

Amendment to Cessnock LEP 2011 - Golden Bear

Proposal Title : **Amendment to Cessnock LEP 2011 - Golden Bear**

Proposal Summary : **To amend Schedule 1 of Cessnock LEP 2011 to provide for additional permitted uses on Lots 1-4 DP 86951 Wine Country Drive Pokolbin, to facilitate a tourist and residential development that would otherwise be prohibited within the zone**

PP Number : **PP_2012_CESSN_002_00** Dop File No : **12/05857-1**

Proposal Details

Date Planning Proposal Received : **27-Mar-2012** LGA covered : **Cessnock**

Region : **Hunter** RPA : **Cessnock City Council**

State Electorate : **CESSNOCK** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Wine Country Drive**

Suburb : **Pokolbin** City : Postcode : **2320**

Land Parcel : **Lots 1-4 DP 86951**

DoP Planning Officer Contact Details

Contact Name : **katrine o'flaherty**

Contact Number : **0249042707**

Contact Email : **katrine.o'flaherty@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **peter mann**

Contact Number : **0249934285**

Contact Email : **peter.mann@cessnock.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name : **ado zanella**

Contact Number : **0292286293**

Contact Email : **ado.zanella@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Lower Hunter Regional Strategy** Consistent with Strategy : **No**

Amendment to Cessnock LEP 2011 - Golden Bear

MDP Number :		Date of Release :	
Area of Release (Ha) :	241.00	Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	301	No. of Dwellings (where relevant) :	600
Gross Floor Area :	0	No of Jobs Created :	67

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment : **Communication in relation to the proposed developments of Golden Bear and Vintage Balance has been recorded between 2009-2011. One such individual, Sarah Taylor, was recorded at the time as being a registered lobbyist. This communication pre-dates the lodgement of this planning proposal. Copies of the communication records are attached.**

Supporting notes

Internal Supporting Notes : **Detail on the number of proposed lots is an estimate based on the information provided. The Number of Jobs identified reflects the number of long term jobs created within the Hunter Region as indicated by the proponent. It does not consider jobs created during construction.**

External Supporting Notes : **The proposal remains largely unchanged since previous consideration by Council, the Department and the Planning Assessment Commission in the period 2005-2009. This includes a number of reports on the proposal and the broader issue of development within the Vineyards District commissioned by Council and the Department. These are known as the 2005 Warne Report, 2008 Croft Report and 2009 Charles Hill Report.**

The chronology associated with the proposal is described in attached documents. A copy of the most recent report into the proposal by the Planning Assessment Commission in 2009 is also attached.

Adequacy Assessment

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

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

Comment : **A statement of objectives is provided and refers to Council's resolution from the meeting on 15 February 2012. It is considered that the statement does not concisely identify the intended outcomes of proposal.**

The objective of the proposal is considered more adequately described in the explanation of provisions and indicates that it is to facilitate the development of;

- **300 residential lots to a minimum lot size of 450m2**
- **50 room hotel**
- **Spa**
- **250 villas/apartments**
- **18 hole golf course and club house**
- **Function centre with conference facility (capacity not specified)**
- **Retail premises (unspecified)**
- **Indoor recreation facility; and**

- Landscaping, olive groves and vineyards

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

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

Comment : **The explanation of provisions indicates that the objectives of the planning proposal are intended to be delivered through amendment of Schedule 1 of the Cessnock LEP 2011.**

This will provide for a number of additional permitted uses on the site which would otherwise be prohibited within the zone.

The proposed amendment to Schedule 1 has been drafted and is included in the Planning Proposal.

The proposal is seeking to facilitate a tourism development comprising tourist and visitor accommodation (50 room hotel and 250 serviced apartments), recreation facility (outdoor) including a golf course, recreation facility (indoor), function centre and retail premises. The tourism development may also involve the development of business premises (potentially required to facilitate the use described as a 'Spa') and a registered club (potentially required to facilitate the use described as 'club house') however this is unclear. No subdivision of the tourism component is proposed.

