

Rezone and Reclassify Part 22 Homestead Street and Part 1 Diemars Road, Salamander Bay

Proposal Title :	Rezone and Reclassify Part 22 Homestead Street and Part 1 Diemars Road, Salamander Bay		
Proposal Summary :	To rezone 4.3ha of Council land; part No 22 Homestead Street from zone 6(a) to zone 2(a)Residential and to Environmental 7(a), rezone a portion of No 1 Diemars Road, from 6(a) Public Recreation to 2(a)Residential, including reclassification of that land remaining as 6(a)		
PP Number :	PP_2013_PORTS_004_00	Dop File No :	13/10428

Proposal Details

Date Planning Proposal Received :	18-Jun-2013	LGA covered :	Port Stephens
Region :	Hunter	RPA :	Port Stephens Council
State Electorate :	PORT STEPHENS	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	22 Homestead Street		
Suburb :	Salamander Bay	City :	Port Stephens
Land Parcel :	Pt Lot 598 DP 27382		Postcode :
Street :	1 Diemars Road		
Suburb :	Salamander Bay	City :	Port Stephens
Land Parcel :	Pt Lot 51 DP 803471		Postcode :

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	4.30	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	36	No. of Dwellings (where relevant) :	36
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes			
If No, comment :			
Have there been meetings or communications with registered lobbyists? : No			
If Yes, comment :			

Supporting notes

Internal Supporting Notes :	Calculation of lot-yield: Total PP area: 4.287ha. (currently 6(a)) Proposed 2(a) area: 3.1ha. Balance- proposed 7(a) area: 1.187ha Proposed reclassification area: 0.54ha.(within proposed 2(a) zone) Approx. Lots: 36 @ 500m2/ lot* *NB- 1) this housing-yield relies on Koala Habitat encroachment 2) allowance has been made for access road land-take in calculating lot and dwelling yield
External Supporting Notes :	Council resolved on 20 December 2011 as landowners to submit a planning proposal, to rezone Lot 598 DP 27382, 22 Homestead Street, Salamander Bay to Residential 2(a) and Environmental 7(a), and Reclassify Part Lot 51 DP 803471 from Community to Operational and rezone it from 6(a) Public Recreation to 2(a) Residential Council provided copies of: 1) Draft Open Space Strategy 22-7-10, PSSC 2) Review of Standards Guiding the Provision of Council's Community & Recreational Facilities Port Stephens Council Draft v2.0, January, 2013, AEC Group, consultants

Adequacy Assessment

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Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment :

The purpose of the proposal is to:

(i) rezone Part Lot 598 DP 27382 (22 Homestead Street, Salamander Bay) and Part Lot 51 DP 803471 (1 Diemars Road, Salamander Bay) from public recreation to residential;

(ii) rezone Part Lot 598 DP 27382 (22 Homestead Street, Salamander Bay) from public recreation to environmental protection; and,

(iii) reclassify Part Lot 51 DP 803471 (1 Diemars Road, Salamander Bay) from community to operational land. The remainder of this Lot is already classified as operational land.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment :

The proposal provides an explanation as to how it will amend both the current and draft Port Stephens LEP. Due to timing it is considered that the PP will proceed as an amendment to Port Stephens Local Environmental Plan 2013

Amend Zoning Map (LZN_0058) for Part Lot 598 DP 27382 (22 Homestead Street, Salamander Bay) and Part Lot 51 DP 803471 (1 Diemars Road, Salamander Bay): from Zone RE1 Public Recreation to Zone R2 Low Density Residential

Amend Zoning Map (LZN_0058) for Part Lot 598 DP 27382 (22 Homestead Street, Salamander Bay): from Zone RE1 Public Recreation to Zone E2 Environmental Conservation.

Lot Size Map

Amend the Lot Size Map (LSZ-OOSB) to minimum lot size of 500m2 for all land rezoned to Zone R2 Low Density Residential.

Amend the Lot Size Map (LSZ_005B) to minimum lot size of 40 hectares for all land rezoned to Zone E2 Environmental Conservation.

Height of Buildings Map

Amend the Height of Buildings Map (HOB_0058) to maximum building height 9.0 metres for all land rezoned to Zone R2 Low Density Residential.

Land Reclassification

Insert the property description of Part Lot 51 DP 803471 into Schedule 4 (Land Reclassification) of the Port Stephens LEP identifying it as "operational land".

