



IRF 24/289

Gateway determination report – PP-2023-2444

Amend zoning and development standards at 45 Bells
Boulevard, Kingscliff (Part Lot 4 DP 1234959)

February 24



Published by NSW Department of Planning, Housing and Infrastructure

dpie.nsw.gov.au

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans

Planning Proposal – Salt Surf Lifesaving Club, 45 Bells Boulevard, Kingscliff prepared by Newton Denny Chapelle dated October 2023 (Ver C February 2024)

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	Tweed Shire
PPA	Tweed Shire Council
NAME	Amend zoning and development standards at 45 Bells Boulevard, Kingscliff (part Lot 4 DP 1234959)
NUMBER	PP-2023-2444
LEP TO BE AMENDED	Tweed LEP 2014
ADDRESS	45 Bells Boulevard, Kingscliff
DESCRIPTION	Part Lot 4 DP 1234959
RECEIVED	16/02/2024
FILE NO.	IRF24/289
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The planning proposal comprises land that has been deferred from the Tweed Local Environmental Plan (LEP) 2014 and is subject to the Tweed LEP 2000.

The planning proposal seeks to transition part of 45 Bells Boulevard, Kingscliff (part Lot 4 DP 1234959) from the LEP 2000 to the LEP 2014 and apply zoning and development standards to enable a 'function centre' land use across the whole site under the LEP 2014.

Prior to public exhibition, the planning proposal is to be updated to:

- reference that the proposal applies to part Lot 4 DP 1234959; and
- detail the scope of the amendment including proposed alterations to the LEP 2014 land application map, land zoning map, minimum lot size map, height of buildings map and floor space ratio map.

The objectives of this planning proposal are clear and adequate subject to the abovementioned amendments.

1.3 Explanation of provisions

The subject site is part zoned SP3 Tourist under LEP 2014 and part zoned 2(f) Tourism and 7(f) Environmental Protection (Coastal Lands) under the LEP 2000.

The planning proposal seeks to transition the part of Lot 4 DP 1234959 under the LEP 2000 into the LEP 2014 as per the changes below:

Table 3 Current and proposed controls

Control	Current (LEP 2000)	Proposed (LEP 2014)
Zone	2(f) Tourism 7(f) Environmental Protection (Coastal Lands)	SP3 Tourist
Minimum lot size	2(f) – Nil 7(f) – 40 hectares	450 square metres
Maximum height of the building	Nil	13.6m
Floor space ratio	Nil	2:1
Land application map		Remove the ‘Deferred Matter’ listing from the subject land

Prior to public exhibition, the planning proposal is to be updated to detail the scope of the amendment including proposed alterations to the LEP 2014 land application map, land zoning map, minimum lot size map, height of buildings map and floor space ratio map in order to adequately explain how the objectives of the proposal will be achieved.

1.4 Site description and surrounding area

The subject land is known as 45 Bells Boulevard, Kingscliff, described as part Lot 4 DP 1234959. It is located within the Salt Village Town Centre and is improved by the Salt Surf Life Saving Club.

The allotment has an area of approximately 1,182 square metres and is part zoned SP3 Tourist under LEP 2014 and part zoned 2(f) Tourism and 7(f) Environmental Protection (Coastal Lands) under LEP 2000. This planning proposal applies to the western portion of the land that is zoned 2(f) and 7(f).

The primary zone objectives listed in LEP 2000 for 2(f) Tourism are as follows:

- to encourage integrated tourist development and uses associated with, ancillary to or supportive of the tourist development, including retailing and service facilities, where such facilities are an integral part of the tourist development and are of a scale appropriate to the needs of that development.
- to ensure that prime sites are developed for the best use and fulfil their economic and employment generating potential for the area.

It is considered that the proposal to rezone the portion of the allotment from 2(f) to SP3 is entirely consistent with the abovementioned zone objectives.