The proposal is also seeking to facilitate a residential development comprising 300 dwelling houses with a minimum lot size of 450m2. The proponent indicates that residential development is to include attached dwellings, dual occupancy, dwelling-houses, apartments/villas, multi-dwelling housing and residential flat buildings however, the proposal as drafted does not provide for this broader range of residential accommodation types. The proponent has indicated that torrens title subdivision of the dwellings is proposed.

It is assumed that the landscaping, which may include olive groves and vineyards, is ancillary to the development and that the olive groves and vineyards would not be productive.

The serviced apartments, function centre and dwelling houses (with a minimum lot size of 40 hectares) are currently permitted within the zone.

The proposal suggests that the two developments are to be 'integrated', however this is not defined and no legal mechanisms are proposed to require this integration. No staging plan has been included within the planning proposal, although the proponent has verbally indicated that the tourism component would be established first.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.5 Rural Lands

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

Amendment to Cessnock LEP 2011 - Golden Bear

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

If the proposal was to continue to include permanent residential development, and in light of the Planning Assessment Commission's earlier advice on the issue, the Minister may elect to refer the proposal to the Planning Assessment Commission.

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

If No, explain :

The Proposal's inconsistency with Council's adopted local strategy Cessnock City-Wide Settlement Strategy 2010, adopted on 15 September 2010, has not been addressed and is therefore not considered adequately justified.

The Proposal's inconsistency with the standard instrument, through the terminology used and method of drafting the proposed LEP amendment, is not adequately justified.

There is insufficient information to determine whether or not any potential inconsistencies with the relevant SEPP's and s117 directions are adequately justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

A locational map and aerial photo is provided to identify the relevant lots. A map of the proposed development is included within the Proposal however it is of a scale and resolution that make it difficult to identify features.

No maps have been prepared to implement the proposal which would require an amendment to the Cessnock LEP 2011 Additional Permitted Uses Map, or if altered, relevant zone and minimum lot size maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council have not proposed a specific timeframe for community consultation.

The proposal is not consistent with the strategic planning framework nor consistent with the surrounding pattern of use (with the exception of the Vintage development adjacent), and is therefore not considered a low impact planning proposal.

If amended as recommended the Proposal will introduce a new zone into the Cessnock LEP 2011 that may have application for other sites within the LGA and therefore is not considered a low impact proposal.

Public exhibition for a minimum period of 28 days is considered necessary.

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 :

The proposal is adequate for consideration by the Gateway. The Proposal indicates, somewhat unclearly, the intended objectives and explanation of provisions. Insufficient information is available to assess against s117's and there is no strategic justification for the proposal.

Proposal Assessment

Principal LEP:

Due Date : December 2011

Comments in relation to Principal LEP : A standard instrument LEP for Cessnock was gazetted on 23 December 2011. The Cessnock LEP 2011 applies across the majority of the LGA, excluding a portion of deferred land. This site does not fall within the deferred portion.

Assessment Criteria

Need for planning proposal :

1. Is the planning proposal the result of any strategic study or report.

No. The planning proposal does not reflect the outcomes of any strategic study or report.

The consistency, or otherwise, of the proposal with the strategic planning framework is outlined further within the assessment. Previous assessment of this proposal and others similar has highlighted the need for a strategic approach to ongoing development within the Vineyards District. Council is currently undertaking work on a vision and action plan, but that has not yet produced outcomes that present a clear strategic direction for development.

The absence of any strategic justification for the proposal, in particular for the residential component, is considered a significant issue.

No assessment of supply and demand has been undertaken to justify the permanent residential component of the proposal. The proponent indicates that the permanent residential component is required to offset the costs of establishing the golf course and 'add vibrancy to the complex'. Also that permanent residential development is 'an integral part of rural golfing resorts' and that the proposed residential development targets a market not readily supplied by the alternative housing options within the Cessnock LGA and Lower Hunter region more generally.

Anecdotal evidence indicates that opportunities for permanent residential development remain at the Vintage (adjacent to this site and initially approved in 1986 and 1996) with some 30% of the approved dwellings not yet developed. This is in addition to the 19,700 dwellings identified for Urban Release Areas within Cessnock LGA under the Lower Hunter Regional Strategy. The permanent residential component was the subject of the assessment by the Planning Assessment Commission (PAC) in 2009. The PAC did not support the proposal, which remains unchanged, and neither the proponent nor Council have addressed the outcomes of the PAC assessment. A copy of the PAC report is attached.

