 September 2018 was tabled in relation to this Item and a copy is ON FILE.

Note: Undated Correspondence from Catherine Taffa was tabled in relation to this Item and a copy is ON FILE.

RESOLUTION: (Moved by The Mayor, Councillor Laxale and Councillor Maggio)

That Council delegate the General Manager to place an Interim Heritage Order over 68 Denistone Road, Denistone; and

- (i) Prepare a Planning Proposal to list the property as an item of local heritage significance within Schedule 5 Environmental Heritage of Ryde Local Environmental Plan 2014, and

ITEM 17 (continued)

ATTACHMENT 2

- (ii) That the Planning Proposal seeking heritage listing of 68 Denistone Road, Denistone be forwarded to the Department of Planning and Environment with a request for a Gateway Determination, and
- (iii) That upon receipt of the Gateway Determination, the General Manager place the Planning Proposal on Community Comment, in accordance with the conditions of the Gateway Determination.
- (iv) That a report on the outcomes of community consultation be presented to Council as soon as practicable.

Record of the Voting

For the Motion: Unanimous

COUNCIL REPORT

5 PLANNING PROPOSAL - DUNBAR ESTATE, MARSFIELD - OUTCOMES OF COMMUNITY CONSULTATION

Note: Peter Raptis addressed the meeting in relation to this Item.

RESOLUTION: (Moved by Councillors Purcell and Maggio)

- (a) That Council amends the Ryde Local Environmental Plan 2014 as it applies to the Dunbar Estate as defined in Figure 1 of this report by changing the zone from R3 Medium Density Residential to R2 Low Density Residential;
- (b) That Council request the opinion of the Parliamentary Counsel Office on the preparation of a draft Local Environmental Plan;
- (c) That Council make the draft Local Environmental Plan and request that the Department of Planning and the Environment notify the making of the LEP on the NSW Legislation Website; and
- (d) That Council notifies all community members who made a submission regarding the planning proposal of its decision.

Record of the Voting

For the Motion: Unanimous

ITEM 17 (continued)

ATTACHMENT 2

NOTICES OF MOTION

3 INTERFAITH MORNING TEA - Councillor Roy Maggio

Note: The Mayor, Councillor Laxale disclosed a Less than Significant Non-Pecuniary Interest in this Item for the reason that his wife is on the Prayer Breakfast Taskforce.

Note: Salomon Omar (representing the Baha'i Community of Ryde), Gil Tabucanon (representing the Baha'i Faith) and Sara Ahadizadeh addressed the meeting in relation to this Item.

MOTION: (Moved by Councillors Maggio and Lane)

- (a) That Council acknowledges multiculturalism and the many religious and spiritual groups in the Ryde Local Government Area.
- (b) That Council invite representatives from all religious denominations and spiritual groups to attend an interfaith morning tea to recognise the important role their groups play in the lives of our communities.
- (c) That Council invite the Mayor and interested Councillors and that the morning tea be hosted in the Mayoral Chambers and be funded from the Mayor's budget.
- (d) That Council staff manage the invitations and event planning.
- (e) That representatives from the many religious groups be invited to lead the prayer at Council meetings.
- (f) That the current prayer breakfast event that is being reviewed under the current Events Strategy, consider to allow many of these interfaith and spiritual groups to participate especially in the taskforce, and to allow suggestions in making it a more united event.

AMENDMENT: (Moved by Councillors Purcell and Clifton)

- (a) That Council acknowledges multiculturalism and the many religious and spiritual groups in the Ryde Local Government Area.
- (b) That the Mayor invite representatives from all religious denominations and spiritual groups to attend an interfaith morning tea to recognise the important role their groups play in the lives of our communities.
- (c) That the Mayor invite interested Councillors and that the morning tea be hosted in the Mayoral Chambers and be funded from the Mayor's budget.

ITEM 17 (continued)

ATTACHMENT 2

On being put to the Meeting, Councillor Zhou abstained from voting and accordingly his vote was recorded Against the Motion. The voting on the Amendment was six (6) votes for and five (5) against. The Amendment was **CARRIED** and then became the Motion.

Record of the Voting

For the Amendment: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Pedersen, Purcell and Yedelian OAM

Against the Amendment: Councillors Brown, Lane, Maggio, Moujalli and Zhou

RESOLUTION: (Moved by Councillors Purcell and Clifton)

- (a) That Council acknowledges multiculturalism and the many religious and spiritual groups in the Ryde Local Government Area.
- (b) That the Mayor invite representatives from all religious denominations and spiritual groups to attend an interfaith morning tea to recognise the important role their groups play in the lives of our communities.
- (c) That the Mayor invite interested Councillors and that the morning tea be hosted in the Mayoral Chambers and be funded from the Mayor's budget.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Lane, Maggio, Moujalli, Pedersen, Purcell and Zhou

Against the Motion: Councillor Yedelian OAM

**4 CITY OF RYDE DOG RECREATION NEEDS STRATEGY - REVIEW -
Councillor Roy Maggio**

Note: Jim Dolan, Guy Williamson and Kylee Blackwell addressed the meeting in relation to this Item.