The primary zone objectives listed in LEP 2000 for 7(f) Environmental Protection (Coastal Lands) are as follows:

- to identify land susceptible to coastal erosion and protect it from inappropriate development.
- to protect and enhance the scenic and environmental values of the land.

The secondary zone objective listed in LEP 2000 for 7(f) Environmental Protection (Coastal Lands) is to allow for other development that is compatible with the primary function of the zone.

An assessment against these zone objectives is undertaken later in this report.

The site is owned by Council and is classified as ‘community’ in accordance with provisions of the Local Government Act 1993. Reclassification of the land to ‘operational’ is not required to facilitate the objectives of this planning proposal.

Open space, public pathways and the Peppers/Bale tourist and visitor accommodation development exist to the north; South Kingscliff Beach is to the east; open space, public pathways and the Mantra on Salt tourist and visitor accommodation development exist to the south and open space exists to the west. The subject land and its locality is depicted in Figure 1.



Figure 1 – Subject land (Source: SIX Maps)

The land is mapped as being affected by acid sulfate soils and is classified as bushfire prone. It is not prone to inundation by flooding and is not mapped as having biodiversity values. The site is located within the coastal strip as defined by the North Coast Regional Plan 2041 and is mapped as a ‘Coastal Use Area’ and a ‘Coastal Environment Area’ by SEPP (Resilience and Hazards) 2021.

1.5 Mapping

The planning proposal includes mapping showing the proposed changes to the land zoning map (Figure 3). To provide context, the land zoning map is to be updated prior to community consultation to demonstrate the proposed zoning on the subject land as well as the existing zoning of surrounding allotments.

The proposed changes to the minimum lot size map, height of buildings map and floor space ratio map are not detailed. Prior to community consultation, mapping detailing the proposed changes to these maps over part Lot 4 DP 1234959 is required to be included in order to adequately explain how the objectives of the proposal will be achieved.