2. Is the planning proposal the best means of achieving the objectives?

No. The proposed amendment to Schedule 1 is not considered the best means of achieving the objectives. It is considered that a clearer, more certain and transparent approach to achieving the objectives would be to zone for purpose and establish planning controls, both within the LEP and within a DCP, to achieve the desired outcome.

The number and scale of the additional uses that are proposed to be permitted on the site are significant and in conflict with other uses and the objectives of the underlying zone RU4 Primary Production Small Lots. It is considered that the site should be zoned for the intended purpose.

The proposed amendment to Schedule 1 does not provide the proponent, council or the community with certainty in relation to the uses that will be permitted or the development density that may be achieved. The amendment proposes to make permissible a range of unspecified uses through the phrase 'associated uses where the subdivision is required as an integral part of a major tourist and visitor accommodation development' and appears to permit the entire group term 'retail premises'. It is considered that the preparation of a land use table, using standard instrument definitions, would clarify what uses would be

permitted with consent on the site.

The proposal indicates that the ultimate development will be unique, high quality and targeted to the international market. Council's resolution to support the proposal reflects their desire for this outcome. The proponent also indicates that the proposed residential development is to be integrated with the tourism and that residents will be of high socio-economic status, therefore not requiring any additional infrastructure or services. However the proposal contains no mechanisms to achieve the outcome desired by Council and promoted by the proponent.

It is considered that additional work to clarify the nature and proposed form of residential development, assessment of the services and infrastructure required (regardless of the socio-economic status of potential residents), and the development of local provisions to facilitate the desired outcome would be required if the proposal was to proceed.

The proposal, with the exception of the serviced apartments and function centre, is prohibited within the RU4 zone under Cessnock LEP 2011. As such the proposal does not satisfy the criteria for State Significant Development under the State Environmental Planning Policy (State and Regional Development) 2011 (Part 2, Clause 8(1)(a)). The Minister could determine to call the proposal in if, after receiving advice from the Planning Assessment Commission in relation to its state or regional significance, he so decided. A rezoning proposal would need to accompany any development application submitted under this process. The PAC's assessment in 2009 indicated a preference for a strategic approach to considering tourist facilities in the Vineyards District and additional residential land in the Cessnock LGA, as opposed to consideration of individual applications under the former provisions of Part 3A.

3. Is there a net community benefit

Unknown. The proponent indicates that a net community benefit test has been undertaken however no formal net community benefit test, prepared in conjunction with Council, has been presented. It is not possible to determine whether or not there is a net community benefit based on the information provided. It is considered that the complexity of the proposal including both a large tourism and a large residential component, and the complexity of socio-economic interactions in the Vineyards District more broadly, requires a formal net community benefit test to be undertaken to inform any future progression of the proposal. This would also include an assessment of the additional infrastructure required for the proposal and the funding mechanisms to provide this infrastructure.

Consistency with strategic planning framework :

4a. Is the planning proposal consistent with the Lower Hunter Regional Strategy?

Not the permanent residential component. The site is not identified within the Lower Hunter Regional Strategy (LHRS) for development. The LHRS does identify the Pokolbin vineyard and tourism precincts as a specialised centre, with the potential to provide an additional 1,600 jobs over the life of the Strategy (Table 2, Page 18). The Strategy does not project any additional dwellings within the area.

The Vineyards District is mapped as regionally significant agricultural land within the LHRS. Although the mapping has been undertaken at the regional scale it appears that the subject site has been excluded. The proponent indicates that this was in response to the lack of agricultural value of the subject land, however the LHRS does not specifically explain the reasons behind the mapping.

The Planning Proposal is inconsistent with Practice Note PN09-006 Providing for Tourism in Standard Instrument Local Environmental Plans. In particular this Practice Note indicates that permanent residential development should not be proposed in association with tourist accommodation in areas outside of those nominated in local or regional strategies. The Practice Note also indicates that tourist development with a permanent residential development component should be integrated, or be in proximity to existing urban settlements.