MOTION: (Moved by Councillors Maggio and Yedelian OAM)

- (a) That Council acknowledges the increasing amount of dog owners in the Ryde Local Government Area.
- (b) That a review of the dog off-leash areas be undertaken by reviewing City of Ryde Dog Recreation Needs Strategy in 2019-2020 and the project be included in the draft 2019/2023 Delivery Plan.

ITEM 17 (continued)

ATTACHMENT 2

- (c) That as part of the review, community consultation is to be undertaken in respect to all parks becoming a dog off-leash area when not used for organised sport, in particular Monash Park.

AMENDMENT: (Moved by Councillors Purcell and Pedersen)

- (a) That Council acknowledges the increasing amount of dog owners in the Ryde Local Government Area.
- (b) That community consultation, including the Sports Advisory Committee and the Bushland and Environment Advisory Committee, be undertaken in respect to Monash Park becoming a dog off-leash area when not used for organised sport.

On being put to the Meeting, the voting on the Amendment was five (5) votes for and six (6) against. The Amendment was **LOST**. The Motion was the put and **CARRIED**.

Record of the Voting

For the Amendment: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Pedersen and Purcell

Against the Amendment: Councillors Brown, Lane, Maggio, Moujalli, Yedelian OAM and Zhou

RESOLUTION: (Moved by Councillors Maggio and Yedelian OAM)

- (a) That Council acknowledges the increasing amount of dog owners in the Ryde Local Government Area.
- (b) That a review of the dog off-leash areas be undertaken by reviewing City of Ryde Dog Recreation Needs Strategy in 2019-2020 and the project be included in the draft 2019/2023 Delivery Plan.
- (c) That as part of the review, community consultation is to be undertaken in respect to all parks becoming a dog off-leash area when not used for organised sport, in particular Monash Park.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Lane, Maggio, Moujalli, Yedelian OAM and Zhou

Against the Motion: Councillors Clifton, Gordon, Pedersen and Purcell

ITEM 17 (continued)

ATTACHMENT 2

**5 ST CHARLES CATHOLIC PRIMARY SCHOOL - 160TH ANNIVERSARY -
Councillor Roy Maggio**

Note: Peter Watkins (representing St Charles Catholic Primary School) addressed the meeting in relation to this Item.

RESOLUTION: (Moved by Councillors Maggio and Yedelian OAM)

- (a) That Council acknowledge the 160th Anniversary of the opening of St Charles Catholic Primary School Ryde.
- (b) That Council contact the school and invite the Principal, teachers and representatives from the St Charles Parish to the October 2018 Council meeting to present the school with a plaque recognising their contribution to the Catholic education of the Ryde community.
- (c) That a media release be prepared in accordance with Council's media policy, recognising this important milestone.
- (d) That this milestone be advertised through all media channels.
- (e) That a mature tree be donated and planted by Council with a plaque situated nearby highlighting this milestone in consultation with the school.

Record of the Voting

For the Motion: Unanimous

6 STREET PAWS FESTIVAL - Councillor Roy Maggio

Note: Sharon Garrard (representing Street Paws Festival) addressed the meeting in relation to this Item.

Note: Councillor Purcell left the meeting at 9.20pm and was not present for voting on this Item.

RESOLUTION: (Moved by Councillors Maggio and Lane)

- (a) That Council consider supporting an event similar to the 'Street Paws Festival' recently held at Bungaribee Park, Doonside to celebrate dog lovers, pets and bringing the community together.
- (b) That in respect to part (a) above, Council staff contact the event organiser to discuss such an event being held in the City of Ryde in June/July 2019.
- (c) That the event organiser be encouraged to apply for a Grant through the next Community Grants round to facilitate such an event in the City of Ryde.

ITEM 17 (continued)

ATTACHMENT 2

Record of the Voting

For the Motion: Unanimous

Note: Councillor Purcell returned to the meeting at 9.23pm.

2 THE DEVELOPMENT OF A CITY OF RYDE RECONCILIATION ACTION PLAN - Councillor Penny Pedersen

RESOLUTION: (Moved by Councillors Pedersen and Gordon)

- (a) That Council in conjunction with Reconciliation Australia (RA), agrees to commence work towards establishing the first City of Ryde 'Reflect' Reconciliation Action Plan.
- (b) That Council staff prepare a report exploring the opportunities and methodology for establishing a Reconciliation Action Plan including associated costs and that this report be presented to the Finance and Governance Committee and Social Inclusion Committee in early 2019.
- (c) That upon approval of costs, City of Ryde staff establish a Reconciliation Action Working Group (RAWG) comprising of the following membership:
 - (i) Two elected members (Mayor or Deputy Mayor and one elected member).
 - (ii) General Manager and/or Representative.
 - (iii) Up to four community members (no less than half should be aboriginal members) to assist with the development of the City of Ryde's 'Reflect' Reconciliation Action Plan.
 - (iv) That the General Manager call for nominations from community members via Council's regular communication channels, to be considered for inclusion in the RAWG and following that, nominations/recommendations of members be presented in a report to the Works and Community Committee.

Record of the Voting

For the Motion: Unanimous

ITEM 17 (continued)

ATTACHMENT 2

1 RECREATIONAL FISHERS - STOP THE LOCKOUT CAMPAIGN - Councillor Roy Maggio

Note: Ben Seale addressed the meeting in relation to this Item.

