

**DECISION OF 3539th COUNCIL & COUNCIL (ASSESSMENTS)
MEETING HELD ON 7 DECEMBER 2009**

1005. PDS01: Planning proposal at 35 - 51 Mitchell Street, McMahon's Point

Report of Mark Yee, Strategic Planner, 2 December 2009

On 17 November 2009, Council received a planning proposal for the site at 35-51 Mitchell Street, McMahon's Point. The site is currently zoned Residential B under NSLEP 2001, but is currently operating a light industrial use under existing use rights provisions.

The owner is seeking to expand the range of permissible uses on the site so as to allow the premises to be utilised by a commercial or business operation. Such uses are currently prohibited. To achieve this, the applicant has requested that '*commercial premises*' as defined in NSLEP 2001 be permitted on the site via a site-specific provision.

The proposed zoning for the site under North Sydney Draft LEP 2009 is for IN2 – Light Industrial which would allow "*office premises*" to be operated from the site.

The planning proposal is supported and it is recommended that Council forward the planning proposal to the Department of Planning (DoP) for gateway determination.

Recommending:

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.

RESOLVED:

THAT the report be adopted.

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

**Report to General Manager**

Attachments: Planning Proposal

SUBJECT: Planning proposal at 35 - 51 Mitchell Street, McMahon's Point**AUTHOR:** Report of Mark Yee, Strategic Planner, 2 December 2009**SUMMARY:**

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RECOMMENDATION:

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.

Financial Implications

There are no immediate additional financial implications.

Signed _____

ORIGINAL SIGNEDEndorsed by _____
Manager Strategic Planning

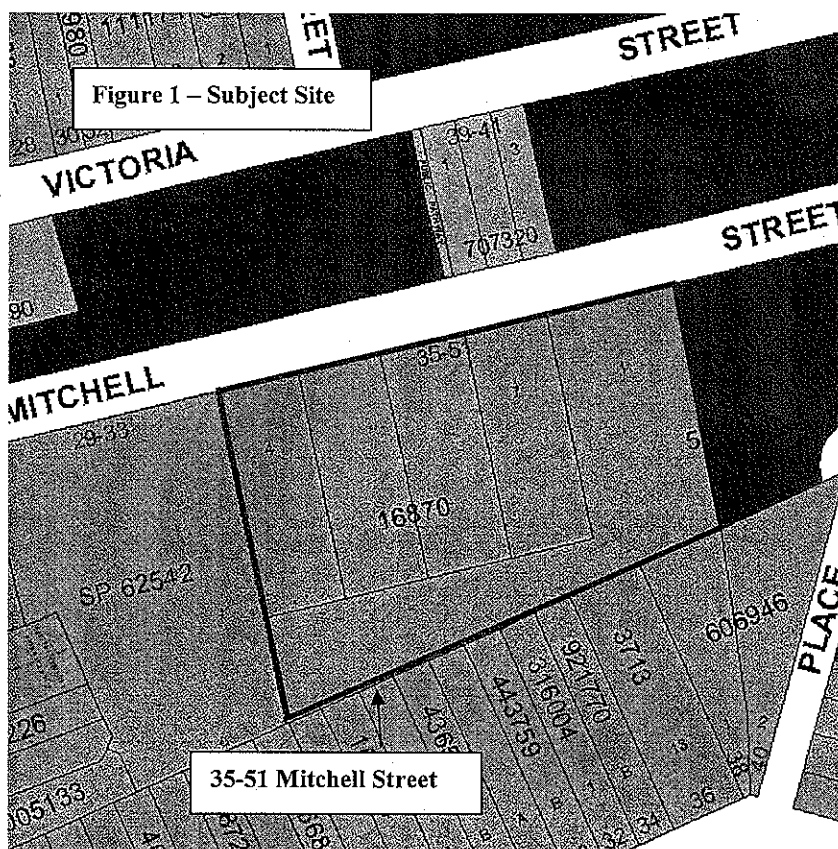
INTRODUCTION

On 17 November 2009, Council received a planning proposal for the site at 35-51 Mitchell Street, McMahon's Point. The site is currently zoned Residential B under NSLEP 2001, but is currently operating a light industrial use under existing use rights provisions.

The owner is seeking to expand the range of permissible uses on the site so as to allow the premises to be utilised by a commercial or business operation. Such uses are currently prohibited. To achieve this, the applicant has requested that '*commercial premises*' as defined in NSLEP 2001 be permitted on the site via a site-specific provision.

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SITE DESCRIPTION & BACKGROUND



The site is known as 35 -51 Mitchell Street, McMahon's Point (Lot 1, DP 57873 & Lots 4, 5, 6 DP 16870), and is surround by land zoned Residential B to the south and west and Residential F to the east and north.