In recognition of the proposal's inconsistency with the LHRS the proponent and council have undertaken an assessment against the Strategy's sustainability criteria. The LHRS indicates that a proposal outside of the Regional Strategy process can only be considered if it is consistent with the sustainability criteria. A review of the proposal against the criteria has indicated that there are areas of inconsistency, particularly in relation to the site's accessibility. There is insufficient information to assess the proposal in terms of infrastructure provision and the availability of services because of the lack of detailed assessment and costings. Council have also raised concerns with the proposal's contribution to housing diversity and employment opportunities and the potential for land use conflict, in their consideration of the sustainability criteria under Section B(4) of the Planning Proposal.

The LHRS is currently under review and as part of this review it is proposed to establish a clear process for considering additional residential development sites within the Region. The timing of this process is relatively short and would assist to establish a broader strategic context for the proposal within nine months. Consideration of this site as part of this process is recommended.

Other major proposals outside of the current Strategy, including Wallalong and Stony Pinch are not yet commenced but are expected to also go through this process.

4b. Is the planning proposal consistent with the draft Upper Hunter Strategic Regional Land Use Plan?

The subject site is identified as strategic agricultural land and the location of the Viticulture Critical Industry Cluster within the draft Upper Hunter Strategic Land Use Plan (UHSRLUP) released in March 2012. This land is identified for protection from non-agricultural activities due to its significance and councils are to protect this land through their Local Environmental Plans (Action 3.5). Therefore the proposal may be considered inconsistent with the strategic direction that the UHSRLUP is taking. The draft UHSRLUP identifies the need for mining or coal seam gas proposals, on or within two kilometres of such land, to undergo an upfront gateway assessment, but does not consider the issue of residential proposals. The Planning Proposal does not address the UHSRLUP.

5. Is the planning proposal consistent with the Council's Strategy?

Not the permanent residential component. Council's local Strategy, the Cessnock City-Wide Settlement Strategy was initially prepared in 2003 and has been updated most recently in 2010 to support the new comprehensive LEP. The Cessnock City-Wide Settlement Strategy 2010 highlights the tourism significance of the Vineyards District and

specifically discusses the issue of permanent residential development. The Strategy (Section 11.3.3, page 48) identifies that such development is 'inconsistent with local and state policy and has the potential to detract from the character of this area that is primarily dedicated to winemaking'. It goes on to indicate that 'Council resolved not to support any additional permanent residential occupation as part of any major tourist development in the Vineyards District'.

The Planning Proposal does not address this inconsistency.

6. Is the planning proposal consistent with applicable state environmental planning policies?

A review of the proposal's consistency against the relevant State environmental planning policies has been undertaken based on the information provided in the proposal.

SEPP 44 – Koala Habitat Protection. The proponent has identified that the site has been assessed against the provisions of this SEPP and that neither Koala habitat nor core Koala habitat have been found.

SEPP 55 – Remediation of Land. Council have identified that there is insufficient information to determine whether or not the proposal is consistent with this SEPP and that this information is required before Council can consent to the proposal.

SEPP Rural Lands 2008 - Council have indicated that this SEPP does not apply however it is considered relevant, there is insufficient information provided to determine consistency of the proposal with this SEPP. In particular the proposal does not demonstrate whether or not it is consistent with the Rural Planning and Rural Subdivision Principles.

7. Is the planning proposal consistent with applicable ministerial directions?

The proposal has been identified as potentially inconsistent with the following s117 directions;

1.2 Rural Zones. The proposal is inconsistent with clause 4b of this direction because it seeks to increase the density of land within a rural zone. There is no strategy justifying this inconsistency (clause 5a), nor is it in accordance with the LHRs (clause 5c) and the increase in density is too substantial to be considered of minor significance (clause 5d). The Planning Proposal does not refer to a study that is considered consistent with clause 5b which needs to consider the objectives of this direction and the proposed 450m2 minimum lot size.

1.5 Rural Lands. The proposal is inconsistent with clause 3a and 3b of this direction because it will affect rural zoned land and change the minimum lot size. The proposal is not justified by a Strategy (clause 6a) and the change is considered too substantial to be considered of minor significance (clause 6b).