MOTION: (Moved by Councillors Maggio and Yedelian OAM)

- (a) That Council supports those residents of Ryde that are opposing the State Government proposal to lockout recreational fishers from using marine areas previously available for fishing by providing a submission on behalf of the residents of Ryde to support the Stop the Lockout campaign.
- (b) That Council notifies the State Government of its support for the recreational fishers from the City of Ryde in opposing this proposed lockout.
- (c) That a statement is made available on all media channels from the mover of the motion supporting STOP THE LOCKOUT campaign.

AMENDMENT: (Moved by Councillors Pedersen and Purcell)

- (a) The Council notes recent comments by the Premier that indicate the potential for yet another policy backflip. This time on the Government's current position on Marine Sanctuary Policy.
- (b) That the Mayor, Councillor Laxale write to the Premier seeking clarification on policy surrounding recreational fishing.

On being put to the Meeting, the voting on the Amendment was six (6) votes for and five (5) against. The Amendment was **CARRIED** and then became the Motion.

Record of the Voting

For the Amendment: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Pedersen, Purcell and Zhou

Against the Amendment: Councillors Brown, Lane, Maggio, Moujalli and Yedelian OAM

RESOLUTION: (Moved by Councillors Pedersen and Purcell)

- (a) That Council notes recent comments by the Premier that indicate the potential for yet another policy backflip. This time on the Government's current position on Marine Sanctuary Policy.

ITEM 17 (continued)

ATTACHMENT 2

- (b) That the Mayor, Councillor Laxale write to the Premier seeking clarification on policy surrounding recreational fishing.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Pedersen, Purcell and Zhou

Against the Motion: Councillors Brown, Lane, Maggio, Moujalli and Yedelian OAM

COUNCIL REPORTS

1 CONFIRMATION OF MINUTES - Council Meeting held on 28 August 2018

RESOLUTION: (Moved by Councillors Purcell and Gordon)

That the Minutes of the Council Meeting 10/18, held on 28 August 2018 be confirmed.

Record of the Voting

For the Motion: Unanimous

2 CONFIRMATION OF MINUTES - Extraordinary Council Meeting held on 11 September 2018

RESOLUTION: (Moved by Councillors Gordon and Purcell)

That the Minutes of the Extraordinary Council Meeting 11/18, held on 11 September 2018 be confirmed.

On being put to the Meeting, Councillor Moujalli abstained from voting and accordingly his vote was recorded Against the Motion.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Pedersen, Purcell and Zhou

Against the Motion: Councillors Lane, Maggio, Moujalli and Yedelian OAM

ITEM 17 (continued)

ATTACHMENT 2

3 ITEMS PUT WITHOUT DEBATE

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

That Council adopt Items 4, 7, 8, 10, 12 and 16 on the Council Agenda as per the recommendations in the reports.

Record of the Voting

For the Motion: Unanimous

4 INVESTMENT REPORT AS AT 31 AUGUST 2018

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

That Council endorse the Investment Report as at 31 August 2018.

Record of the Voting

For the Motion: Unanimous

7 TRANSFER OF NOMINEE TO SOCIAL INCLUSION ADVISORY COMMITTEE

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

That Council endorses the transfer of Jen Humphrey to a position on the Social Inclusion Advisory Committee.

Record of the Voting

For the Motion: Unanimous

8 RESIGNATIONS AND NOMINATION FOR SOCIAL INCLUSION ADVISORY COMMITTEE

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

- (a) That Council endorses the resignation of Martina Fox and Elizabeth Wilkinson.

ITEM 17 (continued)

ATTACHMENT 2

- (b) That Council endorses the nomination of Gabriel Van Duinen for a position on the Social Inclusion Advisory Committee.

Record of the Voting

For the Motion: Unanimous

10 REPORTS DUE TO COUNCIL

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

That the report on Outstanding Council Reports be endorsed.

Record of the Voting

For the Motion: Unanimous

12 REQUEST FOR TENDER - COR-RFT- 15/18 WEST RYDE PLAZA PUBLIC DOMAIN UPGRADE: FABRICATION AND INSTALLATION OF ARTISTIC ARCHITECTURAL SHADE STRUCTURE

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

- (a) That Council accepts the tender from TILT Industrial Design Pty Ltd for the West Ryde Plaza Domain Upgrade: Fabrication and Installation of Artistic Architectural Shade Structure for the amount of \$627,000.00 (ex. GST) subject to:
 - i. TILT providing a Bank Guarantee or security deposit for 15-20% of the Contract Amount.
 - ii. Council enter into a supply contract with TILT that confirms ownership of the structure lies with Council.
- (b) That Council delegate to the General Manager the authority to enter into a contract with TILT Industrial Design Pty Ltd for West Ryde Plaza Domain Upgrade: Fabrication and Installation of Artistic Architectural Shade Structure on the terms contained within the tender, subject to point a) i. and ii. above being satisfied, and for minor amendments to be made to the contract documents that are not of a material nature.
- (c) That Council advises all the respondents of Council's decision.

