

**REVIEW OF DRAFT LOCAL ENVIRONMENTAL
PLAN TO PERMIT PERMANENT RESIDENTIAL
DEVELOPMENT AS PART OF TWO PROPOSALS
FOR INTEGRATED TOURIST AND
RESIDENTIAL DEVELOPMENT PROJECTS
IN THE CESSNOCK VINEYARDS PRECINCT**

Prepared

by

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EXECUTIVE SUMMARY

It is considered that to date that whilst there has been a focus on the inconsistency with the Lower Hunter Regional Strategy and associated policy documents in relation to the implication of establishing stand alone permanent residential accommodation, there has been little emphasis on the importance of tourism on the Vineyard District, and the potential for the “net inflow of money or jobs to the region”.

Whilst the proposed amendment to CLEP Clause 17 is not necessarily consistent with the Lower Hunter Regional Strategy in terms of residential settlement, it will achieve the overall intent of the regional strategy, in that the amendment to the draft LEP to permit limited permanent residential accommodation is only of minor significance given the controls proposed to be put in place, and the amendment will not undermine the achievement of the Regional Strategies vision, land-use strategy, outcomes and activities, which also provides for regional/local employment opportunities to support the Vineyards District expanding role in the wider regional and NSW economies.

Neither site is identified in the Rural SEPP as being State significant agricultural lands.

Only the alluvial soils adjacent to Black Creek on the Golden Bear site are prescribed as being prime viticultural soils, and this area represents less than 5% of the site and is also flood liable. The VBL property soils are considered to be generally of low to moderate suitability, and unsuitable for viticulture.

It is unlikely that even the small portion of the Golden Bear site identified as being prime agricultural land, is a viable agriculture resource.

It is most likely that the return and benefit to the community would be significantly greater as a result of the extension and development of these major tourist facilities, than would occur in respect to a marginal struggling agriculture venture.

In respect of the VBL site it is considered that the topography of the site will enable development to occur without affecting the visual significance of the site. In relation to the Golden Bear site it is considered that the site has no intrinsic qualities which would prevent the proposed development occurring, subject to the provision of an adequate buffer generally around the periphery of the site to enhance the visual experience.

It is unlikely that approval of any subsequent application in respect of the future development of the two sites would result in any major land-use conflicts, having regard to the location of existing tourist development (The Vintage), the location of future permanent residential development on the two sites, and in particular existing and future tourist development adjoining the two sites.

It is not anticipated the amendment to Clause 17 of CLEP to facilitate future permanent residential accommodation will have any cumulative effect or precedent.

There are adequate statutory and non statutory controls to ensure that any future applications are considered on their merits having regard for the circumstances of the case at that time.

The Department however may wish to consider whether the remainder of the 1(v) zone should be included in the Rural SEPP as State Significant Agriculture land given the suggestions by the Department of Primary Industry.

It is important for the Council and the Department to confirm its intention not to support the development of standalone residential settlements, other than those which are part of an integrated tourist development, and providing the amount of permanent residential development within such developments is restricted to 20% of the total dwellings provided, with an opportunity for a review upon reaching that level and subject to the concurrence of the Department of Planning, to a possible maximum of 30%.

Any future development for the two sites should be controlled by a development Control Plan/Master Plan prepared by Council which defines the subdivision patterns and the location and type of land uses within the two estates, and a staging plan for the future development. The staging plan is to be linked to the achievement of the tourist facilities on site, such that certain facilities must be provided before the next stage can be approved for development. The aim of this mechanism is to ensure that the primary purpose of the proposed developments is that of a major tourist facility, and not just a residential estate.

This plan should also specify the maximum permitted development intensity, including the maximum number of residential and rural residential lots and provision for any other related matter, including developer contributions, open space, landscape design control, general development control, and rural buffer zones.

Given the special market niche provided by the two development proposals, and the anticipated social and economic status of future residents, it is anticipated that there will be little if any impact on child related social infrastructure, and little impact on other social infrastructure such as public transport, medical services etc.

Each site will be provided with appropriate effluent treatment and water supply and other services, at the cost to the developer.

Whilst there is a need to reaffirm the primary importance of viticulture to Wine Country Tourism, there is a need to widen the mix of tourism product in order to ensure that the area remains attractive to tourists in the light of a changing tourism market, and in the light of changing tourist tastes., with out compromising the actual reason for tourists visiting the area, that is for the vineyards and associated wine tasting experience.

The proposed tourism development and golf course would be an important addition to the local community that would complement and add depth to the tourism offered of Wine Country and that there would be significant economic benefits.

The proposed housing would also deliver economic benefits to the area, with a high income clientele, less likely to be attracted to other existing and future residential areas in Cessnock and Branxton, and would not likely further expand the existing market attracted by the existing Vintage development

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1 INTRODUCTION

Charles Hill Planning has been engaged by the Department of Planning to provide an independent assessment of implications of extending the provisions of Clause 17 of the Cessnock Local Environmental Plan 1989 to the remaining undeveloped Vintage and Beggars Bridge lands, and amending Clause 17 in respect of the Golden Bear lands to permit residential development in conjunction with a tourist facility.

1.1 Terms of Reference

In particular the Department has requested that this consultancy consider and assess

- “1. The impact on the Vineyards district in terms of the agricultural value of the land, its rural character and the potential loss of agricultural land;*
- 2. The potential for conflict with adjoining lands and associated agricultural enterprises;*
- 3. The precedent created for other similar proposals for more intensive subdivision in the Vineyards district; and*
- 4. The needs of residents for access to government infrastructure such as health and education services, as well as access to retail services.”*

A copy of the Council's Brief is at **Appendix 1**.

1.2 Documentation

In preparing the assessment I have relied on the following documents which have been provided to me by the Department and others:

- Copies of the detailed proponents by VBL and “the Golden Bear”;
- Letter from former Minister Sartor to Cessnock City Council of July 2007;
- Letter from the Director General of the Department of Planning dated 22/3/07 to Cessnock City Council;
- Various reports and documents in relation to the Golden Bear and VBL proposals;
- ‘Strategic Review – Permanent Residential Development, Vintage Balance Land and Golden Bear’ prepared by Strategy Hunter Consultants: June 2008;
- Various reports prepared by the Department of Planning;
- Report to and the recommendations of the LEP Review Panel for Golden Bear (October 2006);

- Various correspondence from Government Agencies;
- Report to and the recommendations of the LEP Review Panel for Vintage Balance Land (23 October 2008);
- Lower Hunter Regional Strategy;
- Correspondence from the Hunter Valley Wine Industry.

In addition to the abovementioned documents I have also relied on:

1. The Environmental Planning and Assessment Act and associated documentation;
2. State Environmental Planning Policy: Rural Lands;
3. The Hunter Regional Environmental Plan 1989;
4. Cessnock Local Environmental Plan 1989;
5. Council DCPs and policies;
6. Department of Planning Circular D9 – Advice regarding aerial spraying (43.114).

