

DECISION OF 3598th COUNCIL (ASSESSMENTS) MEETING HELD ON 12 MARCH 2012

124. **PDS01: Planning Proposal for St Thomas' Church, North Sydney**

Report of Brad Stafford, Senior Strategic Planner, 6 March 2012

A Planning Proposal has been lodged for 34 McLaren Street, North Sydney, also known as St Thomas' Church. The Planning Proposal seeks to amend North Sydney Local Environmental Plan 2001 (NSLEP 2001) to enable a car park to become a permissible use on the subject site.

The Planning Proposal responds to a Council resolution of 5 July 2010 which encouraged negotiation with the wardens of the Church to determine a way to regularise the existing car park operations on the site. A Planning Proposal was considered the most appropriate means to achieve formal permissibility of that use on the site.

The Planning Proposal is supported as it:

- generally complies with the relevant Local Environmental Plan making provisions under the Environmental Planning & Assessment Act 1979;
- generally complies with the Department of Planning's "A guide to preparing planning proposals";
- is unlikely to result in any adverse impacts on the environment or wider community; and
- is compatible with surrounding land uses.

As such, the Planning Proposal is considered to be satisfactory and should be forwarded to the Department of Planning and Infrastructure for Gateway Determination.

Recommending:

1. **THAT** Council resolve to forward the attached Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.
2. **THAT** if the Planning Proposal is made into an LEP, that the applicant be requested to submit a development application seeking development consent to use the subject site as a "car park".

RESOLVED:

1. **THAT** Council resolve to forward the attached Planning Proposal to the Minister for Planning in order to receive a Gateway Determination in accordance with Section 56 of the Environmental Planning and Assessment Act, 1979.
2. **THAT** if the Planning Proposal is made into an LEP, that the applicant be requested to submit a development application seeking development consent to use the subject site as a "car park".

The Motion was moved by Councillor Reymond and seconded by Councillor Baker.

Voting was as follows:

Unanimous

Councillor	Yes	No	Councillor	Yes	No
McCaffery	Y		Zimmerman	Y	
Gibson	Y		Baker	Y	
Christie	Y		Robjohns	Y	
Reymond	Y		Carland	Y	
Marchandau	Y		Burke	Y	
Raymond	Y		Pearson	Y	
Barbour	Y				



Report to General Manager

Attachments:

1. St Thomas' Church Planning Proposal

SUBJECT: Planning Proposal for St Thomas' Church, North Sydney

AUTHOR: Brad Stafford, Senior Strategic Planner, 6 March 2012

EXECUTIVE SUMMARY:

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RECOMMENDATION:

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2. THAT if the Planning Proposal is made into an LEP, that the applicant be requested to submit a development application seeking development consent to use the subject site as a "car park".

Signed: _____

Endorsed by: _____
Manager Strategic Planning

LINK TO DELIVERY PROGRAM

The relationship with the Delivery Program is as follows:

Direction: 2. Our Built Environment

Goal: 2.2 Improve mix of land use and quality development

BACKGROUND

On 5 July 2010, Council granted development consent to DA 176/09 at its Council assessments meeting to undertake various building works at 34 McLaren Street, North Sydney (also known as St Thomas' Church). During its consideration of the application, Council also identified the need to regularise the approvals relating to the existing commercial car park on the site. Car parks are not a permissible use on the subject site under North Sydney Local Environmental Plan 2001 (NSLEP 2001). Council resolved that discussions take place between Council and the wardens of St Thomas' Church to determine the most appropriate way to ensure permissibility of that use on the site.

Through discussions with the Church and its representatives, a Planning Proposal to amend NSLEP 2001 to permit development for the purposes of a car park with development consent was considered the most appropriate means of addressing Council's resolution.

A Planning Proposal was received by Council on 4 August 2011. A letter requesting further information was sent to the proponent on 1 September 2011. A further letter dated 13 October 2011 was sent to the proponent regarding the progression of the Planning Proposal. The proponent was advised that the Planning Proposal would not proceed until the considerations relating to the creation of formal easement arrangements for access to the car park pursuant to the development consent to DA 176/09.

An amended Planning Proposal was received by Council on 17 January 2012. The matter relating to the easement over Council land is discussed further below.

SUSTAINABILITY STATEMENT

The following table provides a summary of the key sustainability implications:

QBL Pillar	Implications
Environment	North Sydney Council encourages the use of public transport to access North Sydney, particularly the commercial centre, through restrictive car parking policies. Whilst increasing opportunities for car parking runs contrary to principles of environmental sustainability, the proposed LEP amendment seeks to formalise a longstanding existing use on the subject site.
Social	There are no discernable impacts in terms of social sustainability.
Economic	There are no discernable implications for Council. The Planning Proposal argues that allowing a car park on the site will contribute to the ongoing viability of church activities and associated maintenance works.
Governance	The proposal represents a considered approach to the orderly use of land in North Sydney, and is consistent with sustainable governance principles.