2.3 Heritage Conservation. Council has indicated that the proposal is inconsistent with this direction because it does not contain provisions that facilitate the conservation of Heritage items (clause 4). Further information is required to clarify this opinion.

3.1 Residential Zones. This direction applies because although the proposal does not propose any residential zones it does propose significant residential development. Insufficient information has been provided to determine whether the proposal is consistent with this direction.

3.4 Integrating Land Use and Transport. Council has indicated that this direction applies and that the proposal is not considered consistent with this direction.

4.3 Flood Prone Land. Portions of the site have been identified as flood prone and therefore this Direction applies. There is insufficient information to determine whether or not the proposal is consistent with this direction.

4.4 Planning for Bushfire Protection. Portions of the site have been identified as bushfire

prone and therefore this Direction applies. There is insufficient information to determine whether or not the proposal is consistent with this direction.

5.1 Implementation of Regional Strategies. The proposal is inconsistent with this Direction because it is neither of minor significance nor does it achieve the intent of the LHRS which establishes the Pokolbin area as a specialised centre for tourism with no additional residential development.

6.3 Site Specific Provisions. The proposal is inconsistent with this direction because it seeks to apply a site specific provision on a site which facilitate uses that are otherwise prohibited (and is therefore inconsistent with clause 4a), does not rezone the site (and is therefore inconsistent with clause 4b) and also requires an amendment to the development standard that currently applies on the site in relation to minimum lot size (and is therefore inconsistent with clause 4c. The proposed development is considered too substantial to be considered of minor significance (clause 6).

Environmental social
economic impacts :

8. Impact upon Threatened species

An assessment of the flora and fauna on the site was undertaken in 2005 and identified the existence of two vegetation communities which were later listed as Endangered Ecological Communities. Further assessment is required to determine the likely impact on these communities. Consultation with the Office of Environment and Heritage will be required if the proposal is to proceed.

9. Other Environmental considerations

Aboriginal Heritage

The Aboriginal Heritage study is not consistent with the current guidelines on assessing Aboriginal cultural heritage and will need to be updated. The initial study has identified that artefacts exist on the site and further investigation and consultation is required.

Water and Flood Management

The site is located within the Black Creek Catchment which extends downstream to Cessnock itself and in which flooding is a concern. The proposal has indicated that on-site water detention and on-site sewage treatment and disposal are options to manage the downstream water flow. The proposal also indicates that evacuation routes will be made available. Updated information on the suitability of these options, including their economic viability is required.

Bushfire Risk Management

The Bushfire Risk Assessment is not consistent with the current Planning for Bushfire Protection guidelines and will require updating. In addition consultation with the Rural Fire Service is required if the proposal is to proceed.

10. Social and economic effects

The proposal is promoted as an international development which will deliver positive social and economic benefits due to the nature of the development and its ultimate residents or visitors. However, there are no mechanisms proposed that regulate the type of development, who the ultimate residents may be or what needs they may have. It is considered that a comprehensive and independent social and economic impact assessment is required.

Because such an assessment will need to address considerations broader than those applying solely to this proposal, Council may wish to commission the necessary work and recover the relevant costs from the proponent under clause 11 of the Environmental Planning and Assessment Regulations 2000.

Particular issues that need to be considered if the proposal proceeds to include permanent residential development include;

- The potential for conflict between permanent residents and tourists at the site.
- Social impacts of increased disparity amongst the community of the Cessnock LGA.
- The potential for isolation of permanent residents at distance from services and facilities.
- The impact of the proposal on the value of land in the Vineyards District and implications

this has on the economic viability of agriculture in the area.

Particular issues that would need to be considered if the proposal is to proceed as a tourism proposal include;

- the economic impact of the proposal on the existing tourist development within the Region, taking into consideration the latent development potential on existing sites.
- the economic impact of the proposal on the value of land in the Vineyards District and implications this has on the economic viability of agriculture in the area.
- the impact on adjoining sites particularly any implications for agricultural production.

Section D

11. Adequate public infrastructure

The proposal indicates that little public infrastructure is required because, despite facilitating the development of 300 permanent residential dwellings and 300 tourist and visitor accommodation opportunities, the population will be self-sufficient and will not require significant additional services and facilities.