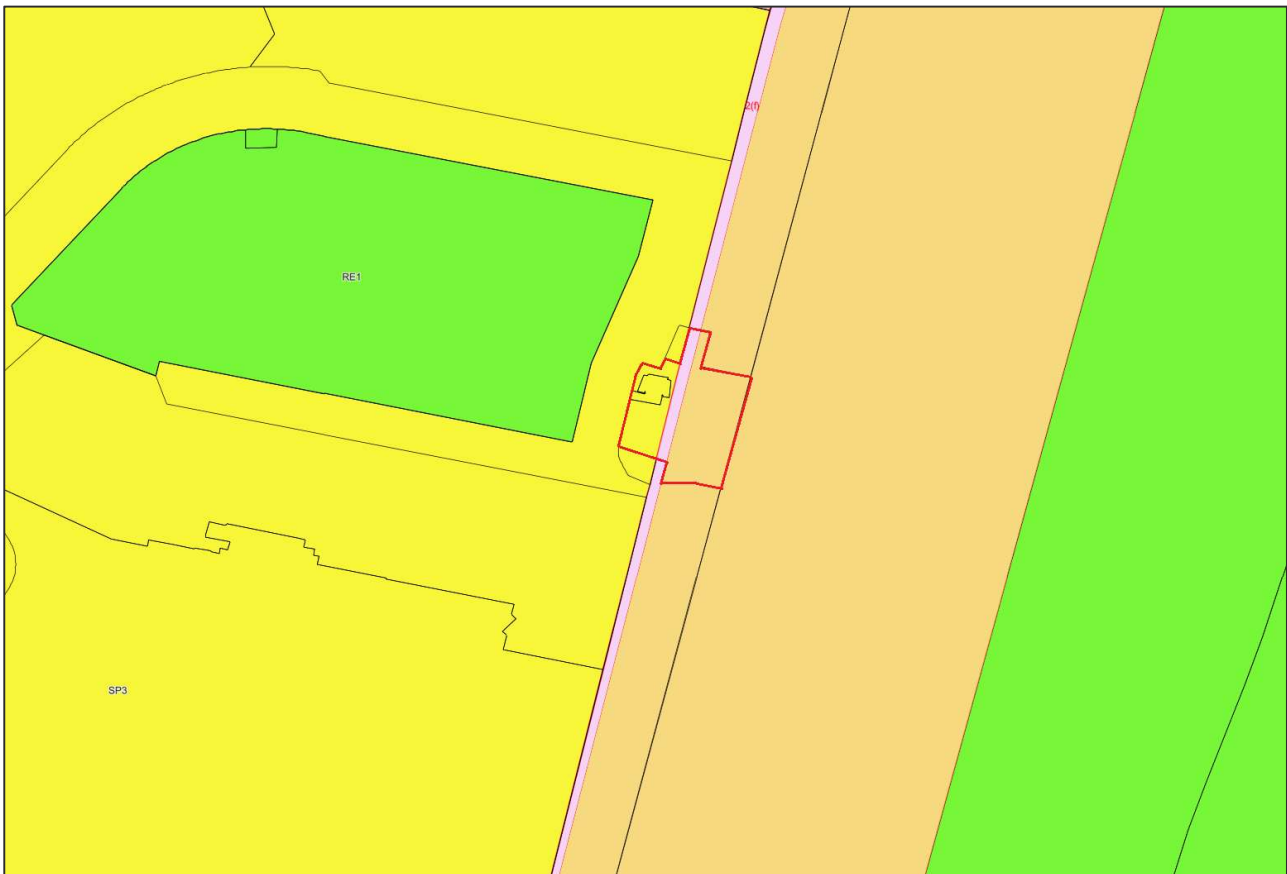


Figure 2 – Current land zoning map, Tweed LEP 2000 and Tweed LEP 2014 (Source: Tweed Local Environmental Plans, Council Website)

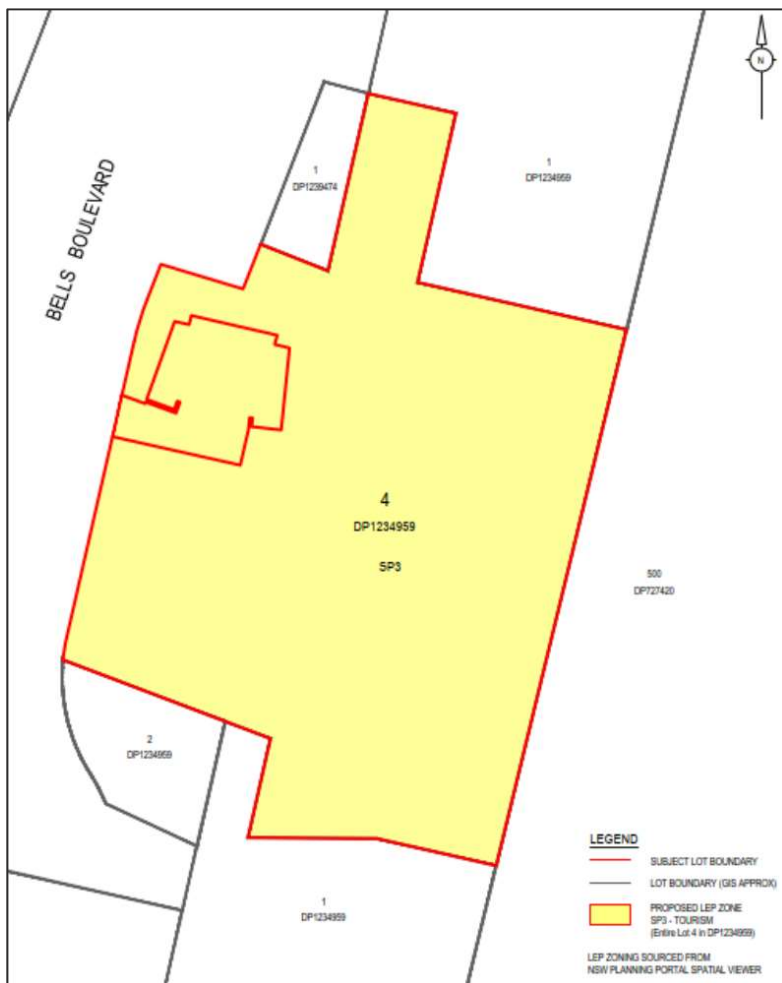


Figure 3 – Proposed land zoning map (Source: Planning proposal)