ITEM 17 (continued)

ATTACHMENT 2

Record of the Voting

For the Motion: Unanimous

16 2018/2019 CHRISTMAS / NEW YEAR ARRANGEMENTS - COUNCIL BUSINESS OPERATIONS

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Gordon)

- (a) That the Council endorse the changes to normal City of Ryde business operations over the 2018/2019 Christmas and New Year period, as outlined in this report.
- (b) That the Council endorse the end of year staff function, including staff update and Christmas lunch, being held at Next Generation from 12 noon on Friday, 21 December 2018.
- (c) That the changes to normal business operations referred to in (a) above, be advertised in the Mayor's Column, on Council's website, through Social Media and by way of notice at the front of Council's customer service centres, Council's branch libraries and the Ryde Aquatic Leisure Centre.

Record of the Voting

For the Motion: Unanimous

4 INVESTMENT REPORT AS AT 31 AUGUST 2018

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

5 PLANNING PROPOSAL - DUNBAR ESTATE, MARSFIELD - OUTCOMES OF COMMUNITY CONSULTATION

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

ITEM 17 (continued)

ATTACHMENT 2

6 SHRIMPTONS CREEK PRECINCT ACTIVATION - Public Art in Wilga Park

RESOLUTION: (Moved by Councillors Purcell and Gordon)

That this matter be deferred for consideration at the next Council Meeting to be held on 30 October 2018 and for the statistical data regarding the community consultation be provided.

Record of the Voting

For the Motion: Unanimous

7 TRANSFER OF NOMINEE TO SOCIAL INCLUSION ADVISORY COMMITTEE

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

8 RESIGNATIONS AND NOMINATION FOR SOCIAL INCLUSION ADVISORY COMMITTEE

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

9 TOP RYDE CONSTRUCTION OF A 40KM/H HIGH PEDESTRIAN ACTIVITY AREA (HPAA)

RESOLUTION: (Moved by The Mayor, Councillor Laxale and Councillor Purcell)

- (a) That Council accepts the 100% funding received from RMS for the construction of Top Ryde 40km/h HPAA - \$513,100 which includes the following:
- i. Raised thresholds in Smith and Tucker Streets and three (3) at grade thresholds (gateway treatments) at mid-block locations in Tucker Street and Pope Street in addition to the associated pedestrian safety fences;
 - ii. Road pavement surface '40' patches at the entry points to 40km/h zone in Smith Street and Tucker Street and associated signage;
 - iii. 'LOOK OUT BEFORE YOU STEP OUT' pavement decals all pedestrian crossing locations within the 40km/h HPAA scheme;
 - iv. Undertakes consultation with RMS to add right-turn red arrow phasing as well as increased pedestrian green-time to the existing traffic signals at the intersection of Pope Street and Smith Street.
 - v. Undertakes consultation with RMS to install all direction pedestrian crossing at the intersection of Blaxland, Church and Tucker Street.

ITEM 17 (continued)

ATTACHMENT 2

- vi. Undertakes consultation with RMS to install right turn arrow from Blaxland Road into Tucker Street heading west.
- (b) Lighting along Smith Street between Pope Street and Curzon Street be reviewed after the completion of developments at 1-5 Smith Street, 2 Smith Street and 14-16 and 1A Smith Street.
- (c) That Council consolidates the funds as income and allocates them as expenditure at the Quarter 1 Review under the Council programs detailed in part (a) above.

Record of the Voting

For the Motion: Unanimous

10 REPORTS DUE TO COUNCIL

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

LATE ITEM

16 2018/2019 CHRISTMAS / NEW YEAR ARRANGEMENTS - COUNCIL BUSINESS OPERATIONS

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

NOTICES OF MOTION

1 RECREATIONAL FISHERS - STOP THE LOCKOUT CAMPAIGN - Councillor Roy Maggio

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

2 THE DEVELOPMENT OF A CITY OF RYDE RECONCILIATION ACTION PLAN - Councillor Penny Pedersen

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

3 INTERFAITH MORNING TEA - Councillor Roy Maggio

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

ITEM 17 (continued)

ATTACHMENT 2

**4 CITY OF RYDE DOG RECREATION NEEDS STRATEGY - REVIEW -
Councillor Roy Maggio**

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

**5 ST CHARLES CATHOLIC PRIMARY SCHOOL - 160TH ANNIVERSARY -
Councillor Roy Maggio**

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

6 STREET PAWS FESTIVAL - Councillor Roy Maggio

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

QUESTIONS BY COUNCILLORS AS PER POLICY

1 QUESTIONS WITH NOTICE - Councillor Roy Maggio

Note: Councillor Moujalli left the meeting at 10.03pm and was not present for voting on this Item.

RESOLUTION: (Moved by the Mayor, Councillor Laxale and Councillor Purcell)

That the following Answers to Questions with Notice be received and noted.

Record of the Voting

For the Motion: Unanimous

Question 1:

When did the Council staff move into the North Ryde Office?

Answer 1:

Monday, 16 May 2016

Question 2:

What is the amount of staff that work in the North Ryde Office?

Answer 2:

Approximately 290

ITEM 17 (continued)

ATTACHMENT 2

Question 3:

What is the current spending of rental from entering the new office till now?