Further information is required to determine whether the existing infrastructure is able to accommodate the population growth or how any shortfalls in infrastructure provision will be met. In particular it is critical to determine the cost to both state and local government of this proposal.

Because such an assessment will need to address considerations broader than those applying solely to this proposal, Council may wish to commission the necessary work and recover the relevant costs from the proponent under clause 11 of the Environmental Planning and Assessment Regulations 2000.

The Department's policy is to require all residential proposals of this size to be mapped as urban release areas. This allows for the preparation of a development control plan and the contribution to state public infrastructure. It is considered appropriate that, if any permanent residential development is to proceed on this site, the area is mapped as an urban release area.

Assessment Process

Proposal type : **Consistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 Month** Delegation : **DG**

Public Authority Consultation - 56(2)(d) : **NSW Aboriginal Land Council
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
Hunter Water Corporation
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

Is Public Hearing by the PAC required? **No**

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

If no, provide reasons : **ONLY the tourism component should proceed and it should proceed with variation. In this form the proposal is considered a 'consistent' proposal type.**

It is considered that the tourism component of the proposal has merit due to its location within the Vineyards District and therefore should be further considered. The proposed amendment to Schedule 1 is not supported and a rezoning of the site to accommodate the proposal is required. Council should consider the use of the Standard Instrument zone SP3 Tourist, tailored to the Cessnock LGA and applied to relevant portions of this site. Consideration should also be given to what local provisions may also be required.

Amendment to Cessnock LEP 2011 - Golden Bear

The permanent residential component of this proposal should NOT proceed. In particular the amendment to Schedule 1, proposed ratio of permanent to tourist development (1:1), the proposed number (300 dwellings) and density of development (450m2) and the proposed type of residential development (potentially including residential flat buildings for example) is not supported.

It is considered that additional investigation into permanent residential development in the Vineyards District, and including this site is required. This must be a strategic exercise and will involve considerable further analysis, it is considered premature to issue a Gateway Determination for such a development at this point in time. The review of the Lower Hunter Regional Strategy provides a more appropriate context for the consideration of the permanent residential proposal and is proposed to occur quickly, providing resolution on the matter within a short timeframe.

Resubmission - s56(2)(b) : No

If Yes, reasons : It is considered that resubmission under s56(2)(b) is not required. The Proposal may proceed with variations as outlined in the recommendations. Assessment of the proposal's consistency with these variations will be made under s57(2), prior to exhibition of the proposal.

Identify any additional studies, if required. :

Flora

Fauna

Heritage

Bushfire

Flooding

Economic

Social

Other - provide details below

If Other, provide reasons :

Additional or upgraded studies on agricultural land use (considering all forms of agriculture), traffic, infrastructure requirements and on-site water management are required.

A contamination study in accordance with State Environmental Planning Policy No 55: Remediation of Land is also required.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? Yes

If Yes, reasons : If permanent residential development proceeds on the site the proposal will result in an increase in population and therefore the provision and funding of state infrastructure is relevant. If permanent residential is supported, the site should be mapped as an urban release area to trigger the provisions of Part 6 of the Cessnock LEP 2011.

It is not considered appropriate to require tourism proposals to contribute to the funding of state infrastructure.

Documents

Document File Name	DocumentType Name	Is Public
21 03 12 golden bear Planning Proposal V2 _3_.pdf	Proposal	Yes
Chronology.doc	Study	No
Tag A PAC Rept copy.pdf	Study	Yes
Proponents Submission.pdf	Study	Yes
Council Report and Minutes.pdf	Study	Yes
Record of Communication.pdf	Study	No

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.3 Site Specific Provisions**

Additional Information : **It is recommended that:**

The Director General as delegate of the Minister for Planning and Infrastructure determine under section 56(2) of the EP&A Act that an amendment to the Cessnock Local Environmental Plan 2011 be undertaken to rezone portions of Lots 1-4 DP 86951 Wine Country Drive Pokolbin, to facilitate the development of a major tourist facility, subject to the following conditions;