1.6 Background

The Council report tabled at the meeting of 13 December 2023 indicates that the planning proposal should incorporate the rezoning of Lot 1 DP 1234959, being land between the subject site and the Peppers/Bale development to the north, from 7(f) Environmental Protection (Coastal Lands) under LEP 2000 to RE1 Public Recreation under LEP 2014. The report states that the rezoning reflects the land's current use and would enable a car park extension for use by patrons of the Salt Surf Life Saving Club.

The Council report also recommended that an additional community hall land use be supported at the Salt Surf Life Saving Club.

These components are not detailed in the planning proposal document submitted for a Gateway determination. Consultation with Council indicated that the rezoning of Lot 1 DP 1234959 from 7(f) Environmental Protection (Coastal Lands) under Tweed LEP 2000 to RE1 Public Recreation under Tweed LEP 2014 will be undertaken as part of a C Zone planning proposal currently being prepared by Council, and that Council is satisfied that the community hall land use can be progressed via the SP3 land zoning. No amendments to the planning proposal are therefore required.

2 Need for the planning proposal

The planning proposal is not a result of an assured local strategic planning statement or Department approved local strategy.

Salt Surf Life Saving Club lodged Development Application 22/0323 with Tweed Shire Council seeking development consent for use of the existing building for functions (ancillary to the primary use of the building). Through the assessment of the DA Council formed the view that land use permissibility was best dealt through a site-specific planning proposal.

The extension of the SP3 Tourist zone to the eastern extend of the subject site reflects the existing land use and building works.

It is considered that the planning proposal is the best means of achieving the objectives and intended outcomes, particularly as clause 2.17 of the SEPP (Resilience and Hazards) 2021 does not permit the use of flexible zone provisions on land in a coastal zone.

3 Strategic assessment

3.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the North Coast Regional Plan 2041.

Table 4 Regional Plan assessment

Regional Plan Objectives	Justification
Objective 3: Protect regional biodiversity and areas of high environmental value	<p>The subject land is mapped on the Potential High Environmental Values (HEV) map and is partially zoned 7(f) Environmental Protection (Coastal Lands). There are no biodiversity values mapped on the Biodiversity Values Map and Threshold Tool.</p> <p>The planning proposal intends only to alter the land zoning to reflect the existing use of the subject land. There are no physical works required to be undertaken and as such, the scenic and cultural landscape of the subject site will remain unaltered.</p>
Objective 5: Manage and improve resilience to shocks and stresses, natural hazards and climate change	<p>The land is mapped as being affected by acid sulfate soils and is classified as bushfire prone. It is located within the sensitive coastal strip as defined by the Regional Plan and is mapped as a 'Coastal Use Area' and a 'Coastal Environment Area' by SEPP (Resilience and Hazards) 2021. Appendix 1 to the NSW Coastal Design Guidelines 'Assessment checklist for planning proposals' has been submitted with the planning proposal.</p> <p>It is expected that natural hazard risk was considered in detail as part of the development application process that approved the erection of the existing building on the subject land. As the site is already developed and the planning proposal intends only to reflect existing land uses the ability to minimise and manage hazards is limited.</p> <p>Nevertheless, consultation with the NSW Rural Fire Service will be required prior to finalisation of the plan in accordance with Section 9.1 Ministerial Direction 4.3 Planning for Bushfire Protection to reduce any ongoing risk to life, property and the environment.</p>

Objective 12:
Create a diverse
visitor economy

The planning proposal intends to facilitate use of the existing Salt Surf Life Saving Club for functions (ancillary to the primary use of the building). The land is located within the existing Salt Village Town Centre and as such, the proposal is expected to contribute to the diverse visitor economy of the local area.

