
TWEED SHIRE COUNCIL - MEETING TASK SHEET

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ACTION ITEM - Planning Committee Agenda - 13 December 2023

TITLE: Request to Prepare a Planning Proposal - 45 Bells Boulevard, Kingscliff - Lot 4 DP1234959 - Salt Surf Lifesaving Club

STAFF RECOMMENDATION

That, with respect to the Council-managed land at 45 Bells Boulevard, Kingscliff:

1. Landowners consent is granted for the lodgement of a Planning Proposal to enable a “function centre” land use and community hall type land use.
2. The planning proposal to enable a “function centre” and some sort of community hall land use be supported, finalised and referred to the Department of Planning, Industry and Environment for a Gateway determination;
3. Upon receipt of a Gateway determination and the Applicant’s car parking study and any other required information, proceed with public exhibition in accordance with the Council’s adopted Community Engagement and Participation Plan, and
4. Following public exhibition, a further report be brought back to Council for further reconsideration and that addresses submissions received.

MEETING RESOLUTION

Cr Brinsmead declared a Non-Significant, Non-Pecuniary Interest in this item. The nature of the interest is that Cr Brinsmead is a member of the SALT Surf Life Saving Club. Cr Brinsmead will manage the Interest by remaining in the Chamber for discussion and voting on the merits of the item.

Cr Owen declared a Non-Significant, Non-Pecuniary Interest in this item. The nature of the interest is that Cr Owen is a member of the SALT Surf Life Saving Club. Cr Owen will manage the Interest by remaining in the Chamber for discussion and voting on the merits of the item.

Cr Rhiannon Brinsmead
Cr Meredith Dennis (Deputy Mayor)

RECOMMENDED that, with respect to the Council-managed land at 45 Bells Boulevard, Kingscliff:

1. Landowners consent is granted for the lodgement of a Planning Proposal to enable a “function centre” land use and community hall type land use.
2. The planning proposal to enable a “function centre” and some sort of community hall land use be supported, finalised and referred to the Department of Planning, Industry and Environment for a Gateway determination;
3. Upon receipt of a Gateway determination and the Applicant’s car parking study and any other required information, proceed with public exhibition in accordance with the Council’s adopted Community Engagement and Participation Plan, and
4. Following public exhibition, a further report be brought back to Council for further reconsideration and that addresses submissions received.

The Motion was **Carried**

VOTE FOR - Cr Chris Cherry (Mayor), Cr Meredith Dennis (Deputy Mayor), Cr Reece Byrnes, Cr Rhiannon Brinsmead, Cr Nola Firth, Cr James Owen

TITLE: Request to Prepare a Planning Proposal - 45 Bells Boulevard, Kingscliff - Lot 4 DP1234959 - Salt Surf Lifesaving Club

Submitted By: Strategic Planning and Urban Design

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

Growing – We want to work together to plan for the future so the Tweed grows and evolves in a sustainable way

Plan ahead so the Tweed is ready for the future.

4.1.2 Strategic Land-use Planning – Plan for sustainable development which balances economic, environmental and social considerations. Promote good design in the built environment.

ROLE:

ADVOCATE - Council gives voice to the community by lobbying and advocating to achieve benefits and best possible outcomes for the Tweed.

EXECUTIVE SUMMARY

Salt Surf Life Saving Club, operating from Council owned land at 45 Bells Boulevard in Kingscliff, has submitted a planning proposal seeking to enable a “function centre” land use as permitted with development consent (it is currently prohibited). The planning proposal has been registered on the NSW Planning Portal on 1 November 2023. In their justification, the Club provided the following:

- *To remain open and financially viable as an Emergency Services and Lifesaving facility they must be able to generate income to meet these expenses.*
- *To be able to produce income and revenue the Club needs to be able to utilise the clubhouse for ancillary activities such as non-member community events, functions and meetings.*
- *To provide a social community space for the generous volunteers and members who continue to support the Club.*