Land Reclassification

Include the property descriptions in Part 2, Schedule 4 in the Port Stephens Local Environmental Plan 2013

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Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.4 Oyster Aquaculture
2.1 Environment Protection Zones
2.2 Coastal Protection
2.3 Heritage Conservation
2.4 Recreation Vehicle Areas
3.1 Residential Zones
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 60—Exempt and Complying Development
SEPP No 71—Coastal Protection
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Affordable Rental Housing) 2009

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Bushfire protection measures clearly would need to be substantial however RFS has not yet been involved. Consultation is conditioned as per the requirements of S.117 Direction 4.4

About 50% of preferred koala habitat within the PP area would be significantly impacted or lost.

Consultation with Office of Environment and Heritage is conditioned as per the requirements of S.117 Direction 1.2 and SEPP 44.

Site flooding characteristics combined with urban development and land management may impact water quality in the nearby bay and its priority oyster leases. Consultation with Primary Industries (Fisheries) is conditioned as per the requirements of S.117 Direction 1.4.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council advises: Exhibition will accord with Environmental Planning and Assessment and Local Government Acts and regulations as well as Sections 5.5.2 and 5.5.3 of the

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Department of Planning and Infrastructure guideline "A guide to preparing Local Environmental Plans" (April, 2013).

The LEP Practice Note PN 09-003 "Classification and reclassification of public land through a local environmental plan" and the Best Practice Guideline for LEPs and Council Land will also be exhibited.

Public notification of the exhibition will invite submissions, and a public hearing will be held. Notices of public hearing will be in a local newspaper and letters to each respondent, at least 21 days before the hearing and after the public exhibition has closed to give each respondent 21 days notice.

Exhibition will be at least 28 days or as per Gateway Determination. It will include hard copy exhibition material at a local venue, Council libraries, the Council administration building and files for internet download.

After exhibition, submissions and public hearing outcomes will be assessed, and a recommendation made to Council.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **August 2013**

Comments in relation to Principal LEP :

The draft comprehensive Port Stephens LEP 2012 (PS LEP 2012) received Gateway Determination on 17 July, 2012. The PS LEP 2012 was publicly exhibited and has been submitted to the Department for review and finalisation.

Assessment Criteria

Need for planning proposal :

Council states:

The land does not meet the Council's criteria for open space and is stated to be in a well-supplied area that exceeds council's ratio. There is a play area within 400m.

It is noted that the site is one of a group of some 20 holdings identified in council's review of its recreational land as being surplus to requirement and suitable for some form of development; in this case partial development for housing. The site therefore represents an opportunity for council to pursue its residential target at the same time as generating income from a property sale.

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Consistency with strategic planning framework :

Lower Hunter Regional Strategy:

The proposal is generally consistent, or justifiably inconsistent, with the Lower Hunter Regional Strategy, SEPP's and Section 117 Directions as below except for Koala Habitat Protection, Planning for Bushfire Protection, and Oyster Aquaculture.

The proposal is consistent with the Lower Hunter Regional Strategy's (LHRS) policies that encourage residential infill development and increased housing choice.

The proposal is not contrary to the Lower Hunter Conservation Plan at the strategic level and falls outside of the Watagans to Stockton Bight Green Corridor.

Community Strategic Plan:

Council's Integrated Strategic Plan (Port Stephens 2022) states that Council should provide for a range of lot sizes and housing types to respond to demographic needs and affordability. Further, that Council provide a diverse range of fit-for-purpose, quality recreational assets which are safe and highly accessible - balanced with the ability to maintain these on a financially sustainable basis.

State Environmental Planning Policies:

SEPP (Affordable Rental Housing) 2009

Council states that 'The proposal potentially facilitates increased development on land to which the SEPP applies, and accordingly has the potential to increase the supply of affordable housing'. The proposal is consistent with this SEPP.

SEPP 44 Koala Habitat Protection

Port Stephens Comprehensive Koala Plan of Management (PSCKP) shows about 50% of the site area as core and supplementary Koala Habitat. The scale of PSCKP mapping limits assessment so more detailed work is required.

The PP does not demonstrate how the land could be developed whilst retaining and appropriately managing the Koala habitat areas. The proposal is therefore inconsistent with this SEPP. Clause 15 of the SEPP requires that Council give consideration to the preparation of a development control plan for land adjoining core koala habitat.