- 1. The Planning Proposal is amended to;**
 - a. Adopt the Standard Instrument SP3 Tourist zone and adapt it to meet the needs of the LGA, consistent with the Practice Note PN 09-006.**
 - b. Rezone the relevant land from RU4 Primary Production Small Lots to SP3 Tourist under the Cessnock LEP 2011, as the inclusion of the tourist uses as additional permitted uses is not supported.**
 - c. Include information explaining any local provisions relevant to supporting the SP3 Tourist zone.**
 - d. Remove any reference to permanent residential development from within the proposal, including the subdivision of land below the current minimum lot size, as this is not supported.**
- 2. The amended proposal is to be submitted to the Department prior to public exhibition for a review under s57(2) of the EP&A Act.**
- 2. Community consultation is required under sections 56(2)(c) and 57 of the EP&A Act 1979 as follows:**
 - a. the Planning Proposal must be publicly available for a minimum of 28 days; and**
 - b. the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A guide to preparing LEPs (Department of Planning 2009).**
- 3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:**
 - NSW Aboriginal Land Council**
 - Office of Environment and Heritage**
 - NSW Department of Primary Industries - Agriculture**
 - NSW Department of Primary Industries - Minerals and Petroleum**
 - Hunter Water Corporation**
 - NSW Rural Fire Service**
 - Transport for NSW - Roads and Maritime Services**
- 4. A public hearing is not required to be held into a matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.**
- 5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.**

6. The following studies will need to be completed as part of the Planning Proposal and the findings and key recommendations incorporated into the planning proposal prior to exhibition:

- a. a contamination study in accordance with State Environmental Planning Policy No 55: Remediation of Land.
- b. updated flooding, flora and fauna, bushfire risk, traffic, infrastructure, agricultural land use, aboriginal archaeology and water management studies.
- c. study on the social and economic impacts of the tourism proposal

7. Council is requested to provide additional information as part of the s58 submission to assist in determining consistency with SEPP Rural Lands 2008 and with the following directions:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.3 Heritage Conservation
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection

Issues with s117 directions 3.1 Residential Zones, 5.1 Implementation of Regional Strategies and 6.3 Site Specific Provisions do not arise if the proposal is to proceed as recommended, without the permanent residential component and as a re-zoning.

The proponent is encouraged to lodge a submission as part of the review of the Lower Hunter Regional Strategy in relation to the proposed residential development. The submission would need to address the issues raised in the PAC report. Further information on the additional matters to be addressed in this submission will be made available.

Supporting Reasons :

The proposal for a tourist development on the site is consistent with the Lower Hunter Regional Strategy which identifies the Pokolbin area as a specialised centre for tourism growth. A clear, certain and transparent approach to achieving the tourism objectives for the site are to zone for purpose and establish planning controls, both within the LEP and within a DCP, to achieve the desired outcome. Investigation into a SP3 Tourist zone for the Cessnock LGA is considered a useful tool for more clearly defining the role and permissible use of relevant sites within Vineyards District.

The proposal for a large residential development on the site is not consistent with the local Cessnock City-Wide Settlement Strategy 2010 or the relevant regional strategies (the Lower Hunter Regional Strategy or the draft Upper Hunter Strategy Regional Land Use Plan). The proposal does not demonstrate that it is consistent with the sustainability criteria identified within the LHRS.

The proposal has been promoted as an 'integrated tourism and residential proposal' however this 'integration' is not defined or detailed and there are no mechanisms proposed to achieve it. Despite the completion of numerous studies on the site the assessment of the site's suitability for permanent residential density of the scale and density proposed has not been undertaken due to this presumption that the use is ancillary or 'integrated' with a broader tourism objective.

The review of the LHRS and the landholder nominated sites process provides the opportunity to assess permanent residential on this site from a strategic basis within a relatively short timeframe. This review will be informed by the outcomes of the strategic work that Council is currently undertaking for the Vineyards District. This approach is considered consistent with the advice of the Planning Assessment Commission and an appropriate response to the issues raised in the assessment of the Planning Proposal.

Amendment to Cessnock LEP 2011 - Golden Bear

Signature:

Monica Gibson

Printed Name:

Monica Gibson

Date:

11 April 2012