The proposed outcome can only be achieved through an amendment to Tweed Local Environmental Plan 2014 (Tweed LEP 2014), either by rezoning the entire site SP3 Tourist as per the adjacent land, or by applying RE1 Public Recreation zoning with a “function centre” land use enabled through Schedule 1 Additional Permitted Land Use. It is suggested that any planning proposal also consider the premises for some sort of community hall purpose to ensure members of the broader community can use the facility. It is proposed to determine the most appropriate LEP amendment pathway through engagement with NSW Department of Planning & Environment as part of a Gateway Determination, as discussed further in this report.

A preliminary assessment of the proposal indicates that there is a need for a contemporary, detailed car parking study to determine whether a future car parking expansion is required, as reported to Council previously in 2021. Should Council resolve to support this planning proposal, the Applicant will be required to provide the car parking study prior to the public exhibition. Council officers recommend the scope of this planning proposal also include the rezoning of land between the Club site and Bale development to an RE1 Public Recreation zoning, to better reflect its current use and to enable a car park expansion if required.

RECOMMENDATION:

That, with respect to the Council-managed land at 45 Bells Boulevard, Kingscliff:

1. Landowners consent is granted for the lodgement of a Planning Proposal to enable a “function centre” land use and community hall type land use.
2. The planning proposal to enable a “function centre” and some sort of community hall land use be supported, finalised and referred to the Department of Planning, Industry and Environment for a Gateway determination;
3. Upon receipt of a Gateway determination and the Applicant’s car parking study and any other required information, proceed with public exhibition in accordance with the Council’s adopted Community Engagement and Participation Plan, and
4. Following public exhibition, a further report be brought back to Council for further reconsideration and that addresses submissions received.

ATTACHMENTS

None

COUNCIL IMPLICATIONS:

a. Legislation/Policy/Existing Strategic Plans

The site is subject to both Tweed LEP 2014 and Tweed LEP 2000. Amendments to the latter are no longer supported by the Department therefore the anticipated outcome will be delivered by way of including the entire site into Tweed LEP 2014.

b. Sustainability:

i. Financial (Budget/Long Term Financial Plan/Whole of Life Cost):

There is no perceived impact on the long-term financial plan or Divisional budget arising from this proposal. Council's Fees and Charges will be applied, where appropriate. Use of the site for Surf Life Saving Club is regulated through an adopted Plan of Management and conditions of the lease. These will be reviewed accordingly to ensure the Club’s business plan for generating revenue through private functions, such as wedding functions, are adequately addressed.

ii. Environmental (including climate change):

While this planning proposal relates to an existing building, the effect will be to remove the existing 7(f) Environmental Protection (Coastal Lands) zoning that affects the land. The SALT precinct is one which has been extensively developed and the proposed LEP amendment will not increase the likelihood or occurrence of environmental impact.

Any future development application will be assessed in accordance with Council’s existing procedures, guidelines and requirements, and any approval will likewise require appropriate consideration of potential adverse environmental impacts on the site or adjoining land and water bodies.

iii. Social:

The Gateway Determination and Council adopted Community Engagement and Participation Plan will specify the requirements for, and the extent of, community consultation for this planning proposal.

c. Legal Considerations:

The site is owned by Council and is classified as “community” in accordance with provisions of the Local Government Act 1993. Reclassification of land to “operational” is not required. Should the planning proposal be supported, a Plan of Management and the current lease applying to the site will be reviewed before lodgment of the Development Application. Any future DA will review merit considerations of the EP&A Act while the Plan of Management will first ensure compliance with the Local Government Act.

d. Risk Considerations:

Risk arising in connection with the proposed LEP amendment from a land use planning perspective has been assessed by way of application of relevant policy and rules, and detailed precinct appraisal. There are no foreseeable and significant non-planning based risks identified.

e. Engagement/Communication:

Collaborate - Working with the community to design and draft.