Demonstration of the feasibility of development along with Koala habitat management is conditioned for public exhibition.

SEPP 55 Remediation of Land

The land is at the bottom of a catchment with site topography that periodically impounds runoff and may function as a natural evaporation pond with the potential to concentrate contaminants (see also S117 Direction 1.4 Oyster Aquaculture).

The land adjoins a former quarry site with potential for contamination by informal use of the land or runoff entering this site. Denuded areas of the quarry site to the west have potential to generate particulates/ dust over the subject land. The potential contamination by runoff and potential dust needs to be addressed in consultation with OEH and Primary Industries (Fisheries) prior to exhibition as conditioned.

SEPP (Housing for Seniors and People with a Disability) 2004

The proposal potentially facilitates development on land where housing for seniors and people with a disability may be developed. The proposal is consistent with this SEPP.

SEPP (Infrastructure)

The proposal is consistent with this SEPP.

SEPP (Exempt and Complying Development Codes) 2008

The proposal potentially facilitates development on land to which the Exempt and Complying Development Code may be applied. The proposal at this stage is consistent with the SEPP.

SEPP (Building Sustainability Index: BASIX) 2004

The proposal is consistent with the SEPP at this stage.

SEPP 71 (Coastal Protection)

The south-west corner of the site is 91m from mean high water mark on an extensive shallow tidal inlet of Port Stephens that supports extensive oyster leases. Considerations applying under this SEPP are grouped and assessed as follows:

Coastal Access: While not on coastal foreshore, the proposal is on land adjacent to foreshore so the main consideration is access to coastal foreshore. Lot 803471 is a Council-owned lot between Lot 598, proposed for rezoning to 2(a) Residential, and foreshore land. Only a small part of Lot 51 is proposed for reclassification however the balance presents a clear opportunity to improve coastal access by pedestrians and cyclists as an integral part of development planning via S.94 or Voluntary Planning Agreement. It is noted from aerial images that vehicles associated with caravanning and camping are entering the area of Preferred Koala Habitat which Council seeks to reclassify to operational land.

Management of this is conditioned to be considered in exhibition material (see SEPP 44 above).

Cultural Heritage Values: Council's searches of the Office of Environment and Heritage (OEH) database of Aboriginal Heritage, of the Port Stephens LEP heritage schedules and the OEH State Heritage Register yielded no known heritage items or places on or near the land.

Biodiversity and Coastal Processes: The proposal zone boundary encroaches across half of the Swamp Sclerophyll Forest (an Endangered Ecological Community) across the southern portion of the site and into a similar proportion of the Spotted Gum-Grey Ironbark Open Forest in the western portion of the site.

The planning proposal does not demonstrate how significant vegetation is to be retained and managed as part of the residential development. Similarly the appropriate retention and management of Spotted Gum- Ironbark and of Blackbutt- Smooth Barked Apple complex within the area proposed for reclassification to operational land is not demonstrated. The proposal is therefore inconsistent with SEPP 71. The need to address these matters with OEH is conditioned for public exhibition.

The Urban Efficiency clause encourages compact towns and cities and efficient water and energy usage. The site adjoins land having all urban utilities. The site is 1.7km/3mins drive to Soldiers Point shopping centre and 4.3km/7mins drive from Salamander Bay shopping centre. Soldiers Point Primary School is 2.4km/ 4mins drive away and Tomaree High School is 4.6km/ 6mins drive. Public transport (bus stops) is 0.5km away on Soldiers Point Road via low-traffic residential streets and Radburn-style laneways. Employment opportunities at Nelson Bay and Tomago smelter/ industrial area are within a 50 minute drive. The proposal is consistent with this clause of SEPP 71.

Section 117 Directions:

Section 117 Direction 1.4 Oyster Aquaculture

The adjacent bay supports extensive areas of Priority Oyster Aquaculture Leases as shown on mapping in NSW Oyster Industry Sustainable Aquaculture Strategy, 2006.

Site topography indicates a potential for the site to impound water during moderate storms but then flush-out into the bay as the natural detention basin overtops in more intense storms. This could result in a contaminant 'spike' in the bay hosting the oyster leases.

Accordingly consultation with Primary Industries (fisheries) is conditioned. Any necessary water quality management measures can then be resolved post exhibition.