Answer 3:

Between May 2016 and September 2018, Council has spent \$4.09 million on rental costs

CLOSED SESSION

ITEM 11 - PROPERTY MATTER

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

**ITEM 12 – REQUEST FOR TENDER - COR-RFT- 15/18 WEST RYDE PLAZA
PUBLIC DOMAIN UPGRADE: FABRICATION AND INSTALLATION OF ARTISTIC
ARCHITECTURAL SHADE STRUCTURE**

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

**ITEM 13– REQUEST FOR TENDER - COR-RFT -16/18 PIDDING PARK
AMENITIES BLOCK**

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (a) personnel matters concerning particular individuals (other than councillors); AND (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

ITEM 17 (continued)

ATTACHMENT 2

**ITEM 14 - OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT -
312 VICTORIA ROAD, GLADESVILLE**

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

ITEM 15 - ADVICE ON COURT ACTIONS

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Note: Councillor Moujalli returned to the meeting at 10.08pm.

Note: Councillor Maggio left the meeting at 10.08pm and was not present for voting on this Item.

RESOLUTION: (Moved by Councillors Gordon and Purcell)

That the Council resolve into Closed Session to consider the above matters.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Moujalli, Pedersen, Purcell, Yedelian OAM and Zhou

Against the Motion: Councillor Lane

Note: The Council closed the meeting at 10.10pm. The public and media left the chamber.

Note: Councillor Maggio returned to the meeting at 10.12pm.

ITEM 17 (continued)

ATTACHMENT 2

11 PROPERTY MATTER

RECOMMENDATION: (Moved by Councillors Gordon and Clifton)

- (a) That Council note the findings outlined in the report.
- (b) That Council approve the proposed action plans outlined in the report, removing – residential apartments.
- (c) That the funding detailed in the report be approved.

On being put to the Meeting, Councillor Maggio abstained from voting and accordingly his vote was recorded Against the Motion.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Moujalli, Pedersen, Purcell and Zhou

Against the Motion: Councillors Brown, Lane, Maggio and Yedelian OAM

12 REQUEST FOR TENDER - COR-RFT- 15/18 WEST RYDE PLAZA PUBLIC DOMAIN UPGRADE: FABRICATION AND INSTALLATION OF ARTISTIC ARCHITECTURAL SHADE STRUCTURE

Note: This was dealt with earlier in the meeting as detailed in these Minutes.

13 REQUEST FOR TENDER - COR-RFT -16/18 PIDDING PARK AMENITIES BLOCK

Note: This was dealt with later in the meeting as detailed in these Minutes.

14 OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT - 312 VICTORIA ROAD, GLADESVILLE

Note: Clare Brown (representing Buildex Pty Ltd) addressed the meeting in relation to this Item.

Note: A CONFIDENTIAL Councillor e/Workshop presentation was tabled in relation to this Item and a copy is ON FILE – CONFIDENTIAL.

ITEM 17 (continued)

ATTACHMENT 2

RECOMMENDATION: (Moved by Councillors Purcell and Gordon)

- (a) That Council accept the letter of offer as detailed in **ATTACHMENT 2** dated 1 March 2018 from Buildex Gladesville Pty Ltd to enter into a Voluntary Planning Agreement in relation to Development Application LDA2017/312 for a Mixed Use Residential Flat Building at 312 Victoria Road, Gladesville. The Voluntary Planning Agreement will require the Applicant to provide a public benefit in stages as summarised below:
- i. Construction of part of Gerard Lane, estimated total construction cost at approx. \$174,926.00
 - ii. Dedication of Land for Part of Gerard Lane, estimated value of \$257,000 if FSR transferred to additional part storey (\$1,030,000 if acquired without FSR transfer)
 - iii. Security for Material Public Benefits, 'Staged Bank Guarantee' to be calculated, adjusted from time to time and held by Council until all Material Public Benefits are considered to be practicably complete and dedicated to Council as road reserve.
 - iv. Compulsory acquisition clause to enable Council to acquire proposed land for Material Public Benefits should the developer default.
 - v. 10% of Staged Bank Guarantee to be held for 12 month defects liability period.
 - vi. Caveat able interest lodged on title of land upon execution of VPA in favour of Council whilst Property NSW is land owner.
 - vii. Registration of the Planning Agreement on the Title of Land.
 - ix. The offer by the Applicant does not exclude the payment of Council's Section 7.11 Contributions and 7.11 Contributions will be payable at the usual time, being prior to issue of the relevant Construction Certificate;
- (b) That Council delegate authority to the General Manager to negotiate the specific terms of the Voluntary Planning Agreement as outlined in **ATTACHMENT 2** by Buildex Gladesville Pty Ltd, and in addition but not limited to:
- i. Security for Material Public Benefits to 100% of their agreed value, in such a form as 'Bank Guarantee' to be held and adjusted from time to time by Council until all Material Public Benefits are considered to be practicably complete and dedicated to Council as road reserve.