REPORT:

The site subject to this planning proposal is located at 45 Bells Boulevard, Kingscliff in the master planned community known as 'Salt Village' (ref. Figures 1 and 2). The Salt Surf Life Saving Club (the Club) is based in a two-storey development occupying Lot 4 DP1234959, located along Bells Boulevard on Lot 1 DP1234959.

The site is irregular in shape with a primary frontage to Bells Boulevard along the western boundary. To the north of the subject site is open space and public pathways that run from north to south along the Kingscliff, Salt and Casuarina frontages. Further to the north consist of a combination of residential accommodation including tourist and visitor accommodation (Peppers Resort) and residential dwellings. To the south of the site consists of a continuation of the pathway connections and open space, as well as hotel and tourist accommodation known as 'Mantra on Salt' and residential dwellings beyond. To the east of the site is South Kingscliff Beach.

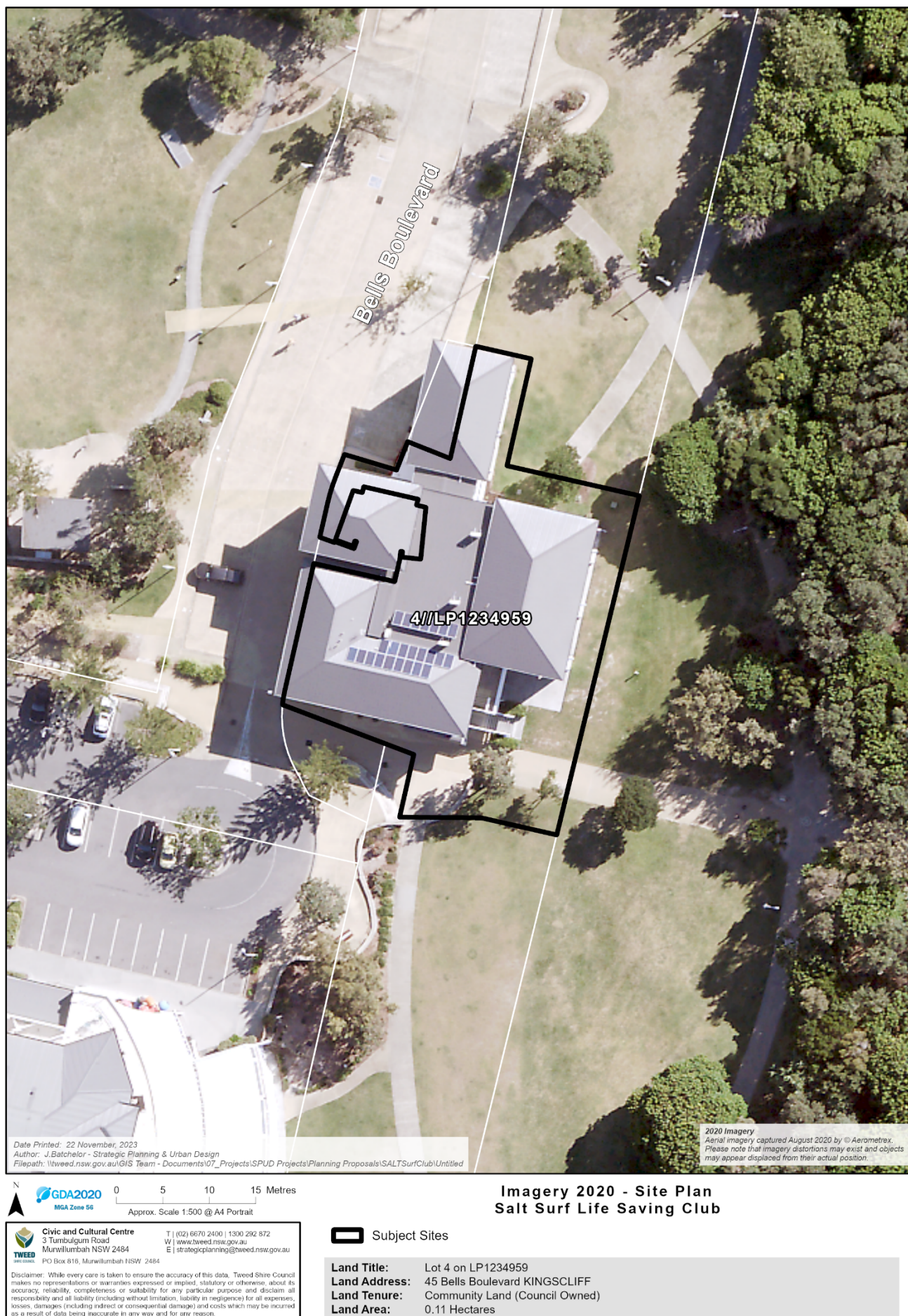
The site is part zoned SP3 Tourist under Tweed Local Environmental Plan 2014 (LEP 2014) and part zoned 2(f) Tourism and 7(f) Environmental Protection (Coastal Lands) under Tweed Local Environmental Plan 2000 (LEP 2000), as outlined in Figure 3. The Planning Proposal seeks LEP amendment to enable the "function centre" land use on Lot 4 LP1234959. Under the Standard Instrument Dictionary of Definitions, "function centre" means a building or place used for the holding of events, functions, conferences, and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