Oyster leaseholders should be notified of the proposed residential development of this land and afforded opportunity to comment.

Consistency or otherwise with this direction will be informed by this consultation.

Section 117 Direction 2.2 Coastal Protection

Aspects of coastal vegetation, scenery, habitat and public access are considered under SEPP Coastal Protection above.

Section 117 Direction 2.3 Heritage Conservation

There is no known Aboriginal or non-Aboriginal heritage items, objects or places on the land.

The proposal is consistent with the Direction.

Section 117 Direction 2.4 Recreation Vehicle Areas

The proposal does not seek to designate a recreational vehicle area.

Section 117 Direction 3.1 Residential Zones

The proposal facilitates additional housing and potentially greater housing choice. It would tap into nearby water, sewer, power and transport and road networks. However the proposal would likely have significant environmental impacts on vegetation, Koala Habitat and impact areas currently subject to flooding and increasingly so in the future.

Section 117 Direction 3.4 Integrating Land Use and Transport

Bus stops are within 400m of the site and streets between the site and bus stops are accessible with laneways between culs-de-sac. There is a half-hourly peak-period bus service (Port Stephens Coaches) to Newcastle with one hour journey time to the CBD.

Pedestrian, cyclist and bus facilities are covered in Council's DCP B1 and B3.

The proposal is consistent with this Direction.

Section 117 Direction 4.1 Acid Sulphate Soils

The south-eastern third of the subject site is Category 1- works more than 2m below natural ground surface, the balance being Category 2- works below ground surface.

Council undertakes to require appropriate measures to be taken at a development application stage. Council's acid sulphate soils management measures for the site should be placed on public exhibition with the planning proposal.

With this the proposal is consistent with this Direction.

Section 117 Direction 4.3 Flood Prone Land

The southern two-thirds of the rectangular area proposed to be rezoned 2a Residential is flood prone land as per PSSC flood mapping. Site topography suggests slow acting, low depth and low velocity flooding. Being low-lying, sea level rise may increase flood risk. A flood

assessment is required prior to any development of the site. This is conditioned.

Consistency or otherwise will be determined following completion of a flood study.

Section 117 Direction 4.4 Planning for Bushfire Protection

The area proposed to be rezoned to 2a Residential is bushfire classified as 100m and 30m buffer vegetation corresponding to the mainly cleared north-eastern 50% of land area. This

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area has Vegetation Category 1 along its south and west flanks corresponding to the swamp mahogany sclerophyll coastal forest area/ preferred koala habitat.

As the land is bushfire prone Council must consult the RFS prior to public exhibition under this Direction. Consistency or otherwise with this direction will be informed following this consultation.

Section 117 Direction 5.1 Implementation of Regional Strategies

The proposal is consistent with the Lower Hunter Regional Strategy.

Section 117 Direction 6.2 Reserving Land for Public Purposes

The Planning Proposal seeks to remove a reservation of land for public purposes and reclassify community land to operational land. Should this reclassification be supported, the public reserve status of Part Lot 51 would be no longer appropriate and would be revoked.

In view of the regular use of the community land as a caravan park, Council was requested to indicate how it plans to use and manage this land particularly given the environmental zoning of some parts.

Under clause 4 of this Direction Council cannot alter the reservation of land for a public purpose without the approval of the Director-General. It is considered appropriate that the Director-Generals' decision on this issue be made following public exhibition.

Environmental social
economic impacts :

Environmental Impacts

Anticipated impacts are:

- Loss of Preferred Koala Habitat
- Bushfire hazard exposure
- Flood hazard exposure
- Acid Sulphate soil exposure
- Airborne dust exposure from the open quarry to the west
- Potential exposure to soil contamination
- Loss of native vegetation contiguous with larger areas offsite which form a corridor around the south and east shores of the bay west of Soldiers Point.
- Increased urban runoff into the bay which hosts extensive oyster leases.

Social Impacts

The site has capacity to accommodate up to 36 houses on 500m² lots as per the Port Stephens LEP, 2013 minimum lot size. The proposed zone would also allow housing for aged persons and persons with a disability.

The main negative social impact is the loss of land for public recreation even though this peninsula provides access to a range of beaches. Council's adoption of an open space review underpins the rationalisation of public open space across the Shire.