1.3 Consultation

In preparing the report consultation was also undertaken with representatives of the following organisations:

- Head Office and Newcastle Office of the Department of Planning;
- Cessnock City Council.
- The proponents of the Vintage Balance Lands and Golden Bear proposals.
- Hunter Valley Wine Industry Association;
- The NSW Department of Primary Industries;
- Hunter New England Health Area;
- The NSW Department of Education and Training;
- Tourism NSW.

1.4 Structure of Report

This report contains the following Sections:

Section 1 includes the terms of reference for the report, a summary of the documentation on which the report was based, and agencies, individuals and consultants who were consulted in the preparation of the report.

Section 2 describes the land that is the subject of this report, existing uses of those sites, and list of the surrounding locality.

Section 3 provides a summary of what is proposed for each site.

Section 4 summarises the background to Council's decision to support the amendment to Clause 17 of CLEP to facilitate the permanent residential accommodation within each site.

Section 5 provides a summary of the Statutory and Non Statutory framework in relation to the two sites.

Section 6 is a summary of the consultations made in respect of the two sites.

Section 7 summarises the key issues and responses to those issues.

Section 8 summarises the conclusions of the report and responses to the Department of Planning's Terms of Reference.

Section 9 contains the recommendations of the report.

1.5 Acknowledgements

I am grateful for the submission (written and verbal) and support provided to me by individuals, companies, voluntary organisations and Government agencies in the preparation of this report.

2 THE SITE AND SURROUNDS

Cessnock City Council is in receipt of two integrated tourist and residential development projects which necessitate an amendment to Cessnock Local Environmental Plan (CLEP) to permit the permanent residential components of these projects, for the rezoning of land in the north of the Vineyards District.

The two proposals are adjacent to each other on either side of Wine County Drive approximately 8 km south of Braxton's and approximately 6 km north of Cessnock (**Figure 1**). The following is a description of each site and a summary of the background to each proposal.

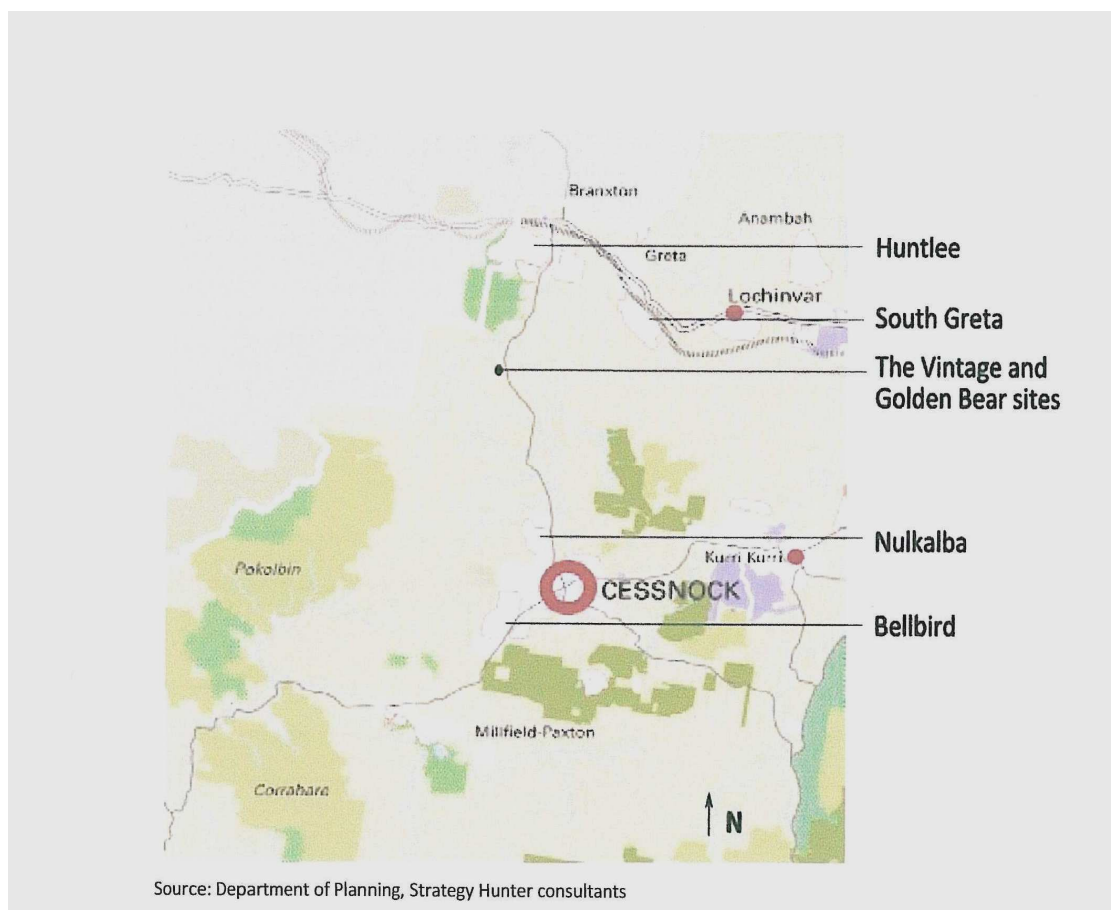


Figure 1

2.1 Vintage Balance Land

The Vintage Balance Lands (VBL) are located within Cessnock Local Government Area, to the west of Wine County Drive between Palmers Lane and Macdonalds Road. The VBL includes

Pt Lot 1102 DP 1101455 Wine County Drive;

Pt Lot 1301 DP 1077114

Pt Lot 1305 DP 1077114 Wine County Drive

Lot 21 DP 1044459 Wine County Drive

Lot 22 DP 1044459 Wine Country Drive'

Lot 23 DP 1044459 Wine Country Drive

Pt Lot D DP 182933 Palmers Lane

Lot 24 11 DP 1060722 Macdonalds Road, Rothbury (Beggars Bridge Vineyard).

The sites have a total area of approximately 183 ha.

Individual land ownership for Vintage and Golden Bear sites are shown at **Figure 2**.

Appendix 2 lists the environmental studies undertaken on behalf of the VBL site.

