



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 22 OCTOBER 2024 AT 7:00PM
LEVEL 3, COUNCIL CHAMBER**

ATTACHMENTS EXCLUDED FROM AGENDA

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NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to business papers

The Livestream can be viewed here:
http://www.kmc.nsw.gov.au/Your_Council/Meetings/Council_Meeting_livestream

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GENERAL BUSINESS

**GB.15 Post Exhibition - Reclassification of
1192 Pacific Highway, Pymble**

Attachment A4: State Agency Submission Summary.....3

State Agency Submissions

1192 Pacific Highway, Pymble

Table of Assessment – Submission to the Public Exhibition – 1192 Pacific Highway, Pymble
 Public Exhibition Monday 18th March – Tuesday 16th April 2024

AGENCY	COMMENT	RECOMMENDATION
<p>Heritage NSW Department of Climate Change, Energy, the Environment and Water</p> <p>Investigation in response to HNSW: Aboriginal Heritage Office. 15/05/2024</p>	<p>Heritage NSW (HNSW) acknowledges that the reclassification of 1192 Pacific Highway will have no direct impact on the Heritage item located opposite the site at 2C Telegraph Road, Pymble - known as 'Pymble Reservoir No.1 (WSC 0097) & No. 2 (WSC 0098)' on the State Heritage Register (SHR).</p> <p>HNSW's requirements for a Statement of Heritage Impact as part of any future Development Application to investigate potential impact to the reservoir and its identified heritage values and to the historic archaeology is noted.</p> <p>HNSW goes on to recommend that an Aboriginal cultural heritage assessment report be prepared to inform the Planning Proposal on impacts to the Aboriginal cultural landscape. HNSW recommends the Planning Proposal also consider impacts to the Aboriginal cultural landscape, including potential impacts on visual corridors, and that these potential impacts are determined in consultation with the Aboriginal community.</p> <p>The reclassification of the land will not result in any works to the land and the requirements of HNSW for investigations are more appropriate at the development application stage where there is more targeted investigation of the site and understanding of any constraints that are found. Ideally the investigation into Aboriginal Cultural heritage on sites would occur at a pre-DA stage and inform the DA design.</p> <p>As per HNSW request, Council commissioned the Aboriginal Heritage Office to assess the site for Aboriginal cultural heritage. The Aboriginal Heritage Office concluded there is no Aboriginal cultural heritage on 1192 Pacific Hwy, Pymble. It also noted that if any Aboriginal cultural heritage items are discovered during any works on the land, then that work should cease and the Metropolitan Local Aboriginal Land Council be contacted. These recommendations, that would form part of any future Development Application on the site, are noted and agreed.</p> <p>The Aboriginal Heritage Information Management System (AHIMS) has no record of any Aboriginal cultural heritage on this land.</p> <p>Given there is zero European and Aboriginal heritage on the site itself, Council is satisfied that all necessary heritage assessments have been undertaken for the purpose of this reclassification Planning Proposal.</p> <p>Any future development application will routinely check on the application of heritage to the site and accordingly require the application to address any findings.</p> <p>The comments made by Heritage NSW will not alter the Planning Proposal to reclassify the land.</p>	<p>Prepare an Aboriginal cultural heritage assessment report as required by HNSW.</p>
<p>Transport for New South Wales (TfNSW)</p>	<p>TfNSW raises concern on the close proximity of the site to the existing traffic signals at the Pacific Highway/Telegraph Road intersection, and does not support any direct vehicular access to / from Pacific Highway in any future development of the site. TfNSW goes on to suggest amalgamation of the site with the undeveloped land at 1190 Pacific Highway to enable a safe vehicle access point at the southernmost boundary of 1190 Pacific Highway.</p> <p>TfNSW's comments are agreed.</p> <p>1192 Pacific Highway (on its own) is in a compromised location in relation to a future vehicular access point in/out of the site, due to the existing traffic signals/pedestrian crossing facilities located in the middle of the site. Council's Traffic Engineer advises that the Australian Standards (AS2890.1, Cl3.2.3 (a)) would permit a vehicle access point for this site (due to the physical impossibility of an alternative location). However, it is not Council's intention for this site to be a stand-alone development site. The land is only proposed for divestment to the adjoining landowner at 1190 Pacific Highway (provided Council passes a resolution for divestment). This approach aligns with the comments/recommendation from TfNSW</p> <p>It is noted that TfNSW advises that the property is located within an area under investigation for a proposed upgrade of the Pacific Highway and Telegraph Road, Pymble. As the investigation is in its early stages, TfNSW comment that it is not possible to identify if there may be a future requirement of part of 1192 Pacific Highway accommodate this proposal.</p> <p>The comments made by TfNSW will not alter the Planning Proposal to reclassify the land.</p>	