ITEM 17 (continued)

ATTACHMENT 2

- ii. Compulsory acquisition clause to enable Council to acquire the offered Land for part of Gerard Lane for \$1 should the developer default.
 - iii. 10% of Staged Bank Guarantee to be held for 12 month defects liability period.
 - iv. Caveat able interest lodged on title of land upon execution of VPA in favour of Council.
 - v. Registration of the Planning Agreement on the Title of Land.
 - vi. The offer by the Applicant does not exclude the payment of Council's Section 7.11 Contributions; and Section 7.11 Contributions will be payable at the usual time, being prior to issue of the relevant Construction Certificate;
- (c) That Council delegate authority to the General Manager to subsequently exhibit a draft of the Voluntary Planning Agreement in accordance with the relevant provisions of the Environmental Planning and Assessment Act 1979;
- (d) That Council delegate authority to the General Manager to:
- i. Authorise any minor changes to the draft Voluntary Planning Agreement, following its public exhibition, provided that those changes do not diminish the value or nature of the public benefits to be delivered as identified in (a) above;
 - ii. Subsequently enter into the Voluntary Planning Agreement on behalf of Council.
- (e) That Buildex Gladesville Pty Ltd be informed of Council's decision.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Clifton, Gordon, Pedersen, Purcell and Zhou

Against the Motion: Councillors Brown, Lane, Maggio, Moujalli and Yedelian
OAM

ITEM 17 (continued)

ATTACHMENT 2

13 REQUEST FOR TENDER - COR-RFT -16/18 PIDDING PARK AMENITIES BLOCK

RECOMMENDATION: (Moved by Councillors Maggio and Clifton)

That the matter be deferred for consideration at the next Council Meeting to be held on 30 October 2018.

Record of the Voting

For the Motion: Unanimous

15 ADVICE ON COURT ACTIONS

RECOMMENDATION: (Moved by Councillors Maggio and Pedersen)

That the report of the General Counsel be received.

Record of the Voting

For the Motion: Unanimous

OPEN SESSION

RESOLUTION: (Moved by Councillors Maggio and Purcell)

That Council resolve itself into open Council.

Record of the Voting

For the Motion: Unanimous

Note: Open Council resumed at 11.12pm.

RESOLUTION: (Moved by Councillors Maggio and Pedersen)

That the recommendations of Items considered in Closed Session be received and adopted as resolutions of Council without any alteration or amendment thereto.

Record of the Voting

For the Motion: The Mayor, Councillor Laxale and Councillors Brown, Clifton, Gordon, Maggio, Pedersen, Purcell, Yedelian OAM and Zhou

Against the Motion: Councillors Lane and Moujalli

ITEM 17 (continued)

ATTACHMENT 2

The meeting closed at 11.13pm.

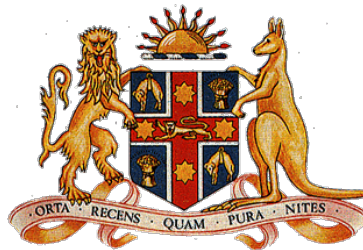
CONFIRMED THIS 30TH DAY OF OCTOBER 2018



Chairperson

ITEM 17 (continued)

ATTACHMENT 3



Government Gazette

of the State of

New South Wales

Number 99

Wednesday, 26 September 2018

The New South Wales Government Gazette is the permanent public record of official NSW Government notices. It also contains local council, private and other notices.

From 1 January 2018, each notice in the Government Gazette has a unique identifier that appears in square brackets at the end of the notice and that can be used as a reference for that notice (for example, [n2018-14]).

The Gazette is compiled by the Parliamentary Counsel's Office and published on the NSW legislation website (www.legislation.nsw.gov.au) under the authority of the NSW Government. The website contains a permanent archive of past Gazettes.

To submit a notice for gazettal – see Gazette Information.

ISSN 2201-7534

By Authority
Government Printer

7232

NSW Government Gazette No 99 of 26 September 2018

ITEM 17 (continued)

ATTACHMENT 3

Council Notices

COUNCIL NOTICES

COUNCIL OF THE CITY OF RYDE

HERITAGE ACT 1977

INTERIM HERITAGE ORDER NO. 4

Under Section 25 of the *Heritage Act 1977*, the Council of the City of Ryde does by this order:

- (1) make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule "A"; and
- (2) declares that the Interim Heritage Order shall apply to the curtilage or site of such an item, being the land described in Schedule "B".

Schedule "A"

All landscaping, works, relics and buildings that are attached to, located upon or form part of the land described in Schedule B.

Schedule "B"

All that parcel of land known as Lot 1 DP 1096437, Lot 2 DP 1096437 & Lot 3 DP 1096437 (also known as 68 Denistone Road, Denistone 2114) shown edged heavy black on the plan catalogued Interim Heritage Order No.4 in the office of the Council of the City of Ryde.

Condition

This Interim Heritage Order will lapse six months from the date that 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.

Executed this 26th day of September 2018 at North Ryde in the State of New South Wales, for and on behalf of the Council of the City of Ryde by **GEORGE DEDES**, General Manager, in accordance with his delegated authority under Section 377 of the *Local Government Act 1993*.

George Dedes

[n2018-3241]

ITEM 17 (continued)

ATTACHMENT 4

LOCAL PLANNING PANELS DIRECTION – PLANNING PROPOSALS

I, the Minister for Planning, give the following direction under section 9.1 of the *Environmental Planning and Assessment Act 1979*.


Minister for Planning

Dated: 27/1/2019

Objective

The objective of this direction is to identify 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.