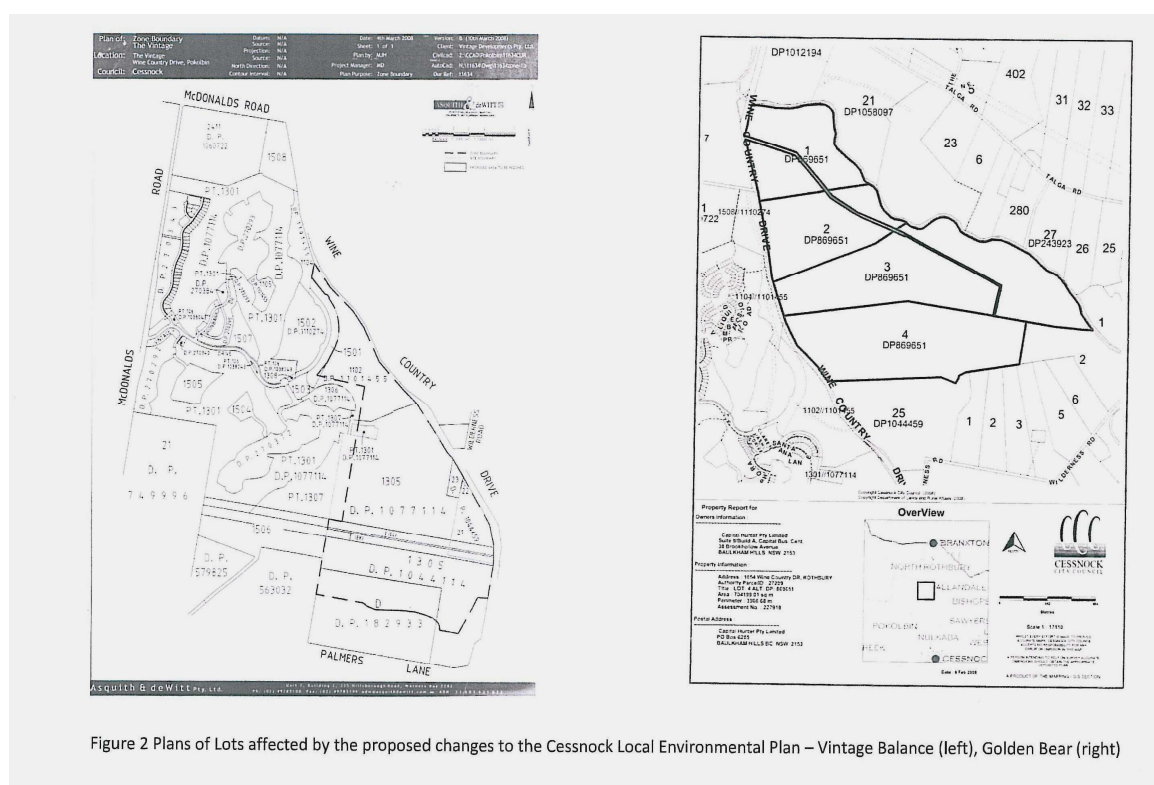


Figure 2
Source: Strategy Hunter Consultants June 2008

2.1.1 Existing Development

The Vintage is an existing high quality integrated tourism and residential development consisting of an 18 hole golf course, club house, recreation facilities, 44 Mercure serviced apartments, and residential housing on a range of lot sizes.

The subject land also includes the Beggars Bridge dwelling and cellar door sales with existing grapevines on the slope to the south and adjoining the VBL site.

Part E2 of the Cessnock Development Control Plan 2006 guides development on the land affected by the existing Clause 17 provisions (The Vintage). It provides for:

- 150 resort hotel units, at an average density of 40 units per hectare
- 355 “special residential” units intended to be utilised in association with the hotel, at an average density of 30 units/hectare
- 482 residential lots, ranging between 450 – 1,300 square metres
- 40 rural residential lots, each a minimum of 4,000 square metres.

By way of background it is noted that, development consent for the Vintage was originally granted in 1986 by Cessnock City Council having been previously identified for tourist / recreational development in the 1980's.

Development commenced shortly after, but the project remained dormant until it was reactivated in 1996 when Council approved a major integrated, tourist / recreation development with associated subdivision via Clause 17 of CLEP, and the creation of DCP 26 to guide and control the quality of development.

I am advised that there have been subsequent amendments to the 1996 consent as approved, to accommodate market changes that have accrued over time, and that the approved servicing strategy brought sewerage infrastructure to the site (11 kilometres) and town water (6 kilometres) which is sufficient to support the VBL proposal, and replaces a previously proposed on site effluent disposal system.

2.2 Golden Bear Lands

The Golden Bear Lands are also located within the Cessnock Local Government Area, on the opposite side of Wine County Drive (ie east of Vintage Development), approximately 8 km south of Branxton.

This land is described as Lot 1 to 4 in DP 869651 Wine County Drive and has an area of 241.5 ha (See **Figure 2**).

The land is roughly triangular in shape and consists predominantly of broad, flat alluvial flood plain deposits, rising gently towards the south-western corner.

The site has been extensively cleared and is now mainly grazelands with a small area of remnant woodland in the southern perimeter, being stands of Eucalyptus and Cassewera. Riparian vegetation dominated by Casuarini Glenea occus along Black Creek (northern and north-eastern boundary), and a second gully line that flows north to south through the land.

The land is used for grazing purposes and contains a brick dwelling and various other agricultural improvements.

A number of small dams have been constructed on the site, and have been used for stock watering purposes.

In support of their application the proponents have already undertaken extensive studies of their site, a list of which is at **Appendix 3**.

2.2.1 Surrounding Land

The Plan at **Figure 3** indicated the existing and proposed uses within 10 kilometres of the VBL and Golden Bear sites.

It is noted in particular that immediately to the south of the Golden Bear site is an approval for tourist cabins. To the north of Talga Road is an existing Rural 1(C)2 Rural Residential zone and existing residential area and to the northwest the new Huntlee Residential Release area and the township of Branxton.

Further to the northeast there is a future residential area, the former Greta Army Camp site.