Table of Assessment – Submission to the Public Exhibition – 1192 Pacific Highway, Pymble
 Public Exhibition Monday 18th March – Tuesday 16th April 2024

AGENCY	COMMENT	RECOMMENDATION
<p>Biodiversity, Conservation and Science Group (BCS) Department of Climate Change, Energy, the Environment and Water</p> <p>Investigation in response to DCCEEW: Flora and Fauna Study, Land Eco Consulting. 21/05/2024</p>	<p>The Biodiversity, Conservation and Science Group (BCS) response notes the presence of Blue Gum High Forest (BGHF) (Critically Endangered Ecological Community (CEEC) at risk of Serious and Irreversible Impacts) on 1192 Pacific Highway, Pymble and the associated protections under mapping on the Biodiversity Values Map and the Ku-ring-gai Local Environment Plan 2015 (KLEP).</p> <p>Council shares this understanding and has confirmed the presence of BGHF. Should development of the site be proposed, the presence of BGHF on the site will trigger a range of regulatory assessment requirements at DA stage that could have implications for development approval.</p> <p>BCS recommends a biodiversity assessment be prepared to catalogue the site’s biodiversity values and discuss the implications of development on them.</p> <p>As per the BCS request, a Flora and Fauna Study has been prepared by Land Eco Consulting. The Study identifies BGHF and habitat elements potentially supporting various threatened flora and fauna species on the site. The report recommends measures to avoid and minimise impacts to these values under any future redevelopment scenario.</p> <p>Reclassification of the site from Community to Operational land will not affect habitat values. It may facilitate future divestment and potential works to the land. Should this eventuate, environmental assessment will occur through the DA process, with mitigation measures applied in accordance with environmental legislation, the KLEP, and the DCP.</p> <p>The comments made by BCS will not alter the Planning Proposal to reclassify the land.</p>	<p>Prepare a biodiversity assessment report as required by BCS.</p>
<p>Sydney Water</p>	<p>Sydney Water considers the reclassification of the site would compromise their access to the site and their ability to maintain and upgrade their easements. This is an incorrect statement as the Sydney Water easements are noted on the Land Title and this Planning Proposal will not remove, alter nor extinguish any of the easements. As such the easements and Sydney Water’s right of access to maintain and upgrade the easement land will not be altered with any potential change in ownership of the land. There is no mechanism by which a new landowner can “prevent the construction of any works or inhibit access to land affected by the easement, without the prior consent of Sydney Water” as is suggested by Sydney Water.</p> <p>Sydney Water goes on to say that in their opinion the land should remain in use as public open space as the constraints of the site (poor access, biodiversity value, steep topography) would prevent development of the site. Sydney Water suggests Council operate outside its <i>Open Space Acquisition Strategy</i> which seeks to deliver high quality, inclusive and useable open space, and utilise the site as a ‘pocket park’. It then recommends that Council consider other initiatives to increase use of this site.</p> <p>At present there are only two groups that benefit from this site. One is the residents in the adjacent Clydesdale Place apartment building, and the other is Sydney Water. It is unclear why Sydney Water originally sold the site to Council when the land held its infrastructure. Since its acquisition in 1979, there have been some attempts at utilisation of the land for public purposes but these ideas failed due to the issues Sydney Water mentions – poor access, Blue Gum community vegetation and the steep topography.</p> <p>The land has remained vacant and unused with the exception of Sydney Water and some anti social activity. The land is difficult to maintain, provides no value to the wider community, and is unlikely to be able to do so given its constraints. Council has no intention that the site be developed as a stand alone site. Council seeks to enable its amalgamation with the adjoining site at 1190 Pacific Highway to effect improved access and use whilst protecting the biodiversity assets. The amalgamation with the adjoining land will likely give that development the opportunity to utilise the tree areas and easements of 1192 Pacific Highway to meet its deep soil and communal open space requirements. Alternately, should Sydney Water wish to continue its sole use of the site, then it is suggested they consider the purchase of the site.</p> <p>The comments made by Sydney Water will not alter the Planning Proposal to reclassify the land.</p>	