Appendix B: Urban
Growth Area
Variation Principles

The urban growth area boundary bisects the subject land as detailed in Figure 4, below. As such, an assessment against Appendix B: Urban Growth Area Variation Principles is required.



Figure 4 – Urban growth area boundary (Source: Northern Region Viewer)

Policy

It is considered that the variation is a minor adjustment consistent with the definition of 'Round Off an Urban Growth Boundary'. The proposal has been assessed against the objectives and outcomes of the North Coast Regional Plan 2041, Section 9.1 Directions, State Environmental Planning Policy and local growth management strategy as detailed in this report.

Infrastructure

There is no additional transport, water and sewerage infrastructure required to facilitate the proposal.

Environmental and heritage

The variation will not impact areas of high environmental value, water quality, riparian land, Aboriginal heritage or non-Aboriginal heritage.

Avoiding risk

While the subject land is classified as bushfire-prone and is affected by acid sulfate soils the planning proposal intends only to alter the land zoning to reflect the existing use of the subject land.

Appendix B: Urban
Growth Area
Variation Principles
(continued)

Coastal Strip

The subject land is located within the coastal strip. Nevertheless, it is considered that the proposal constitutes a minor and contiguous variation in accordance with the requirements of this part.

Land Use Conflict

The variation is not expected to result in land use conflict. Lot 4 DP 1234959 is located within the Salt Village Town Centre and is improved by the Salt Surf Life Saving Club. The variation will facilitate the whole of the subject land to be zoned SP3 Tourist which is not incompatible with the surrounding environment.

Important Farmland

The planning area is contiguous with existing zoned urban land and will not impact important farmland.

3.2 Local

The proposal is consistent with the strategic direction and objectives of relevant local plans as stated in the table below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement – 2020	<p>Prior to exhibition, the planning proposal is to be updated to consider the provisions of Council's Local Strategic Planning Statement – 2020.</p> <p>The planning proposal is consistent with the following planning priorities –</p> <p><i>Planning priority 1: Protect the Tweed's significant natural environment, resources and landscape qualities, while cultivating sustainable growth and development, which promotes the health and vitality of the community.</i></p> <p>This priority promotes orderly and sustainable growth and development. Although the subject land is located in the coastal strip and is partially zoned 7(f) Environmental Protection (Coastal Lands) under LEP 2000, the rezoning will permit efficient use of an existing building. There is no adverse impact anticipated on the scenic landscape or the natural environment.</p> <p><i>Planning priority 6: Promote a strong, sustainable and diverse economy with a robust economic policy framework to facilitate investment and local employment opportunities.</i></p> <p>This priority notes that the challenge for supporting and promoting a sustainable and thriving economy is for land-use policy to remain responsive. This planning proposal has been lodged to facilitate use of an existing building as a function centre which has the potential to enhance the vibrancy of the Salt precinct.</p> <p><i>Planning priority 9: Promote a diverse tourism industry that is in harmony with, and leverages off, the Tweed's natural environment, rich cultural and heritage assets, emerging niche rural industries, and enhances local communities, culture and environment.</i></p> <p>The planning proposal has the potential to facilitate growth of the tourism industry in a suitable location.</p>

Community
Strategic Plan

The planning proposal is consistent with Goal 3.4 of the Community Strategic Plan:
Support our local economy to thrive and generate sustainable economic opportunities to support our long term future.