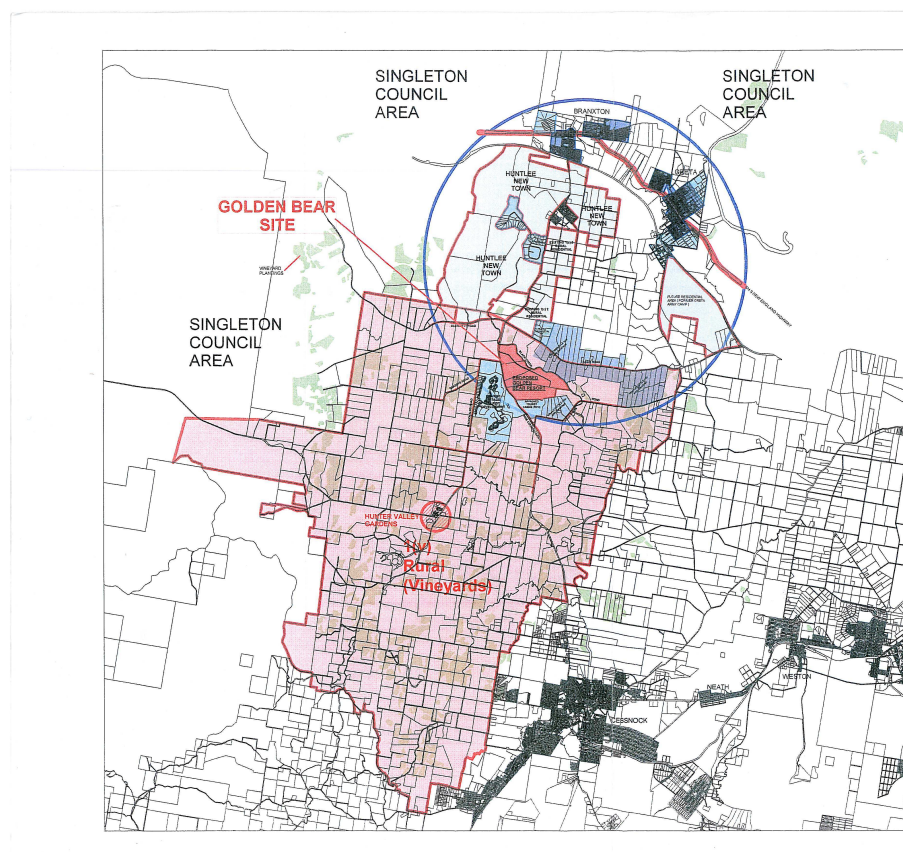


Figure 3 – Location of existing uses
Source: HDB Town Planning Design

3 THE PROPOSALS

3.1 Vintage Balance Lands

The application the subject of this report is to extend Clause 17 of the Cessnock Local Environmental Plan 1989 over the 'Stevens Group Vintage Balance Land' (known as VBL) to enable further development, including:

- A 9 hole extension of the existing golf course
- A 200 unit Village Resort
- 160 'Vintage style' residential lots
- 40 rural residential lots
- Agricultural lot incorporating private agricultural land
- A small commercial / retail facility

The extension of Clause 17 is required to permit the development of the "Village resort" (it is understood this is for permanent residential occupancy, possibly as seniors housing), the residential lots, and the rural residential lots. It is this residential component that is the subject of this report.

It is noted that whilst not specifically referred to in the VBL proposal as "senior housing", the proponents have acknowledged their desire to provide accommodation for "active retirees". Subsequent discussions with the proponents indicate that they have legal advice which would suggest that this type of development is already permissible with Council consent, having regard to the provisions of SEPP (Housing for Seniors or people with a disability)2000.

This issue is discussed later in this report.

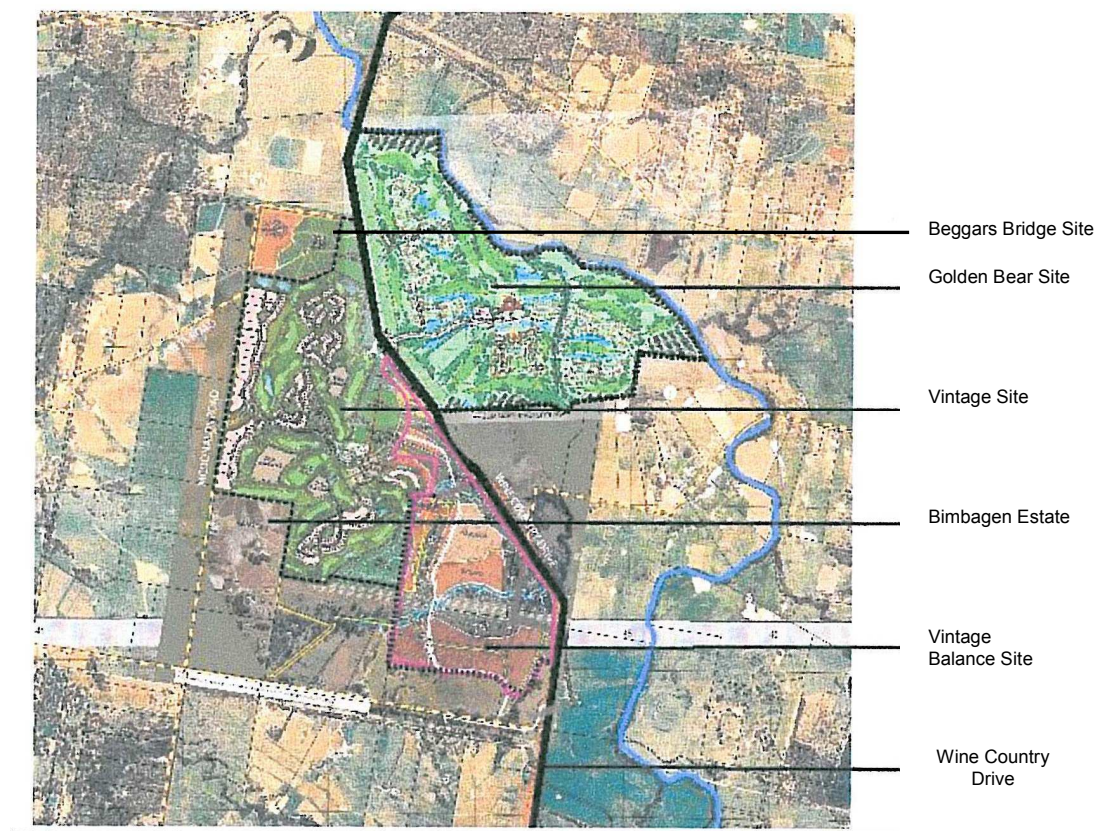
3.2 Golden Bear Lands

The Jack Nicklaus Gold Club proposal comprises a master planned development for an international golf resort and residential complex including:

- An 18 hole golf course of international standard designed by Jack Nicklaus;
- An associated club house building and five star hotel including approximately 50 rooms, a function centre, day spa and recreation facility;
- Approximately 250 villas and apartments providing short stay accommodation;
- Approximately 300 dwelling providing permanent residential accommodation.

An amendment to Clause 17 of CLEP 1989 is required to permit development of the residential lots.

Figure 4 is an aerial photograph showing the Vintage and Golden Bear proposals.



Base aerial photograph from the Department of Lands. Compilation concept plan by HDB Planning with assistance from Insite Planning. Further graphics and finalization by Strategy Hunter Consultants.

Figure 4 - Proposed Developments

4 BACKGROUND

Cessnock City Council's adopted strategic policy position on permanent residential development in the Vineyards District is that permanent residential development not be supported beyond the current provisions in LEP 1989 (ie 1 dwelling per 40 hectares or vacant existing holding as well as enabling the development of 'The Vintage' through the existing provisions of Clause 17). It is understood that this strategic position has also been advocated by the Hunter Valley Wine Country Industry Association (HVVIA), formerly the Hunter Valley Vineyard Association, and Wine Country Tourism.