Application

This direction applies to a council that has constituted a local planning panel under the *Environmental Planning and Assessment Act 1979*, other than the council of the City of Sydney.

Direction

1. A council to whom this direction applies is required to refer all planning proposals prepared after 1 June 2018 to the local planning panel for advice, unless the council's general manager determines that the planning proposal relates to:
 - (a) the correction of an obvious error in a local environmental plan,
 - (b) matters that are of a consequential, transitional, machinery or other minor nature, or
 - (c) matters that council's general manager considers will not have any significant adverse impact on the environment or adjoining land.
2. When a planning proposal is referred to the local planning panel for advice in accordance with this direction it is to be accompanied by an assessment report prepared by the council staff setting out recommendations in relation to the planning proposal, including whether or not the planning proposal should be forwarded to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
3. The local planning panel must have given its advice on the planning proposal before council considers whether or not to forward it to the Minister or Greater Sydney Commission under section 3.34 of the *Environmental Planning and Assessment Act 1979*.
4. This direction takes effect on the date it is published on the Department of Planning and Environment's website and applies to planning proposals that, before that date, have not been forwarded to the Minister or the Greater Sydney Commission. For the avoidance of doubt, the requirement in clause 2 to this direction extends to planning proposals that

ITEM 17 (continued)

ATTACHMENT 4

have been referred to the local planning panel, and in relation to which the panel has not provided advice, before the date this direction takes effect.

5. This direction revokes the previous Local Planning Panels Direction – Planning Proposals dated 23 February 2018.

ITEM 17 (continued)

ATTACHMENT 5

Written Submission of Owner of 68 Denistone Road, Denistone NSW 2114

1. The owner has engaged Stephen Davies of Urbis, former chair of the NSW Heritage Council, to prepare a rebuttal report: In summary his key points are, a) whilst it is a prominent interwar dwelling on a corner location it does not reach the threshold for listing on historic or aesthetic grounds, b) it is in extremely poor physical condition, c) Ms. Kemp did not do an internal inspection and it deserves such before a recommendation can be made, d) the dwelling is a good example of an interwar bungalow and has representative elements of a building of the period, it is enhanced by large site, but is otherwise typical of the period, e) it is a quality of building that would be included as "contributory" if it were in a group of houses of comparable quality but it is not considered to reach the threshold for individual aesthetic significance, f) the building represents typical face brick and render exterior and has no external features that are rare or unusual and which are not represented in other dwellings of the period, g) it is not by a well-known designer nor is it exceptional architecturally, h) it has a standard form and layout, i) he read the history of the site and does not agree that it has historic significance for Ryde. There is no more significance than other lots in the vicinity, j) no historic event or person is associated with the site, k) there is nothing exceptional about the history or the type or form of subdivision, l) the building has been said to be rare in Ryde, but it is noted that the interwar bungalow is not a rare or endangered building in Ryde or the Sydney region and there are many areas which comprise groups of buildings of similar qualities that are protected as conservation areas, m) the City has been surveyed for heritage buildings and this building is prominent and was not considered to meet the threshold in those studies, n) buildings should not be listed because people seek to retain the status quo of their locality. It must be a rigorous process as the implications are significant, o) the dwelling is said to contribute to the character of the area but there is no character identified by Ms. Kemp so it's a statement with no exhibited research, p) he has inspected the interior and notes the ceilings are collapsed due to poor condition of the roof and water penetration. The roof needs replacing due to structural failure and most decorative ceilings will have to be removed, q) building is subject to severe cracking and this starts at the entrance steps and moves through the entire building, r) an engineering report must be read in conjunction with an internal inspection by Council staff before a decision on listing is made, s) real estate photos are not an indication of the structural condition of the building, t) the imposition of IHO's as a planning tool is not a satisfactory process to achieve other planning outcomes. The process diminishes the voracity of the planning system and the importance of heritage identification and listing through a proper Municipal wide assessment, u) he does not believe the building to be of such significance to meet the threshold as an individual item, requests the IHO be removed and the recommendation to add to heritage schedule be discontinued.
2. LEC: Council had its chance to sue the owner over IHO breach but dropped the claim and served an amended Summons which only sought orders that the IHO not be breached and keeping roof tarp on. Final orders were made to that effect.
3. **Author of the Heritage Study did not disclose potential conflict of interest:** The owner's solicitor contacted Cherry Kemp (on 10/10/18). He disclosed to her confidential information of the owner with the view of engaging Paul Davies to produce a report. The owner was shocked to see that Cherry Kemp authored the Heritage Study. The solicitor emailed the owner on 10/10/18 to report the details of the contact with Ms. Kemp so there is point in time evidence.
4. Ms. Kemp has a duty to disclose the contact in the Heritage Study and give reasons. The conflict arises where Ms. Kemp has, or potentially has, confidential information of one side which she can, or potentially can, use against the other. At pg310 Ms. Kemp said, "Note that damage to the interior shown on the site visit photos is a result of illegal building work to the house which occurred prior to the imposition of the IHO on the property." Ms. Kemp placed the "illegality" before the IHO knowing that the owner was arguing that it did not do illegal works after the IHO. It is highly suspect the date of the final revision (pg 305) was on 22/11/18 which was the same day that the Council consented to final orders dropping its claim that the owner breached the IHO. The possibility of lack of impartiality is enough. The LPP system was introduced to ensure transparency, impartiality, and integrity. **Not only must the process be fair and impartial, it must also be seen to be fair and impartial.** Ms. Kemp's failure of the ethical duty to disclose or explain the contact means that if her report is to be given any weight it'll fundamentally taint the process.
5. **Evidence in Heritage Study illegally obtained:** On 10/10/18 owner's solicitor gave written notice to the Council's solicitors that said, "To avoid any doubt, our client gives notice that unless by compulsion of law your client and its agents are not permitted to enter the land at 68 Denistone Road, Denistone, without our client's prior express consent, and any implied right to enter is expressly withdrawn." Wendy Crane of Paul Davies was an agent of the Council. Photos were in locations that go far beyond any implied right to entry (like a peeping tom). The photos taken on 14/11/18 arose out of illegal activity. **If the panel gives the Heritage Study any weight then it's condoning illegality.** Permission to enter should have been sought by the Council and if it did then the structural problems could have been explored in detail.
6. **The Heritage Study's conclusion on the integrity of the property is a glaring mistake:** Pg 360 says, "The house and property exhibit a substantial degree of integrity..." That is a glaring mistake. Ms. Kemp by labelling the works as "illegal" presumes that the owner can be compelled at law to repair the works. That incorrect assumption artificially inflates the heritage value of the property. Ms. Kemp failed entirely to consider if heritage listing would put an unreasonable financial burden on the owner to maintain the property given the severe structural problems.
7. Should this go to the gateway process, under the patina of credibility from a fundamentally flawed report, then the panel is giving blessings which can mislead the public. **Public confidence in the process must be the highest priority.** The panel needs reliable information in order to make an informed decision which the Council has failed to provide. The panel is the guardian of a fair and transparent process and given the serious problems identified it is respectfully submitted that it should reject the proposal.