Transport for NSW

18 April 2024

TfNSW Reference: SYD24/00564
DPHI Reference: PP-2023-2545



Mr John McKee
General Manager
Ku-ring-gai Council
Locked Bag 1006
Gordon NSW 2072

Attention: Rathna Rana

PLANNING PROPOSAL – RECLASSIFICATION OF 1192 PACIFIC HIGHWAY, PYMBLE

Dear Mr McKee,

Reference is made to Condition 3 requiring consultation with TfNSW as part of the Gateway Determination issued on 9 February 2024 and the Department of Planning, Infrastructure and Housing's correspondence of 13 March 2024 seeking comment from Transport for NSW (TfNSW) regarding the proposal to reclassify land at the above site.

TfNSW appreciates the opportunity to provide comment and notes that the Planning Proposal seeks to reclassify Council-owned land from Community land to Operational land to enable its re-purposing or divestment to facilitate Council's public infrastructure program.

The agency has reviewed the Planning Proposal and provides detailed comments on the proposal at **Attachment A** for Council's further consideration. We welcome the opportunity to discuss our comments in more detail.

Thank you for the opportunity to provide advice on the subject Planning Proposal. Should you have any questions or further enquiries in relation to this matter, please contact Tricia Zapanta via email: development.sydney@transport.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read "Carina Gregory".

Carina Gregory
Senior Manager Land Use Assessment (Eastern)
Planning and Programs, Greater Sydney Division

OFFICIAL

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12 Darcy Street Parramatta NSW 2150

W transport.nsw.gov.au

**ATTACHMENT A – TfNSW DETAILED COMMENTS FOR PLANNING PROPOSAL 1192
PACIFIC HIGHWAY, PYMBLE (April 2024)**

1. TfNSW has concerns with the reclassification of the subject site from Community to Operational land, with the safety implications of the proposed reclassification and potential divestment by Council likely to require direct vehicular access to / from Pacific Highway due to the site's lack of an alternative vehicular access to the rear of the site.

Any future driveway servicing the site would need to be a left-in / left-out access point however, given its close proximity to the existing traffic signals at the Pacific Highway / Telegraph Road intersection, this is **not supported** by the agency.

An access point would typically require a width of 5.5m, and due to the location of the existing signalised pedestrian crossing across the Pacific Highway, this access point would be too close to the crossing or be in the middle of the intersection, both of which compromise safety for pedestrians and other road users. Visibility of the signals while exiting the driveway could also be limited.

2. TfNSW notes the subject site and adjacent area is zoned R4 - High Density Residential under *Ku-ring-gai Local Environmental Plan 2015*, with a lapsed DA approval for land south of the site at 1190 Pacific Highway. Council should give consideration to a potential amalgamation of the subject site with 1190 Pacific Highway to ensure the subject site on its own is not sterilised with potential land amalgamation providing the opportunity for a safe, well distanced left-in / left-out access point at the southernmost boundary of 1190 Pacific Highway.
3. Furthermore, Transport for NSW advises that the property is located within an area under investigation for a proposed upgrade of the Pacific Highway and Telegraph Road, Pymble. The investigations have not yet advanced to the stage where options have been defined and accordingly, it is not possible at this date to identify if any part of the subject land will be required to accommodate this proposal.