Council's strategic position in this respect was also emphasised in the adoption of the Synergy Report in 2005.

In that regard the 2005 Synergy Report commissioned by Council investigated the appropriateness of permanent residential development in the Vineyards District, recommending that it not be supported beyond the current provisions in Cessnock LEP 1989. Council adopted the Synergy Report and its recommendations on 5 July 2006.

Notwithstanding the above, Cessnock City Council has proposed two Local Environmental Plans (LEPs) amendments, now proposed to be combined into one LEP, that will allow residential development in conjunction with major tourist development at two sites in the vineyards district – ie that land zoned 1(v) Rural (Vineyards) in Cessnock LEP 1989. Whilst the tourist components are permissible in the zone, the permanent residential development is not a permitted use under the current LEP. There is a 40 hectare minimum lot size for a residential dwelling the 1(v) zone.

The developments are the Jack Nicklaus Golf Club site (known as the 'Golden Bear') and the Stevens Group's Vintage Balance Land and Beggars Bridge Vineyard (known together as the 'VBL'). The proponents have indicated that the residential component is critical to the financial viability of the projects.

The Golden Bear proposal is for a golf course, country club, 200 tourist accommodation units and 300 residential dwellings. The VBL proposal is an extension of the "The Vintage", and existing golf course / residential community. The Vintage has approval for 522 residential units and 505 tourist units. The additional development proposed for the VBL includes approximately 200 tourist units and 250 residential dwellings.

The Golden Bear proposal was considered by the LEP Review Panel in October 2006. The proposal was not supported by the Panel. However, Council was advised it could continue to investigate the proposal provided strategic concerns were addressed.

Following concerns raised by the Minister for Planning in July 2007, Council engaged Strategy Hunter Consulting to prepare a report on the merits of residential development in this part of the vineyards district. The report, also known as the "Croft Report" was completed in June 2008. The draft report recommended against permanent residential development for the following reasons:

1. Maintenance of rural and viticultural character;
2. Minimisation of conflict with viticulture operations;

3. Creation of demand for human services, which cannot be delivered efficiently; and
4. The sites not being adjacent to existing or proposed urban areas and therefore being inconsistent with regional and local strategies.

Cessnock Council did not however accept the report's recommendations in respect of these two proposals.

At a meeting held on 7 September 2008 the then Minister indicated that the rezoning applications should be considered together and that Council needed to address the special circumstances that would justify a shift in Council's policy position in relation to the permanent residential policy development of the Vineyard District.

The VBL proposal was considered by the LEP Review Panel in October 2008. The Panel recommended against allowing the proposed amount of residential development in the draft LEP and suggested that a smaller residential component for VBL and the Golden Bear should be investigated.

5 STATUTORY AND NON STATUTORY FRAMEWORK

5.1 Environmental Planning and Assessment Act

The *Environmental Planning and Assessment Act 1979* (the Act) commenced in December 1979. The Act is the principle planning and development legislation in New South Wales.

In accordance with **Section 5**, the objectives of the Act are:

“(a) to encourage:

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *the protection, provision and co-ordination of communication and utility services...*
- (v) *the provision and co-ordination of community services and facilities, and*
- (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,*
- (vii) *ecologically sustainable development, and*
- (viii) *the provision and maintenance of affordable housing...”*

In addition to the above there are a number of Section 117 Directions that apply to the two sites. Both proponents have addressed the relevant Directions in their respective proposals. The proponents' responses are considered satisfactory for the purposes of exhibition of the draft Local Environmental Plan.

5.2 State Environmental Planning Policy (Rural Lands 2008)

State Environmental Planning Policy (SEPP) Rural Lands 2008 was gazetted on 9 May 2008, and also applies to the site.

The aims of this policy are:

- “(a) *to facilitate the orderly and economic use and development of lands for rural and related purposes*

- b) to identify the Rural Planning Principles and the Rural Subdivision Principles so as to assist in the property management development and protection of rural lands for the purposes of promoting the social, economic and environmental welfare of the State.*
- c) to implement measures designed to reduce land-use conflicts.*
- d) to identify State Significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social , economic and environmental consideration.*
- e) to amend provisions of other environmental planning instruments relating to concessional lots in rural subdivision."*

This policy applies to Cessnock City Council.

Part 2 of the Policy sets out the Rural Planning Principles, which include amongst other matters, " the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas" as well as balancing," the social, economic and environmental interests of the community", in planning for rural areas.

Part 3 of the Policy refers to the requirements in respect of Rural Subdivision and dwellings.

Part 4 refers to State Significant agricultural land specified in Schedule 2.

In that regard it is noted that no land has been identified in that Schedule at this stage, although it is noted that the "Vintage" site appears to be located within an area of Regionally Significant Agricultural Land on the National Resources Map 2 to the Lower Hunter Regional Strategy, but the Golden Bear site is specifically excluded.

5.3 Hunter Regional Environmental Plan 1989

This Hunter Regional Environmental Plan (HREP) 1989 provides, amongst other matters, objectives, policies and principles to assist Council in the assessment of development applications, or in the preparation of a Local Environmental Plan.

The general aims and objectives of the plan are:

- a) to conserve the environmental heritage (including the historic, scientific, cultural, social, archaeological, architectural, natural and aesthetic heritage of the Hunter Region;
- b) to promote the appreciation and understanding of the Hunter Region's distinctive variety of cultural heritage item, significant buildings, structures, works, relics, tourism, precincts and landscapes;
- c) to encourage the conservation of the Region's historic townscape which contain one or more buildings or places of heritage significance – or which have a character and appearance that is desirable to conserve.

In relation to the provision of housing (including rural residential), (Division 1 Housing), Council is required, amongst other matters, to develop strategies that:

- provide adequate opportunities for “secure, appropriate, and affordable housing in a variety of types and terms for all income groups throughout the region;
- to ensure “that the design and siting of residential development meets community needs, and minimal impact on the natural environment and involves the quality of the region’s built environment”;
- “Should include provisions to allow the establishment of such facilities to meet the needs of residents”;

In respect of health, education and community services (Division 2), Council is required to “encourage the co-ordinated provision of facilities and services designed to meet the needs of the user group and accessible to those groups”.