3.3 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 Section 9.1 Ministerial Direction assessment

Directions	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
4.2 Coastal Management	Consistent	<p>The subject land is mapped as being located within the 'Coastal Use Area' and 'Coastal Environment Area' and as such, Appendix 1 of the NSW Coastal Design Guideline 'Assessment checklist for planning proposals' has been submitted with the application. The Appendix 1 assessment checklist demonstrates consideration of all requirements for the relevant coastal management area.</p> <p>Considering the existing development on the subject land as well as the nature of the proposed amendment, the planning proposal is not expected to have an adverse impact on the coastal ecosystem. There are no impacts anticipated on existing water quality, water quantity and hydrological flows of waterways and groundwater and public access will remain unaltered.</p>
4.3 Planning for Bushfire Protection	Unresolved	<p>This direction is relevant as the land to which the proposal applies is identified as bushfire prone.</p> <p>The direction requires the planning proposal authority to consult with the Commissioner of the NSW Rural Fire Service (RFS) after a Gateway determination is issued. Until this consultation has occurred, the inconsistency of the proposal with this direction is unresolved.</p>
4.5 Acid Sulfate Soils	Minor inconsistency	<p>The land subject to this planning proposal is affected by acid sulfate soils.</p> <p>The planning proposal is inconsistent with this direction as it does not consider the Acid Sulfate Soils Planning Guidelines nor does it include an acid sulfate soils study.</p> <p>The inconsistency is considered to be of minor significance as the LEP 2014 contains suitable provisions (clause 7.1) to ensure that this matter can be appropriately considered and addressed as part of any future development application.</p>

5.1 Integrating Land Use and Transport	Minor inconsistency	<p>This direction is relevant to the planning proposal as it will alter land zoned for tourist purposes. The proposal is inconsistent with this direction as it has not considered the proposal against the aims, objectives and principles of:</p> <ul style="list-style-type: none"> Improving Transport Choice – Guidelines for planning and development (DUAP 2001), and The Right Place for Business and Services – Planning Policy (DUAP 2001). <p>The inconsistency is considered to be of minor significance as the proposal will facilitate a 'function centre' land use across the whole site, consistent with existing improvements on the allotment.</p>
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3.4 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Consistent / Not Applicable	Reasons for Consistency or Inconsistency
SEPP (Resilience and Hazards) 2021	The development site is mapped as being located within the 'Coastal Use Area' and 'Coastal Environment Area' therefore Divisions 3, 4 and 5 within this SEPP are applicable to the proposed development.	Consistent	It is considered that the proposal is capable of complying with the provisions of this SEPP at the development application stage.

4 Site-specific assessment

4.1 Environmental

As detailed throughout this report, the subject land is subject to hazards including acid sulfate soils and bushfire. It is located within the sensitive coastal strip as defined by the North Coast Regional Plan 2041 and is mapped as a 'Coastal Use Area' and a 'Coastal Environment Area'. Reflecting this, part of the allotment is currently zoned 7(f) Environmental Protection (Coastal Lands) under LEP 2000.

The primary zone objectives listed in LEP 2000 for 7(f) Environmental Protection (Coastal Lands) are as follows:

- to identify land susceptible to coastal erosion and protect it from inappropriate development.
- to protect and enhance the scenic and environmental values of the land.

The secondary zone objective listed in LEP 2000 for 7(f) Environmental Protection (Coastal Lands) is to allow for other development that is compatible with the primary function of the zone.

The subject land is located within the Salt Village Town Centre and is improved by the Salt Surf Life Saving Club. The objectives of the planning proposal are to amend zoning and development standards listed in LEP 2014 to enable a 'function centre' land use across the whole site, consistent with existing building improvements. There are no additional building works anticipated.

It is not expected that the planning proposal will increase the likelihood or occurrence of environmental impact as it will not affect:

- the behaviour of the sea, or an arm of the sea, or any bay, inlet, lagoon, lake, body of water, river, stream or watercourse;
- any beach or dune or the bed, bank, shoreline, foreshore, margin or flood plain of the sea or any bay, inlet, lagoon, lake, body of water, river, stream or watercourse;
- the landscape or scenic quality of the locality;
- any native vegetation.