The site is currently occupied by a three storey (plus basement) office/ light industrial building, which is occupied by a magazine publishing and publishing business. Although a prohibited use in the Residential B zone, existing use rights were established under DA 1418/97 for 'change of use of existing building for the publishing of magazines and related activities', which was approved by Council on 9 October 1997.

Whilst the site is operating under the definition as a light industrial use, the operation is similar to a commercial use and the building has the appearance and usability of a commercial office building.

To reflect the current use of the site for light industrial purposes, the proposed zoning for the site under DLEP 2009 is IN2-Light Industrial. This would allow light industries and office premises to be undertaken on the land.

PROPOSED AMENDMENT

The proposal seeks to allow "commercial premises" as defined by NSLEP 2001 to be operated from the subject site. This is defined in NSLEP 2001 as:

'... a building or place used as an office or for other business or commercial purposes, but (in Part 2) does not include a building or place elsewhere specifically defined in this Schedule or a building or place used for a land use elsewhere specifically defined in the Schedule.'

The planning proposal does not propose to change the Residential B zoning of the site, but to add commercial premises as an additional permitted use on the site via a new clause to Part 5 of LEP 2001.

JUSTIFICATION FOR PLANNING PROPOSAL

Suitability of Site

The proposed amendment would result in the site being utilised as commercial floorspace (7,255m²). Whilst the site does not form part of the North Sydney Centre, it is located close to both the centre and North Sydney railway station and other public transport services. As such, it is considered that a commercial use for the site would be appropriate, as it would support the centre but is not considered to be a large enough amount of floorspace to take business away from the centre.

The proponent has stated that the reason for requesting a planning proposal is that the current occupiers of the site are due to vacate the premises in early 2010. Market research undertaken by the proponent indicates a strong demand for commercial/business premises in McMahon's Point, but minimal demand for light industrial premises.

It should be noted that there is a similar planning proposal at the adjoining property on the eastern boundary at 162 Blues Point Road. The proponent is also seeking that 'commercial premises' as defined in NSLEP 2001 be permitted on the site. This planning proposal was on public exhibition from 24/09/09 to 09/10/09 and is currently with the DoP awaiting drafting of the instrument and final gazettal.

Impact on Character of Area

The existing premises on the site, has the appearance of commercial premises and is suitable for transition into a commercial use that would include offices, without requiring any significant alterations to the building.

Given the similar planning proposal for the adjoining site, and the fact that there are a number of commercial premises operating on Blues Point Road, it is considered that the planning proposal would not result in a detrimental impact to the character of the area.

Residential Amenity

As the operation of a 'commercial premises' is considered to be similar to the current operation of the site for a magazine publishing business, there is unlikely to be any additional impact on the amenity of surrounding residential properties.

However it should be noted that any future DA for the site would further assess the impact to the residential amenity of neighbouring property.

Transport and Car Parking

As the site is well located to North Sydney railway station and other forms of public transport, workers travelling to and from the subject site associated with a commercial use are likely to travel by public transport.

Policy and Strategic Context

Draft Inner North Subregional Strategy - In July 2007, the State Government released the draft Inner North Subregional Strategy covering the North Sydney LGA. The Inner North Subregion is to provide 30,000 new dwellings and capacity for 60,100 additional jobs by 2031. The strategy, amongst other things, aims to focus the majority of new commercial development within the North Sydney and St Leonards CBDs.

It is considered that the planning proposal is consistent with these aims, given the opportunity to maintain an employment generating use for a site located within close proximity to the North Sydney train station.

The draft strategy also identifies the nearby Blues Point Road, McMahon's Point as being a Neighbourhood Centre. It is further considered that commercial floorspace would be appropriate for a Neighbourhood Centre.

Draft North Sydney Local Development Strategy 2008 - The draft North Sydney Local Development Strategy 2008 generally follows the rationale of the Draft Inner North Subregional Strategy.

The draft strategy notes that the Blues Point Road and McMahons Point areas include a mix of land uses with non-residential uses meeting the day to day requirements of residents or providing support services for businesses in the North Sydney Centre. It is considered that the proposal is consistent with the draft LDS as commercial premises on the site are likely to provide support services for the North Sydney Centre.

Draft North Sydney LEP 2009 - The subject site is proposed to be zoned IN2 Light Industrial under the DLEP 2009. In the version of DLEP 2009 that is currently awaiting certification from the Department of Planning so as to allow public exhibition that '*office premises*' are identified as permissible use.

CONCLUSION

The planning proposal seeks to allow to the additional use of 'commercial premises' from the subject site is considered to be satisfactory. The use is considered to be an appropriate use for the site, given its close proximity to both the North Sydney centre and railway station.

Furthermore due the current built form that exists on the site, a commercial use will be of a similar appearance to the existing use and is unlikely to result in additional impacts to the character and amenity to the surrounding area.

It is therefore recommended that Council forward the attached planning proposal to the DoP for gateway determination.