In respect of Economic development, and Tourism in particular, the objectives are

- “a) to encourage the co-ordinated development of the region as an important tourist destination for the area;*
- b) to encourage appropriate leisure and tourism developments on land which is environmentally capable and suitably located as a means of improving the region’s economic diversity and employment prospects;*
- c) to encourage the recognition of natural and heritage conservation values as a means of improving tourism opportunities; and*
- d) to encourage the development of planning controls containing incentives for tourism development where appropriate.”*

In preparing a draft local environmental plan or development control plan, Council

- “a) should take into consideration plans prepared by Tourism New South Wales for areas within the region*

Further:

where appropriate, incorporate incentives and provide flexibility aimed at encouraging development for tourism purposes

- b) should take into consideration the impact of any proposed tourist development on the existing and future supply of permanent residential accommodation.*

In relation to **Principles (Clause 23)** Councils should

- “a) encourage the development of tourism facilities which will result in a net inflow of money or jobs to the region, and which will be environmentally acceptable;*

- b) *support tourism development proposals which help to provide a wide range of high quality attractions and accommodation types, and which are in accordance with tourism development plans prepared by the Tourism Commission.*
- c) *Encourage initiatives which increase tourism interest and potential,*
- d) *Give consideration to the needs of tourism developments in the provision of servicing and transport linkages where these conform to tourism development plans, and are capable of providing significant increases in tourism activity and jobs for the region."*

In respect of Rural lands the main objective is "to protect prime crop and pasture land from alienation, fragmentation, degradation and sterilization."

It is noted in particular that Council, in preparing local environmental plans for small rural holdings is required to consider:

- "a) demand for such holdings;;*
- b) accessibility to community facilities and services;*
- c) proximity to urban centres;*
- d) provision of infrastructure and services;*
- e) the risk of hazards as detailed in Division 3 of Part 7;*
- f) land capability and agricultural suitability;*
- g) the control of noxious weeds and annuals.*

5.4 Cessnock Local Environmental Plan 1989

Cessnock Local Environmental Plan (CLEP) is the principal planning instrument that applies to both lots.

5.4.1 Existing Zoning Provisions

In accordance with CLEP the subject lands are zoned 1(v) Rural Vineyards.

In that regard it is understood that in accordance with the Department's planning template the zoning will be Ru1. Primary production, with an enabling clause similar to that already provided in the CLEP.

Whilst there are no specific objectives attached to CLEP itself related to the proposed uses, the objective for the 1(v) Rural Vineyard Zone are:

- "(a) to maintain prime viticultural land and enhance the economic and ecological sustainability of the Vineyards District, and*

- (b) *to encourage appropriate tourist development consistent with the rural and viticultural character of the Vineyards District, and*
- (c) *to minimise conflict between viticultural and non-viticultural land uses by ensuring sympathetic location and design of those land uses, and sympathetic location and design of those uses, and*
- (d) *to enable continued rural use of land which is complementary to the viticultural character of land within this zone, and*
- (e) *to protect the water quality of receiving streams and to reduce land degradation, and*
- (f) *to actively promote the need to conserve and enhance the biodiversity of the Vineyards District, and*
- (g) *to conserve the Aboriginal archaeology and European heritage of the Vineyards District.”*

Uses Permitted Without Consent

“Agriculture (other than animal boarding, breeding or training establishments, pig keeping, feed lots or poultry farming establishments); stables accommodating no more than 2 animals.”

Uses Permitted Only with Consent

*“Animal boarding, breeding or training establishments (other than for dogs); art galleries; bed and breakfast accommodation; cellar door facilities; child care centres; commercial vineyards; community centres; commercial signs; conference facilities; dams; dwelling-houses, environmental facilities; home industries; home occupations; horse training establishments; **integrated tourist development; motels; picnic grounds; places of assembly; public buildings; reception establishments; recreation facilities in association with tourist accommodation buildings; refreshment rooms; riding schools; sheds; stables accommodating more than 2 animals; tourist accommodation buildings; tourist-related shops in association with integrated tourist development;** tourist-related craft shops, underground coal mining which does not involve surface works or infrastructure; utility installations; **wine storage facilities; wineries.**”*

Prohibited Uses

“Any purpose other than a purpose included in item 2 or 3”.

Clause 15 of the LEP requires Council not to consent to the subdivision of land in the 1(v) rural (Vineyards) zone unless each lot to be created has an area of not less than 40 hectares or on vacant existing holdings of less than 40 ha. Dwellings are generally permitted on Lots of 40 hectares or more.

Clause 9(B) provides that Council shall not grant consent to the carrying out of development unless it is satisfied that the proposed development is consistent with the objectives of the zone.

Clause 10 (General Development Principles – Rural and Environmental Prohibition Zones and Hunter Employment Zones applies to the 1(v) zone).

This clause sets out the general principle which Council must take into consideration when determining any application to carry out development in the 1(v) zone.

A copy of those principles are at **Appendix 4**.

These principles are also appropriate for consideration as part of any development application proposal.

Clause 16 is also relevant to the extent that it defines the circumstances in which a dwelling house may be permitted with Council consent within the 1(v) zone.

Clause 17 of the CLEP predates the existence of the 1(v) Rural (Vineyards) zone. It permits the subdivision of land and the erection of dwelling houses, villas, duplexes and the like where the subdivision is required as an integral part of a major tourist recreation facility. This clause relates to land specifically identified on the map to the LEP.

It is noted that the two proposals do not at this stage benefit from this clause.

17 Subdivision of land within Zone No.1(v) in conjunction with major tourism development

- (1) This clause applies to land shown cross hatched on the map.
- (2) Notwithstanding Clauses 15(1) and 16(1), the Council may grant consent to the subdivision of land and the erection of dwelling houses, villas, duplexes and the like on the allotments so created where the subdivision is, in the opinion of the Council, required as an integral part of a major tourist recreation facility.
- (3) the provisions of Clauses 16(2) and 24 shall not apply to or in respect of any allotments created or buildings erected in accordance with the provisions of subclause (2).

Figure 5 below indicates the extent of land affected by Clause 17 shown hatched.

It is noted that currently there appears to be no limit to the amount of permanent accommodation permitted within the Vintage site. That is, it is possible that the 482 residential lots and the 40 rural residential lots could be used for permanent accommodation, although as is noted later in this report, only 20% of that accommodation is likely to be occupied permanently.



Source: Strategy Hunter Consultants

Clause 22 relates to development on main or arterial road frontages within the 1(v) zone.

Clause 24 refers to the requirements in respect of Dual Occupancy development.

Clause 52 of the CLEP seeks to limit the intensity of tourist development by:

- limiting tourist development to a maximum floor space ratio of 0.1:1
- by limiting the maximum number of tourist accommodation units to 1 unit per hectare of land, or 1.5 units per hectare where 6,000 m² of native vegetation is established (subject to certain requirements), and
- by limiting the maximum number of permissible tourist accommodation buildings for a particular lot as follows:

Lot size (hectares)	Maximum permissible number of tourist accommodation buildings at 1 tourist accommodation unit / hectare	Maximum permissible number of tourist accommodation buildings at 1.5 tourist accommodation unit / hectare
Up to 10	Not applicable	Not applicable
Exceeding 10 but not exceeding 20	6	8
Exceeding 20 but not exceeding 30	9	12
Exceeding 30 but not exceeding 40	12	16

Exceeding 40	15	20
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Clause 53 refers to Council's report in respect of the expansion of existing communal vineyards.