As the building is existing it is expected that any impacts of climate change (including sea level rise) were considered at the development application stage for the building itself in accordance with clause 27 of the Tweed LEP 2000.

4.2 Social and economic

The planning proposal is expected to have positive social and economic impacts. It will provide opportunity for the Salt Surf Lifesaving Club to be utilised for private functions which will ultimately support the ongoing local surf life saving service. It is expected that the private functions will also stimulate the existing tourism, retail and accommodation businesses in the area.

4.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 8 Infrastructure assessment

Infrastructure	Assessment
State	The planning proposal has not identified any requirement to upgrade State infrastructure.
Local	<p>The subject land is currently serviced by roads, electricity, telecommunications, water and sewer infrastructure.</p> <p>Any local infrastructure upgrades will be identified and addressed at the development application stage.</p>

5 Consultation

5.1 Community

The planning proposal indicates that community consultation will be undertaken in accordance with the Gateway determination.

The planning proposal is categorised as 'standard' under the LEP Making Guidelines (August 2023). Accordingly, a community consultation period of 20 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the NSW Rural Fire Service be consulted on the planning proposal and given 30 working days to comment.

6 Timeframe

The planning proposal anticipates a Gateway determination to be issued in March 2024 with the gazettal of the amendment to occur in September 2024. A 6-month time frame is therefore proposed to complete the LEP.

The LEP Plan Making Guidelines (August 2023) establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a standard proposal.

The Department recommends an LEP completion date of 6 months in line with its commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

7 Local plan-making authority

Council does not request delegation to be the Local Plan-Making authority.

Although the proposal relates to Council-owned land the application does not include reclassification and there are no changing interests. As the planning proposal deals only with matters of local significance the Department recommends that Council be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- it will enable a 'function centre' land use across the whole site, consistent with existing built improvements;
- it is not inconsistent with surrounding land uses and the relevant strategic planning framework;
- there are no adverse environmental impacts anticipated; and
- it has the potential to result in positive social and economic impacts.

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- reference that the proposal applies to part Lot 4 DP 1234959;
- detail the scope of the amendment including proposed alterations to the LEP 2014 land application map, land zoning map, minimum lot size map, height of buildings map and floor space ratio map;
- include a land zoning map that demonstrates the proposed zoning on the subject land as well as the existing zoning of surrounding allotments;
- consider the provisions of Council's Local Strategic Planning Statement – 2020.

9 Recommendation

It is recommended the delegate of the Secretary:

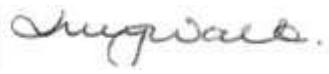
- Agree that any inconsistency with section 9.1 Directions 4.5 Acid Sulfate Soils and 5.1 Integrating Land Use and Transport are minor; and
- Note that the consistency with section 9.1 Direction 4.3 Planning for Bushfire Protection is unresolved and will require justification.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. Prior to community consultation, the planning proposal is to be updated to:
 - reference that the proposal applies to part Lot 4 DP 1234959;
 - detail the scope of the amendment including proposed alterations to the LEP 2014 land application map, land zoning map, minimum lot size map, height of buildings map and floor space ratio map;
 - include a land zoning map that demonstrates the proposed zoning on the subject land as well as the existing zoning of surrounding allotments;
 - consider the provisions of Council's Local Strategic Planning Statement – 2020.
2. Consultation is required with the NSW Rural Fire Service.
3. The planning proposal should be made available for community consultation for a minimum of 20 working days.

Given the nature of the planning proposal, it is recommended that the Gateway authorise council to be the local plan-making authority and that an LEP completion date 6 months from the date of the Gateway determination be included on the Gateway.



29.02.2024

(Signature)

(Date)

Lucy Walker
Manager, Northern Region



01.03.2024

(Signature)

(Date)

Jeremy Gray
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