A November 2008 open space review report to Council states the social impact as:

'Well used trails and interpretive walks maintained by Tidy Towns groups'
(P.18, Manager Integrated Planning Report to Council meeting 25 Nov., 2008, ref.:PSC2007-2685)

Accordingly the open space review of 2007 and update report of 2010 should be exhibited with the planning proposal as supporting evidence.

Economic Impacts

Residential development of the land would generate jobs during construction and longer-term maintenance jobs.

Employment concentrations within typical commuting distances are at:

- Nelson Bay: 8.6km/ 12mins drive.
- Williamstown Airport/ RAAF Base: 30.6km/29mins drive
- Tomago smelter and industries: 43km/ 37 mins drive
- Newcastle: 55km/ 55mins drive

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•Any adverse impact on water quality in the bay could threaten the economic viability of nearby oyster farming. Drainage design and stormwater treatment is important in these circumstances and so a drainage and water quality study is conditioned.

Transport and Infrastructure

Urban utilities are available near the site as well as bus services. Some active transport provision exists and could be enhanced to serve this residential proposal. Access links to coastal foreshore tracks should be a feature of its urban design pursuant to Section 117 Direction 2.2 Coastal Protection.

There is a half-hourly peak-time bus service (Port Stephens Coaches) to Newcastle with a one hour journey time to the CBD.

Governance

No state investment in infrastructure is implied by the proposal.

A clear statement by Council is required at exhibition about the proposed future use and management of the 0.54ha. reclassification area which has a history of informal caravan park use within Koala Habitat.

Council anticipates a 12 month timeframe to finalise the proposal and has submitted a detailed timeline. This is supported given the necessary site investigations.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	DDG
Public Authority Consultation - 56(2) (d) :	Office of Environment and Heritage NSW Department of Primary Industries - Fishing and Aquaculture NSW Rural Fire Service		

Is Public Hearing by the PAC required? **Yes**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

**Flora
Fauna
Bushfire
Flooding
Air Quality**

If Other, provide reasons :

Fauna: with particular reference to impacts on, and management of, koala habitat

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

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Documents

Document File Name	DocumentType Name	Is Public
PP.pdf	Proposal	No

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.4 Oyster Aquaculture
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.2 Reserving Land for Public Purposes

Additional Information :

- 1) Council clarify within the exhibited material that the reclassification of the 0.54ha. northern apex of the land to operational may remove that land from public access and therefore remove any opportunity for recreational use. Copies of Council's 2007 'Open Space Consolidation Review' and of the update report of 2010 should also be placed on exhibition with the Planning Proposal.
- 2) Council consult NSW Office of Environment and Heritage regarding habitat management under the proposal and any necessary amendments being made to the proposal prior to exhibition such that inconsistency with 2.1 Environmental Protection Zones and with SEPP 44, in respect of impacts on preferred koala habitat, be resolved prior to public exhibition.
- 3) Council consult NSW Rural Fire Service as per S.117 Direction 4.4 Planning for Bushfire Protection and any necessary amendments being made to the proposal prior to exhibition.
- 4) Council consult NSW Primary Industries (Fisheries) in respect of the protection of oyster leases in the nearby bay under S.117 Direction 1.4 Oyster aquaculture. Oyster leaseholders be notified of the proposed residential development of this land as well as exhibition details so as to afford them opportunity to comment.
- 5) Council publicly exhibit the planning proposal for 28 days and finalise the PP within twelve months.
- 6) Council exhibit a copy of Planning Practice Note PN 09-003, 12 June 2009 with the Planning Proposal
- 7) Council provide details of the reclassification planning proposal and dates of the public exhibition period to adjoining landholders.
- 8) Council are not given delegations for the proposal because the subject land is council owned and it may require consideration by the Governor.
- 9) That Council's acid sulphate soils management measures for the site be exhibited with the planning proposal.
- 10) That inconsistency with S117 Directions 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection and 6.2 Reserving land for Public Purposes be resolved by studies

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prior to exhibition.

11) Council map the subject land as an Urban Release Area.

Supporting Reasons :

The proposal is in part for the reclassification of land currently zoned 6a Open Space. The land is located within remnant vegetation classified as preferred koala habitat. The reclassification itself does not prevent these values from being retained, however Council should be advised that the future use of the 6(a)land, and any future rezoning proposal, will need to demonstrate how these values have been assessed and if appropriate protected.

Signature:



Printed Name:

KOHLAHERTY

Date:

5-7-13