ITEM 17 (continued)

ATTACHMENT 6

MEMORANDUM



To: Ryde Local Planning Panel members convened on 14 February 2019

From: Liz Coad – Director City Planning and Environment

Date: 15 February 2019

Subject: Planning Proposal for 68 Denistone Rd, Denistone

Dear Panel Members,

As you are aware, at the Ryde Local Planning Panel (the Panel) meeting of 14 February 2019 the Panel deferred consideration of this Planning Proposal seeking advice from Council in response to the submission provided by the Owner of 68 Denistone Rd:

The Panel determined to defer the decision pending further advice from Council. The determination will be made electronically and posted on Council's website in due course.

As requested, staff have reviewed the submission provided by the Owner (attached) and provide the following advice (numbers correspond to the numbering used in the Owner's submission:

1. Council staff consider the report provided by Paul Davis Pty Ltd to be satisfactory for the purposes of proceeding to a Gateway Determination. It is noted that should a Gateway Determination be issued, the owner of the property would be afforded the opportunity to provide a fulsome and detailed submission as part of the subsequent public exhibition process. Council has provided a Heritage Assessment Report by a qualified heritage professional, the panel has undertaken a site inspection and has also been provided the staff report providing an assessment against the relevant strategic merit considerations. This is considered sufficient information for advice to be provided to Council. The owner's alternate Heritage Assessment would be considered should the proposal receive a Gateway Determination and proceed to public exhibition. Council may choose to have both reports peer reviewed during the exhibition period.
2. This is not a relevant consideration with respect to the matter before the Panel. The Panel is requested to provide advice to Council on the Strategic Merit of the planning proposal only and is not required to consider Council's enforcement decisions related to the IHO.
3. As above, the information claimed to be confidentially provided is not a relevant consideration with respect to the Strategic Merit of the proposal nor does it prejudice an assessment of the significance of the current property. Further, it is the view of staff that no conflict of interest could arise or could reasonably be construed to arise from the owner's contact with the author of the Heritage Assessment Report, nor does this contact in any way undermine the veracity of the assessment.

ITEM 17 (continued)

ATTACHMENT 6

4. See response to 3 above. No confidential information is contained in the Heritage Assessment Report and neither the legality of the previous works nor the IHO are relevant considerations in relation to the significance of the site in its current form and the Strategic Merit of the Planning Proposal.
5. It is the view of staff that should the applicant seek to take action with respect to trespass this would have no bearing on the veracity of the Heritage Assessment Report, nor is it a relevant consideration with respect to the Strategic Merit of the Planning Proposal.
6. The Heritage Assessment Report provides an assessment of the current structure in its current condition against the relevant criteria. It does not presume that further works would be required to address the relevant criteria.

Given the above, and the panel's own visit to the site, staff are of the view that there is sufficient and reliable information available to the Panel to provide advice to the Council on the Strategic Merit of the Planning Proposal. It is noted that should a Gateway Determination be issued, the matter would proceed to public exhibition and the owner and the public would have the ability to consider the information available and make submissions to Council.

This advice is provided in my capacity as Director City Planning and Environment following consultation with the City of Ryde's General Counsel.


Regards,
Liz Coad
Director City Planning and Environment

15/2/2019

Attached – Written Submission from the Owner of 68 Denistone Rd, Denistone