To enable a "function centre" land use on the site an LEP amendment is required, and it necessitates bringing the entire site under the uniform regulation of Tweed LEP 2014. This can be achieved through amending the LEP Land Application Map, Land Zoning Map, development standard maps and all relevant LEP mapping. It is noted the Department of Planning & Environment no longer supports amendments to non-Standard Instrument LEPs, such as Tweed LEP 2000, which are intended to be phased out and discontinued. There are currently two pathways to enable the "function centre" land use:

- a. apply the adjacent SP3 Tourist zone of the entire Lot 4 DP 10234959, noting that SP3 Tourist zone will enable other land uses associated with retail and tourism accommodation,
- b. apply RE1 Public Recreation zone and list "function centres" land use in Schedule 1 Additional Permitted Uses as permitted with consent on the subject site.

It is also recommended that a community building type use be considered to ensure the facility can be used by the broader community.

Council officers will work with NSW Department of Planning & Environment on determining the most appropriate pathway, noting Council is both the asset owner and the consent authority, and the ultimate use of the site will be controlled by a Plan of Management.



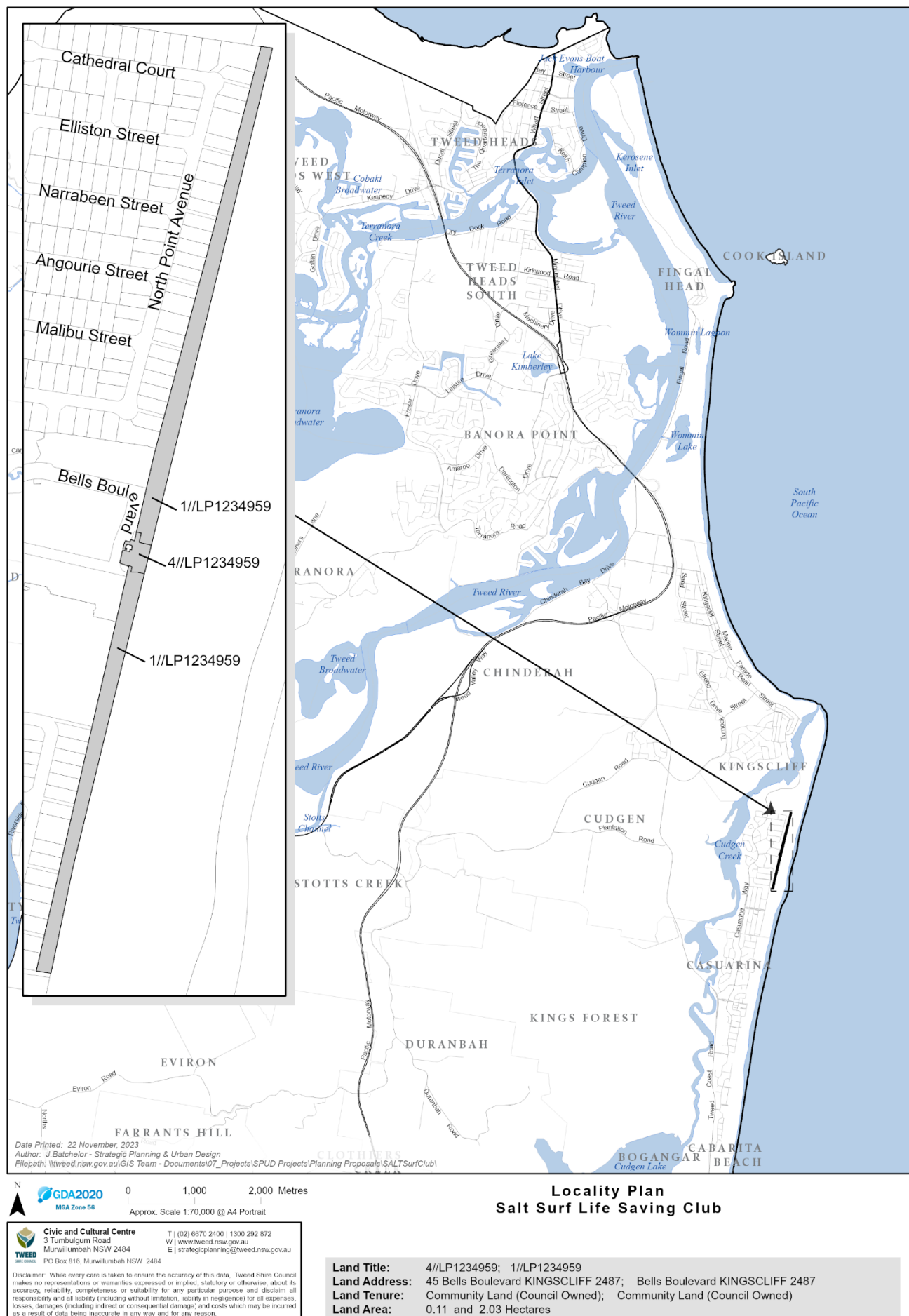


Figure 2. Salt Surf Life Saving Club site – regional context.

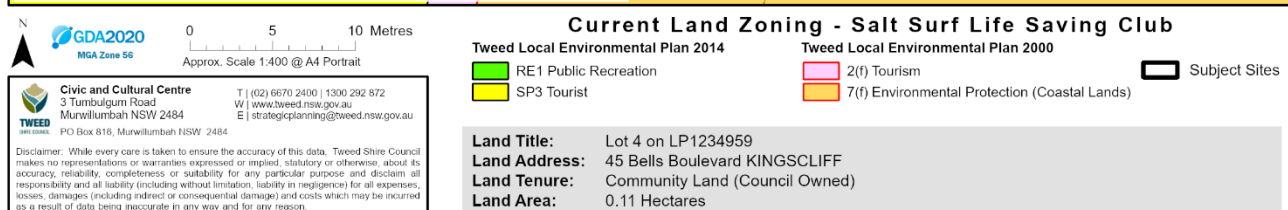


Figure 3. Salt Surf Life Saving Club site – current zoning.