OFFICIAL

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12 Darcy Street Parramatta NSW 2150

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**Department of Climate Change,
Energy, the Environment and Water**



Our ref: DOC24/208059

Your ref: PP-2023-2545

Rathna Rana, Senior Urban Planner

818 Pacific Highway

Gordon, NSW 2072

rrana@krq.nsw.gov.au

Subject: pp- 2023-2545 – 1192 Pacific Highway, Pymble

Dear Ms Rana,

Thank you for the opportunity to comment on the planning proposal for 1192 Pacific Highway, Pymble being a change of classification from Community Land to Operational Land under the *Kur-ing-ai Local Environmental Plan 2015*.

The following comments have been formulated after consideration of the information provided as part of the planning proposal documentation:

**State and local heritage considerations under the *Heritage Act 1977*
As delegate of the Heritage Council**

The subject site includes or is located opposite an Item on the State Heritage Register (SHR) listed as 'Pymble Reservoir No.1 (WSC 0097) & No. 2 (WSC 0098)' (SHR item numbers – 01633 & 01632), located at 2C Telegraph Road, Pymble. The SHR inventory sheets for the Reservoir describes the item as having **Historical, Aesthetic, Rare and Research Significance**.

While the current proposal to amend the land classification from Community to Operational will have no direct impact to the Heritage item (s) opposite, any future development application or subdivision / amalgamation could negatively impact upon the values of this site and should include a Statement of Heritage impact which considers the potential impact to the reservoir and its identified heritage values.

In relation to historic archaeology, if the proponent has not already undertaken their own investigation to assess the likelihood of 'relics' and any subsequent management required under the *Heritage Act 1977*, they should do so.

Aboriginal cultural heritage considerations under the *National Parks and Wildlife Act 1974*

Ministerial Direction 2.3, Heritage Conservation, requires planning proposals to address the conservation of Aboriginal objects. Heritage NSW recommends that a comprehensive Aboriginal cultural heritage assessment report is needed and should inform this planning proposal.

The results of this assessment should inform the proposal. Early assessment provides the best opportunity to identify and protect Aboriginal cultural heritage values. It also provides certainty to all parties about any future Aboriginal cultural heritage management requirements.

The requirement for a full assessment to be prepared at the planning proposal stage is consistent with Clause 5.10.8 of KLEP 2015. It is important that any management, mitigation and conservation mechanisms are developed at the planning proposal stage to help mitigate the cumulative impact of development in this region on Aboriginal cultural heritage.

We recommend the planning proposal also consider impacts to the Aboriginal cultural landscape, including potential impacts on visual corridors. These potential impacts can only be understood through consultation with the Aboriginal community. Measures to limit any impacts to identified Aboriginal cultural landscape values should be developed and integrated into the planning proposal.

If the planning proposal is approved and future development proceeds, the proponent would need to consider the Aboriginal cultural heritage impacts within their environmental assessments. Where harm to Aboriginal objects cannot be avoided the proponent would be required to obtain an Aboriginal Heritage Impact Permit (AHIP) before proceeding. Further information is available in the guide, [Applying for and Aboriginal Heritage Impact Permit: Guide for applicants](#).

General Comments

Prior to finalisation of the proposal, Council should be satisfied that all necessary heritage assessments have been undertaken and that any impacts have been sufficiently addressed. Council's assessment should include, but not be limited to, a search of the State Heritage Inventory (<https://www.heritage.nsw.gov.au/search-for-heritage/search-for-nsw-heritage/>) and the Aboriginal Heritage Information Management System (<https://www.heritage.nsw.gov.au/protecting-our-heritage/record-aboriginal-sites/>).