SITE DESCRIPTION

The site is known as St Thomas' Anglican Church, located at 34 McLaren Street, North Sydney and comprises of 7 allotments of land legally defined as follows:

- Lot 1, DP 1033999,
- Lots 1-4, DP 1042467, and
- Lots 1-2, DP 62370.

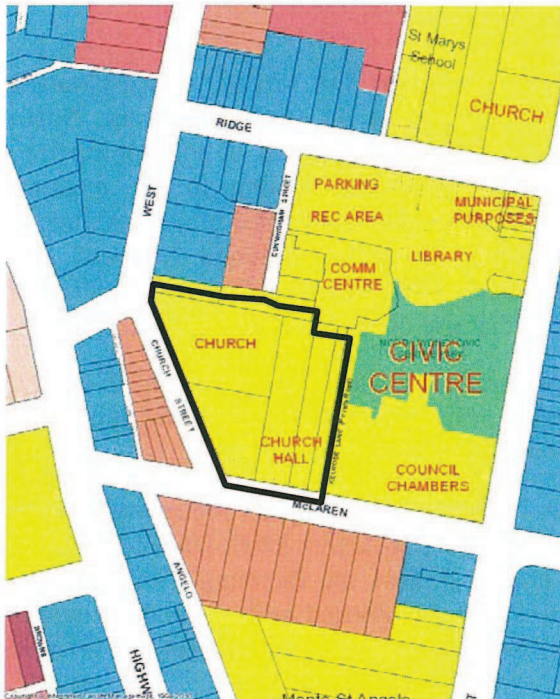


Figure 2: Subject Site – NSLEP 2001



Figure 3: Subject Site – Aerial Photo (2011)

The site accommodates several uses, including St Thomas' Church itself, St Thomas' Pre School, St Thomas' Memorial Hall, and the Ministry Centre.

In terms of car parking, the site currently houses 118 car spaces, 114 of which are used from 6am to 10pm Monday to Friday as a commercial car park. At other times (weekends etc) the spaces are used as parking for visitors to the Church. The commercial car park has been in operation since the early 1980s, however without a lawful approval.

The current building works subject to DA 176/09 do not include changes to the parking capacity on the site.

Access to the site is achieved mainly via the Council-owned roadway off McLaren Street leading to Council Chambers car park. The issue of private vehicular access over Council land to a privately-owned property has been dealt with via the granting of a right of way over the land. This process has been overseen by Council's Engineering and Property Services Department and is nearing completion. It is considered that there is no impediment to the Planning Proposal proceeding prior to the formal finalisation of that process.

Under NSLEP 2001, the subject site is part zoned Special Uses – *Church* and Special Uses - *Church Hall*. Under draft North Sydney Local Environmental Plan 2009 (DLEP 2009), the subject site is zoned R3 – Medium Density Residential.

PROPOSED AMENDMENT TO NSLEP 2001

The Planning Proposal seeks an amendment to NSLEP 2001 by inserting a site specific provision to allow development for the purposes of a "*car park*" to be permissible on the site with development consent.

PLANNING APPRAISAL

The Planning Proposal as submitted (attached) is considered to be generally in accordance with the requirements under Section 55(2) of the Environmental Planning and Assessment Act 1979 and the Department of Planning's (2009) '*A guide to preparing planning proposals*'.

In particular, the Planning Proposal adequately sets out the following:

- A statement of the objectives or intended outcomes of the proposed local environmental plan;
- An explanation of the provisions that are to be included in the proposed local environmental plan;
- Justification for those objectives, outcomes and provisions and the process for their implementation; and
- Details of the community consultation that is to be undertaken on the Planning Proposal.

The following subsections provide a more detailed analysis of the principle issues considered against the Planning Proposal.

JUSTIFICATION FOR PLANNING PROPOSAL

The Planning Proposal (attached) prepared for the St Thomas' Church justifies the proposed amendment to NSLEP 2001 in terms of the car park's contribution to the restoration of the Church and associated heritage buildings on the site. The income source that the car park provides is considered critical to the ability of the Church to carry out this maintenance.

Further justification is given in terms of Council's resolution of 5 July 2010, which called for the matter to be resolved between the Church and Council to the extent that the use of the car park may be regularised under NSLEP 2001.

Should development for the purposes of a car park be made permissible on the site, development consent would be required to operate the car park. Traffic and any other impacts will be assessed in detail at that stage. For the purposes of the Planning Proposal however, the intent of the Planning Proposal is to allow for the inclusion of an additional permitted use on the land which will allow for the formalisation of the existing car park operation.