The Club has submitted a planning proposal seeking to permit “function centre” land use with development consent. The planning proposal has been registered on the NSW Planning Portal on 1 November 2023. In

their justification, the Club provided the following:

- *To remain open and financially viable as an Emergency Services and Lifesaving facility they must be able to generate income to meet these expenses.*
- *To be able to produce income and revenue the Club needs to be able to utilise the clubhouse for ancillary activities such as non-member community events, functions and meetings.*
- *To provide a social community space for the generous volunteers and members who continue to support the Club.*

Salt SLSC has previously lodged Development Application 22/0323 with Tweed Shire Council seeking development consent for the purpose of ancillary functions. The application for 'ancillary functions' would sit separate to the core operation of the approved 'emergency services facility' as a supplementary income stream.

The 'ancillary functions' would include a range of activities including birthday parties, wedding receptions and corporate conferences and functions. The application sought the ability to hold these functions between 10am and 10pm Monday to Sunday with a maximum of 250 patrons.

The application was notified for a period of 14 days from 8 June 2022 to 22 June 2022. A total of six (6) submissions were received, two (2) of which were received outside the notification period.

The summary of the submissions received raised concerns relating to the noise impacts to surrounding residents and holiday goers from music and general disturbances of the proposed events. Matters of concern were also raised relating to the inconsistency of the proposal with the existing approval as being independent to the SLSC as well as the lack of adequate car parking to accommodate the additional visitors to the site.

The proponent was advised by Council that it would not accept the proposal on the basis that the development application for the purpose of 'function centre' would not be ancillary to the approved 'emergency services facility' with each land use having clear separate and distinct functions. Council officers were of the view that the proposed 'function centre' use would serve its own purpose on the land rather than being ancillary to the primary function of 'emergency services facility'.

The application was subsequently withdrawn from the planning portal on 6 June 2023 and the Applicant embarked on preparing a planning proposal to enable "function centre" land use. According to the planning proposal provided by the Applicant, activities within the proposed "function centre" land use will affect the upper floor of the existing Salt SLSC (Approved Emergency Services Facility) for the purpose of community and private events/functions. The functions would only occur when the Salt SLSC is not being used for its core surf lifesaving purpose. Based on the operational details provided by the Club, the use would be limited to a maximum of 15-20 hours per week (i.e. <20% of the club use) and would only occur outside the nominated core operations of the Club. It is important to recognise SLSC already hold functions for Club purposes pursuant to Condition 69 of DA13/0119. To this end, the use of the SLSC Club building for non-member community or private functions is sought by this proposal and would be operated ancillary to existing activities undertaken within the SLSC Club building.

Regarding the types of events, the intention is to accommodate community groups and events along with infrequent functions such as:

- Public & resident meetings.
- Conferencing space.
- Professional Workshops.
- SLS and Community Training; and
- Birthdays/Weddings.

Preliminary assessment of the planning proposal has identified three matters requiring detailed discussion, as outlined below.

Car parking

The basis for enabling additional car parking for the Salt SLSC was established at a Planning Committee

meeting on 17 September 2020 where Council resolved to investigate the provision of car parking on Community Land immediately north of the existing building. Three concept car park options were subsequently developed for additional car parking on the Community Land and were used as the basis for community consultation via Your Say Tweed (YST) and for direct conversations with various stakeholders. The YST page attracted 147 survey respondents, 75% (110) of which supported additional car parking on the Community Land.

Based on these results, Council resolved at a Planning Committee meeting on 17 June 2021 to grant owner's consent for "the lodgement of a development application to modify/expand the Club's activities, including potential provision of public car parking consistent with any of the three options presented to the public, provided the application is accompanied by a professionally prepared car parking study and analysis". It was also resolved that Council would not commit to further funding from general revenue for parking on the Community Land. To give effect to the abovementioned resolution, the Applicant will be required to prepare a current car parking needs assessment, before the planning proposal can progress to the public exhibition phase.