If you have any questions, please contact Nancy Sample at nancy.sample@environment.nsw.gov.au or on 9873 8500.

Yours sincerely

Nicole Davis

Nicole Davis

Manager Assessments

Heritage NSW

Department of Climate Change, Energy, the Environment and Water

As Delegate of the Heritage Council of NSW

As Delegate under National Parks and Wildlife Act 1974

9 April 2024



Department of Climate Change, Energy, the Environment and Water

Your ref: PP 2023 - 2545
Our ref: DOC24/214844

Ms Rathna Rana
Senior Urban Planner
Ku-ring-gai Council
818 PACIFIC HIGHWAY
GORDON NSW 2072

By email: rrana@krg.nsw.gov.au

24 April 2022

Subject: Planning Proposal - Reclassifying 1192 Pacific Highway, Pymble from Community land to Operational land

Dear Ms Rana

Thank you for your referral received 15 March 2024 requesting comments from the Biodiversity, Conservation and Science Group (BCS) of the NSW Department of Climate Change, Energy, the Environment and Water on the Planning Proposal to reclassify 1192 Pacific Highway, Pymble from Community to Operational land.

BCS has reviewed the *Planning Proposal: Reclassification of Council land from Community land to Operational land 1192 Pacific Highway, Pymble (ref: post-gateway V6)* (prepared by BBC Consulting Planners dated January 2023) and provides the following advice.

It is understood that the main objective of the Planning Proposal is to enable future long-term lease or sale of Council-owned R4 High Density Residential zoned land.

BCS raises concern as the majority of the subject site contains high biodiversity values and the Planning Proposal to reclassify the land from community to operational has not assessed the potential impacts on the biodiversity values from the future development of the site that could be realised if the land is reclassified as operational.

Biodiversity Values

The site has been mapped as Blue Gum High Forest (BGHF) which is a Critically Endangered Ecological Community (CEEC) as listed under the *Biodiversity Conservation Act 2016* (BC Act) and it is also an entity at risk of Serious and Irreversible Impacts. As such, the majority of the site is mapped on the [Biodiversity Values Map](#), which identifies land with high biodiversity value that is particularly sensitive to impacts from development and clearing. Further, the majority of the site is mapped as 'biodiversity protection' under the *Ku-ring-gai Local Environment Plan 2015* (KLEP).

Despite the high biodiversity values on the site, a biodiversity assessment that addresses the BGHF CEEC and anticipated impacts of future development on the site was not prepared to support the Planning Proposal in accordance with Section C of the *LEP Making Guidelines* (DPE,

August 2023). BCS therefore recommends a biodiversity assessment be prepared in accordance with the guidelines that includes:

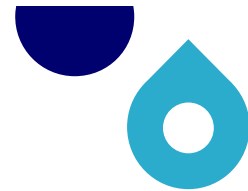
- maps and a description of the ecological features and biodiversity values of the site (including ground truthing if relying on existing mapping) including threatened ecological communities, threatened species and their habitat including linkages to corridors beyond the site
- a discussion of the implications of occurrences of native flora and fauna for future development of the site.

If you have any further questions about this issue, please contact Liz Peterson, Senior Conservation Planning Officer at elizabeth.peterson@environment.nsw.gov.au.

Kind regards



Marnie Stewart
A/Senior Team Leader Planning
Greater Sydney Branch
Biodiversity, Conservation and Science



15 May 2024

Rathna Rana

Senior Urban Planner
Urban and Heritage Planning
Strategy and Environment
Ku-ring-gai Council
Rrana@krg.nsw.gov.au

Reference: 215271

Submission: Planning Proposal - Reclassification of 1192 Pacific Highway, Pymble

Thank you for notifying Sydney Water of Ku-ring-gai Council's public exhibition of the Planning Proposal for land at 1192 Pacific Highway, Pymble (Lot 8 Deposited Plan 30236) (the site).