Clause 61 makes provision for the matters which Council must take into consideration when determining development for the purpose of tourist recreation facilities or integrated tourist development in excess of \$20 million.

5.5 Non Statutory Instruments

5.5.1 Cessnock Development Control Plan 2006

The Cessnock Development Control Plan 2006 (CDCP) applies to the subject lands, provides a range of "generic" development controls, and guidelines to assist the design and assessment of development throughout the Cessnock Local Government Area.

In that regard it is noted in particular the following:

Section C4 Land-Use Conflict and Buffer Zones

This section provides guidelines where there may be conflict within existing developments, and separation is required to reduce the conflict.

Council has developed three categories: A, B and C. Category A land uses may require their own buffer areas to protect them from existing B or C uses.

Category C uses require a buffer distance around them to mitigate against any residual emissions.

In that regard it is noted that Council has categorised Tourist facilities and Rural Residential development as Category A, whilst Viticulture has been defined as Category C.

In accordance with Section 4.3.1 of the CDCP (Intensive Agriculture). Council sets out the potential conflicts arising from viticulture and refers to the Department of Planning Circular D9 – Advice Regarding Aerial Spraying (CH to check) as well as Council's Vineyards District DCP (CH to check).

These matters are addressed later in this report.

Section D4 Purpose Built Rural Tourist Accommodation

This section provides more detailed guidelines for the establishment and ongoing nature of purpose built rural tourist accommodation.

Part E3 of the CDCP contains a number of provisions applying to specific locations, including E2: The Vintage and E3 Vineyards District.

Part E3 provides controls for the entire 1(v) Rural (Vineyards) zone, whilst Part E2 refers to specific locations including "the Vintage".

Part E3: Vineyards District

Part E3 largely focuses on the protection of agricultural lands, building siting and design, setbacks, the avoidance / management of the impact of chemical spray drift, and revegetation / landscape.

The objectives of Part E3 are identical to those of Zone 1(v) Rural (Vineyards). The DCP has a number of other objectives relevant to this Report which are shown at **Appendix 5**. Similar to the LEP, the DCP provisions have a strong emphasis on the protection of viticultural operations, and the rural and viticultural nature of the landscape.

Part E2: The Vintage

The objectives of Part E2 are similar to the CLEP, but are drafted to reflect the circumstances and nature of the Vintage estate, as follows:

- a) to provide guidelines for development of land for each specific development component in accordance with the approved Master Plan as follows:-
 - (i) golf course, country club and special residential precincts;
 - (ii) residential and rural residential development and subdivision;
- b) to encourage tourism development that is environmentally acceptable and compatible with the viticultural and agricultural industry existing in the locality
- c) to ensure that the subdivision pattern, site layout, and building design do not detract from the rural character of the locality.

Part E2 contains a Master Plan which defines the subdivision patterns and the location and type of land uses within the Estate and a Staging Plan for the development. The Staging Plan is linked to the achievement of certain tourist facilities on site, such that certain facilities must be provided before the next Stage can be approved for development. This mechanism aims to ensure that the Estate is a major tourist facility and not just a residential estate.

Part E2 also specifies the maximum permitted development intensity, including the maximum number of residential and rural residential lots (both are limited to one dwelling per lot). Further to the above, Part E2 provides for a range of other matters relating to developer contributions, open space, landscape, design control, general development controls, and rural buffer controls (of which some duplicate controls that can be found elsewhere in the CDCP).

5.6 Other Policies and Strategies

5.6.1 Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) aims to guide the growth of the Lower Hunter for the next 25 years by identifying future development areas, principal land use types, settlement patterns and conservation outcomes.

The LHRS is given statutory effect via a Direction made by the Minister for Planning (Ministerial Direction on No. 30, 4 April 2007), in accordance with Section 117 of the Environmental Planning and

Assessment Act, 1979. This Direction requires Draft Local Environmental Plans (LEP) to be consistent with a regional strategy released by the Minister for Planning. However, a draft LEP may be inconsistent with the terms of this direction only if Council can satisfy the Department of Planning that the extent of inconsistency with the regional strategy:

- (a) is of minor significance, and
- (b) the draft LEP achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

A key component of the LHRS is that the majority of new development within the Region will be located in close proximity to major centres and employment lands, maximizing access to services and employment opportunities.

The LHRS also identifies Cessnock Town Centre as a “major regional centre” with a “concentration of business, higher order retailing, employment, professional services and generally including civic functions and facilities. A focal point for subregional road and transport networks and may service a number of districts”.

Within proximity of the subject sites, the Lower Hunter Regional Strategy proposes significant new urban land releases at Huntlee (7,200 dwellings), South Greta (2,000 dwellings), Nulkalba (400 dwellings), and Bellbird (3,500 dwellings). The South Greta development, otherwise known as Camp Road or Anvil Creek is similar to the subject proposals in so far as it comprises a golf course, as well as tourist and residential development. The Huntlee development is a major urban release to the south of Braxton and provides for a wide range of land uses and a range of residential options from medium density to rural residential.

The Vintage and Golden Bear sites are not identified for urban development in the LHRS. **Figure 3** shows the major urban growth areas in proximity of the subject sites. All of these new urban areas are adjacent to existing urban centres. Whilst the subject proposals are “integrated tourist developments”, they propose an increase in the permanent residential population in this locality.

In respect of “Rural Landscape and Rural Communities”, the LHRS states that:

“In terms of productivity, the rural lands of the vineyards district and the cultivated floodplain of the Hunter River provide the greatest return per hectare (apart from intensive industries such as poultry farming). The Vineyards District experiences pressure for development that is often inconsistent with its rural / grape growing character. Development in the vineyards district, therefore, needs to be carefully managed to avoid detracting from its character.”

The report also identifies the following actions:

*“Local Environmental Plans are to maintain rural zoning for **regionally significant** agricultural land including the vineyard district as defined by the existing **1(v) zone in the Cessnock Local Environmental Plan** and the irrigated floodplains”, and*

“Local Environmental Plans and other relevant planning provisions will be required to align with the strategic intentions contained in the Regional Strategy by:

- *limiting further dwelling entitlements in rural areas*
- *maintaining or increasing minimum lot sizes for rural subdivisions that confer a new dwelling entitlement (where established by an appropriate methodology as agreed by the Department of Primary Industries)”.*

In that regard it is noted that whilst the VBL site has been identified as being within an area of regionally significant agricultural land, the Golden Bear site has not. In that regard, and as discussed later in this report, it is claimed that this is a mapping error.