To assess the parking demand for the proposal, Bitzios Consulting has undertaken a parking assessment of the proposal and precinct (see attachments). The assessment argues that the existing parking in the precinct is adequate to cater for the proposal and that no additional parking is required. It is noted however that the assessment was undertaken quite some time ago, around March 2021, a time when the presence of the then National COVID 19 pandemic was impacting heavily upon tourism and the use of public spaces. Therefore, it is unclear whether the submitted assessment reflects current or typical car parking demands, and whether additional parking would be required for the use of a function centre if an updated assessment were undertaken.

While the three concept car park options demonstrate that there is sufficient vacant land north of the existing building, it is unclear as to exactly how much land will be required. As such, Council requires an updated parking assessment based on current demands to complete the Planning Proposal. At this point, the preferred approach is to progress the Planning Proposal to Gateway, with a condition that the Applicant prepares the updated assessment prior to the public exhibition occurring.

It is further noted that the potential car parking expansion area is located between the current clubhouse and Peppers/Bale development to the north, on land zoned 7(f) Environmental Protection (Coastal Lands) under Tweed LEP 2000. Whilst car park land use is permitted with consent on land in that zone, it is proposed to include this land (being Lot 1//LP1234959) into this planning proposal, seeking to rezone it to RE1 Public Recreation, in line with the actual use of this land and consistently with the Conservation zone planning proposal currently being prepared by Council. Lot 1//LP1234959 is outlined on Figure 4.



Figure 4. Extent of Lot 1//LP1234959 identified for rezoning to RE1 Public Recreation, proposed to be incorporated into this planning proposal.

Acoustics

Documentation lodged with the planning proposal include the preparation of an acoustic report prepared by CRG Acoustics. The report is dated 16 September 2020 and is the same report submitted as part of DA22/0323. For that reason, it would be prudent to highlight the matters for consideration put forward by Council's Environmental Health officers.

A key concern raised is the impact of noise associated with amplified music and groups gathering outside the building. Council officers recommended the preparation of a noise management plan outlining responsibilities for ensuring appropriate actions were implemented to manage noise impacts, specifically the veranda located along the northern façade should not be used for amplified music when considering its adjacency to existing residences. Council officers recommended appropriate conditions to this effect, seeking to ensure the noise impact and potential impact upon amenity is adequately addressed by the Applicant through the Clubs operational management plan.

Commercial use of Council-owned Community land

The subject site is classified as “community land” and is subject to an approved Plan of Management (PoM).

In New South Wales, public land is managed under the Local Government Act 1993 (LG Act) based on its classification. All public land must be classified as either community land or operational land (LG Act ss.25, 26), which can be broadly explained as follows:

- Community land is land council makes available for use by the general public, for example parks, reserves or sports grounds.
- Operational land is land which facilitates the functions of council, and may not be open to the general public, for example, a works depot or council garage.

How public land is classified determines the ease or difficulty a council can have dealings in public land, including its sale, leasing or licensing. Community land can be leased but it must not be sold, exchanged or otherwise disposed of by a council. According to s35 of the LG Act, community land is required to be used and managed in accordance with a plan of management adopted by council, and any law regulating the use of land (Local Environmental Plan). By way of comparison, operational land is not subject to any special restrictions with respect of ongoing management, development or disposal by council.

Considering the above, reclassification of the subject site from “community” to “operational” is not required in this instance.

An approved PoM for the Council-owned “community” land, Lot 901 DP1066477 and Lot 173 DP1075495 was adopted by Council at its meeting on 17 August 2010. The PoM specifies that the land is categorised as “General Community Use” pursuant to the *Local Government Act 1993* (LG Act) and *Local Government (General) Regulation 2005* (LG Regulation).

The Management Objectives for the site are:

Objective 1

Promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the community in relation to:

- public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public.
- *purposes for which a lease, licence or estate may be granted in respect of the land (other than provision of public utilities and works associated with or ancillary to public works).*

Objective 2

Provide a buffer between the natural coastal dunal vegetation in the contiguous Lot 500, and the intense urban tourist and residential development of the Salt development.