We understand that the planning proposal forms part of Council's broader strategy to identify surplus Council-lands for re-purposing or divestment. This divestment is intended to contribute toward funding the management Councils' existing infrastructure and improving its infrastructure programs. In order to be divested or re-purposed, these lands are required to be reclassified from Community land to Operational land in accordance with the provisions of the *Local Government Act 1993*. We also recognise that as part of the proposed reclassification, the Planning Proposal does not seek to discharge the existing easements that affect the site.

Sydney Water has reviewed the documents and wish to outline its objection to the proposed reclassification of the site from Community land to Operational land. The reasons for Sydney Waters' objection are detailed below.

Existing reservations and covenants on the land

As recognised by the Planning Proposal, approximately half of the site is affected by easements for operational water mains and sewage infrastructure. The existing easements (illustrated in **Appendix A**) include;

- Easement A: Water Supply (Transfer no. C442786)
- Easement B: Drainage (Transfer no. H558105)
- Easement C: Drainage (Transfer no. H972994 & J90027).

Notably the easements on the site prevent the construction of any works or inhibit access to land affected by the easement, without the prior consent of Sydney Water.

Sydney Water Corporation ABN 49 776 225 038

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The easements are still in operation, supporting a sewage pipeline and critical water mains (750mm and 1200mm) that connect to Pymble Reservoir (supplying the North Shore region) and transfers water to the Northern Beaches. These are considered critical infrastructure to support water supply in the region and it is imperative Sydney Water retain the easements and access to the water mains on this site.

Given the above, we object to the proposed reclassification of the site, which we consider would risk compromising Sydney Water's access to these critical assets for maintenance and/or upgrades. Further, at this point in time, Sydney Water is currently not considering the relocation of these easements.

Suitability of the land for a public purpose

Notwithstanding the above, we consider that given the significantly constrained nature of the site, its highest and best use would be to remain as land for a public purpose, such as public open space. Despite its relatively small size, the site's constraints are also not conducive to development for the following reasons:

- **Limited vehicular access** – access to the site would be required from the Pacific Highway (classified road) and in proximity to an existing signalised intersection, which are typically avoided due to existing provisions of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*. Further, any potential development on the site is unlikely to provide an alternative in terms of vehicle access due to the surroundings consisting of established vegetation, residential development and a rail corridor.
- **High value biodiversity** - The site comprises of well-established vegetation identified as high-value biodiversity, as recognised in the *Ku-ring-gai Local Environmental Plan 2015*. Conditions governing the protection of biodiversity concern the removal of vegetation on steep slopes to which the site is primarily situated. The proposal that would enable development or leasing agreements on the site is considered to be misaligned with the overall objectives for land to which biodiversity protection is necessary.
- **Topography** – The site has a significant change in elevation with its high point along Pacific Highway which steeply transition down to its low point toward the rail corridor. This site characteristic is not conducive to development, especially where existing water infrastructure is present.

Despite the site not achieving Council's ideal characteristics for open space, as per Council's *Open Space Acquisition Strategy*, there remains an opportunity for the site to be realised as a pocket park or nature reserve given its environmental attributes. Further, with the anticipated population growth expected in Pymble, notably the site's adjacent properties and the broader Pymble centre, there is an argument to retain this site as public open space. Noting its underutilisation, it is recommended Council consider potential initiatives to draw more people to this public open space and increase its usage.

Recommendation

In concluding with these findings, Sydney Water reiterates its objection to the Planning Proposal to reclassify the site from Community land to Operational land and recommends Ku-ring-gai Council come to the decision to withdraw the Planning Proposal for this site.

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Should Council require any further information, please contact the Growth Planning team via urbangrowth@sydneywater.com.au or Andrew Curtis, Operations Leader North at andrew.curtis@sydneywater.com.au.

Yours sincerely,



Andrew Curtis

Operations Leader North
Networks Operations
Sydney Water, 1 Smith Street, Parramatta NSW 2150

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Appendix A – Location of existing water mains and sewage pipeline on the site



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