Policy and Strategic Context

Metropolitan Plan for Sydney 2036

In December 2010, the State Government released the *Metropolitan Plan for Sydney 2036* covering the North Sydney LGA. The Plan replaced the former 2005 *City of Cities: A plan for Sydney's Future*. The Plan is to provide an additional 770,000 homes and 760,000 new jobs by 2036. The Plan sets a new dwelling increase of 44,000 in 2036 for the Inner North Subregion, of which North Sydney is a part. It is considered that the Planning Proposal has a negligible impact on these aims, given that the use of the site is unlikely to result in any change to the number of dwellings or jobs provided on the subject site.

Draft Inner North Subregional Strategy

In July 2007, the State Government released the draft Inner North Subregional Strategy (INSS). The Inner North Subregion is to provide 30,000 new dwellings by 2031. From this total the target for the North Sydney LGA is 5,500 additional dwellings. It is anticipated that the INSS will be updated to reflect the new targets under the Metropolitan Plan. However, it is anticipated that the Strategy's overall objectives will remain the same. It is considered that the Planning Proposal has a negligible impact on these aims and actions set out under the Strategy, given that the use of the site is unlikely to result in any change to the number of dwellings or jobs provided on the site.

NSLEP 2001

The subject site is zoned Special Uses – *Church* and Special Uses – *Church Hall* under NSLEP 2001, within which “car parks” are a prohibited use. The subject site is also subject to the provisions of Clause 65 to NSLEP 2001 which also permit professional consulting rooms to be undertaken on a portion of Lot 1, DP 62370.

The proposed addition of “car parks” as a permissible use to the zone on the subject site only does not conflict with the attainment of the objectives to the zone.

Draft NSLEP 2009

The subject site is zoned R3 – Medium Density Residential in the exhibited version of DLEP 2009. The change of zoning of the majority of the site from Special Uses to Mixed use was made in accordance with the Department of Planning's Planning Circular – PN 10-001 relating to the zoning for infrastructure in Local Environmental Plans. The objectives and permissible land uses within the zone are addressed as follows:

Zone R3 Medium Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a medium density residential environment.*
 - *To provide a variety of housing types within a medium density residential environment.*
 - *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
 - *To encourage development of sites for medium density housing forms, where such development does not compromise the amenity of the surrounding areas, or the natural or cultural heritage of the area.*
 - *To provide for a suitable visual transition between high density residential areas and lower density areas.*
 - *To ensure that a high level of residential amenity is achieved and maintained.*
-

2 Permitted without consent

Environmental protection works; Home occupation; Home-based child care.

3 Permitted with consent

Attached dwellings; Boarding houses; Child care centres; Community facilities; Dual occupancies (attached); Dwelling houses; Educational establishments; Group homes; Health services facilities; Home businesses; Home industries; Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Roads; Secondary dwellings; Semi detached dwellings; Seniors housing; Telecommunications facilities.

4 Prohibited

Any development not specified in item 2 or 3.

The proposal would be prohibited under the exhibited version of DLEP 2009. Despite this prohibition the proposed use would not conflict with the attainment of the objectives to the zone.

On 7 November 2011, Council had resolved to forward a revised DLEP package to the Department of Planning and Infrastructure (DoPI) pursuant to s.68 of the EP&A Act. Under this revised version of the DLEP, the site's zoning changed to SP2 – Infrastructure "Place of Public Worship".

The objectives and permissible land uses within the zone are addressed as follows:

Zone SP2 Infrastructure

1 Objectives of zone

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*

2 Permitted without consent

Environmental protection works.

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Electricity generating works; Emergency services facility; Group homes; Health services facilities; Public administration buildings; Roads; Sewerage systems; Signage; Telecommunication facilities; Waste or resource management facilities.

4 Prohibited

Any development not specified in item 2 or 3.

The proposal would be prohibited under the revised s.68 version of DLEP 2009. Despite this prohibition the proposed use would not conflict with the attainment of the objectives to the zone.

If the Planning Proposal is made into an LEP prior to the coming into force of DLEP 2009, the DLEP would need to be amended to reflect this change. This can easily be done in the final stages of DLEP 2009's completion.

CONCLUSION

The Planning Proposal seeks to regularise existing car parking activities to occur on the subject site and is considered not to conflict with the attainment of the objectives of the current and future zoning of the site.

It is considered that the relevant requirements under s.55 of the EP&A Act and the matters identified in the Department of Planning's "*A guide to preparing planning proposals*" have been adequately addressed in the Planning Proposal. It is considered that the proposal is appropriate and is adequately justified.

It is therefore recommended that Council support the forwarding of the Planning Proposal, to the Department of Planning and Infrastructure to commence the LEP making process under s.56 of the EP&A Act for Gateway Determination.

Should development for the purposes of a car park be made permissible on the site, development consent would be required to operate the car park. Traffic and any other impacts will be assessed in detail at that stage. For the purposes of the Planning Proposal however, the intent of the Planning Proposal is to allow for the inclusion of an additional permitted use on the land which will allow for the formalisation of the existing car park operation.