The PoM permits leases, licenses, or other estates over the Reserve for the purposes of achieving the

objectives identified in the Plan. This includes the construction and operation of facilities that support the objectives. The PoM therefore enables a lease to be granted over the parcels of Council-owned “community” land. Council has already entered into a lease agreement with Salt Surf Life Saving Club Inc for their occupation of all of Lot 173 DP1075495 and part Lot 901 DP1066477. The lease commenced 1 July 2017 and terminates 31 May 2027 with a further option of ten (10) years.

In addition, Council also entered into agreements with Salt Surf Life Saving Club Inc for occupation of part of Council’s road reserve, however the agreement, which commenced 1 Juen 2017, subsequently expired on 31 May 2022. Consideration may need to be given to a new licence approval for road reserve use, should there be identified demand for additional car parking. Leases over road reserve are governed by the provisions of the *Roads Act 1993* and not the LG Act. The need for a revised lease will be analysed by Council staff, noting that S119 of Local Government Regulation provides that *refreshment kiosks, dances and private parties are prescribed as purposes for which community land that is leased for a surf life-saving club or a sporting club may be sublet*.

The proposed “function centre” land use will enable commercial activities occurring on community land. However, the intent is to support the existing surf life saving club and the community benefit it provides whereby the commercial activity can be regulated by way of lease or licensing conditions to ensure consistency with the PoM management objectives and the requirements of the *Local Government Act 1993*.

Planning proposal decisions can be subject to judicial review by a third party once made, in accordance with Division 9.5 Civil enforcement proceedings of the Environmental Planning & Assessment Act 1979 (“Any person may bring proceedings in the Court”). The community and businesses operating locally which may be affected by the outcome of this planning proposal will have an opportunity to communicate their concerns during the course of the plan making process.

OPTIONS:

Option 1

That, with respect to the Council-managed land at 45 Bells Boulevard, Kingscliff:

1. Landowners consent is granted for the lodgement of a Planning Proposal to enable a “function centre” land use and community hall type land use.
2. The planning proposal to enable a “function centre” and some sort of community hall land use be supported, finalised and referred to the Department of Planning, Industry and Environment for a Gateway determination;
3. Upon receipt of a Gateway determination and the Applicant’s car parking study and any other required information, proceed with public exhibition in accordance with the Council’s adopted Community Engagement and Participation Plan, and
4. Following public exhibition, a further report be brought back to Council for further reconsideration and that addresses submissions received.

Option 2

Landowners consent for the Planning Proposal is not granted and Council does not proceed with the Planning Proposal.

Option 1 is recommended.

PREVIOUS COUNCIL RESOLUTIONS:

Planning Committee – 17 June 2021

RESOLVED that Council:

1. Upon request from Salt Surf Life Saving Club, Council grants owner's consent for the lodgement of a development application to modify/expand the Club's activities, including potential provision of public car parking consistent with any of the three options presented to the public, provided the application is accompanied by a professionally prepared car parking study and analysis.
2. If a development application is approved, Council considers further funding for parking on the Community Land, and also consider applying for and/or assisting the Club to obtain eligible grant funding for its construction.
3. **ATTACHMENT 1 is CONFIDENTIAL** in accordance with Section 10A(2) of the Local Government Act 1993, because it contains: (e) information that would, if disclosed, prejudice the maintenance of law.

Planning Committee – 17 September 2020

RESOLVED that Council:

1. Investigates provision for car parking on Community Land immediately adjacent to the north of Salt Surf Life Saving Club;
2. Allocates \$10,000 through the December Quarterly Budget Review for a design concept and cost estimate of car parking;
3. Upon completion of design elements of potential car parking, undertakes community consultation with stakeholders and community members; and
4. Upon completion of the above, considers a report on the provision of car parking, including potential funding sources.

VOTE AGAINST - None

ABSENT. DID NOT VOTE - Cr Warren Polglase