5.6.2 Cessnock Wide Settlement Strategy

The essential aim of the 2003 City Wide Settlement Strategy (CWSS), like the LHRS and LHSS, is to achieve a more compact settlement pattern which sought in the main, an emphasis on closer settlement growth with rural residential and rural development providing a limited alternative growth.

6 CONSULTATIONS

In preparing this report contact was made with the NSW Department of Primary Industry, Hunter New England Health Area, the NSW Department of Education and Training, Tourism NSW, Hunter Valley Wine Industry Association, Cessnock City Council and the NSW Department of Planning.

I am not aware that there has been any formal consultation with the relevant agencies in respect of the Vintage site, although I note in the proponent's submission, a reference that agencies were consulted in the preparation of their report, but no indication as to what those agencies views might have been.

In relation to the Golden Bear site it is noted that consultation in accordance with S62 of the Act has taken place and that replies were received from the CMA, RTA, Department of Water and Energy, and the NSW Department of Primary Industry. There does not appear to have been any response from the Hunter New England Health Area or the NSW Department of Technical Education.

Further to the above the Director of the Department of Planning on 22/01/07 wrote to Council indicating his preparedness to allow Council to proceed with the investigation of the "Golden Bear" site, but sought a response in relation to the proposals:

- "- Consistency with the Lower Hunter Regional Strategy and in particular as regard to the importance of the Vineyards District as the most important rural land-use; and*
- The appropriateness of permanent residential development and potential land-use conflicts."*

The Director General noted in particular that the land was not identified for urban settlement in the Lower Hunter Regional Strategy, and that Council (and the Department) needed to be satisfied that the proposal addressed adequately the sustainable criteria outlined in Appendix 1 of the Regional Strategy (Copy at **Appendix 6** to this report).

Further, that consideration would also need to be given to the provision and funding of infrastructure as applicable.

Notwithstanding the above, the Director General indicated that he was prepared to allow the draft LEP to proceed to exhibition, but did not require an environmental study, providing that issues raised by the Director General were adequately addressed.

Subsequent to the above the then Minister for Planning in July 2008 wrote to Council expressing strong concerns over tourist developments that are used as a "Trojan horse" for residential development.

The Minister indicated that "the Government did not support ad-hock rezoning without strategic justification as it creates an undesirable precedent for other land owners in a similar situation, as well as other deleterious impacts such as increased infrastructure costs and dispersed settlement patterns".

He also expressed concern in relation to the proliferation of ad-hock residential development in the Pokolbin vine growing region, and the potential for an increase in the risk of land use conflicts which could stifle the industry in the region.

The following is a summary of the responses from the CMA, RTA, and NSW Department of Primary Industry, to the Council's S62 Consultations.

CMA

The CMA believes that natural vegetation management is a key issue for this site and expects the LEP to address the application of the objectives of the Natural Vegetation Act.

The CMA have foreshadowed that they will object to a proposed rezoning if it is likely to result in the clearing of natural vegetation and where the "improve or maintain" principle has not been demonstrated.

The CMA also notes that the proposal is occurring in an area of salinity hazard and has the potential to enhance and initiate salinity impacts, and for that reason objects to the rezoning.

RTA

Essentially the RTA has raised no objections to the proposed rezoning, but would require certain requirements and investigation to be carried out prior to development taking place.

NSW Department of Primary Industry

There is considerable correspondence from the Department to Council over a long period of time (1997) to the most recent correspondence of 15/08/07.

The Department opposes the development and supports the retention of the site for agriculture use. The Department's particular concerns are as follows:

- the potential impacts on Back Creek and aquatic habitats;
- the proposal would alienate 25 ha of prime crop lands, and up to 223 ha of prime pasture lands;
- loss of prime viticultural lands;
- capital investment in major tourist developments and the potential economic value of residential development will invariably be greater than that from any viticultural or tourist development;
- potential land-use conflicts
- the suitability of the Rural 1(v) Vineyards Zone and the potential for tourism development;
- cumulative impacts and precedent

Subsequent to the above, discussions were held with a representative of the Department who confirmed the above views.

In relation to the Vintage site it was noted that whilst this site has been identified within an area of regionally significant agricultural land, the Department had not been asked to formally comment on the proposal, nor had it expressed a view in relation to the potential loss of agricultural land. It could be anticipated however, that the Department would be concerned at any loss of such land.

This issue is addressed later in this report.

The NSW Department of Education and Training

The NSW Department of Education do not see the provision of permanent residential development within the two sites as a significant issue, given the socio economic status and demographic profile of the future residents. The Department has indicated however that based on their experience, it might be expected that grandparents as carers may be responsible for grand children who attend schools in the vicinity of the two sites.

As a rule of thumb some 8% of children attending school could be expected to be cared for by their grandparents, some of which might be expected to reside in the proposed developments on a permanent basis. It is noted that in the Village of Mulbring, some 15% to 20% of children attending the school are cared by their grandparents.

Needless to say the figure is not significant and, according to the Department is capable of being accommodated without the need for additional services

Hunter New England Health Area

The representatives from Hunter New England Health Area indicated that whilst they would like to be formerly consulted in respect of any future application, their main concerns would include, but not necessarily limited to, the availability of public transport to the sites, availability of essential services, and the suitability of internal access.

The Department did not anticipate that there would be a need to provide additional community facilities within either site at this stage, given the proximity of such facilities at Cessnock and elsewhere.

Department of Water and Energy

According to the Department the main resource issues relate to the protection of the important "riparian lands" of Black Creek and the two minor streams within the site. They also expressed a need to consider the status of the various water bodies throughout the site, and the source and availability of water for these sites as part of any development proposal.

Tourism NSW

The proposed amendment to CLEP was also discussed with a representative of Tourism NSW.

Whilst reaffirming the primary importance of viticulture to Wine County tourism, there was an acknowledgement of the need to deepen and widen the mix of tourism product in order to ensure that the area remained attractive to tourists in the light of changing tourist tastes, and competition from other areas.

Golfing tourism and sophisticated resorts facilities were seen as complementing tourist products in the Wine Country.

There was no particular objections to the permanent residential component of the two proposals, and noted in particular that there need to be a balance in promoting “closer settlement growth” and the need to expand the “tourism mix” within the district, and promote tourism and employment within the region.

Hunter Valley Wine Industry Association

Whilst the Association objected strongly in writing to Council to any change to the current planning system that would allow residential development to occur within the I(V) zone, they acknowledge that the Vintage facility has existed for some years and, at the same time, has not resulted in any conflicts with viticultural operations to date, due to the planning of the development and its location.

The association also notes that whilst the existing development has residential elements, “the unique scope of the project, incorporating leisure, tourism and residential facilities catering to the active lifestyle allows it to fit well within, and complement the vineyard district”.

Initially the Association opposed the residential component of the Golden Bear proposal. They have now advised verbally that they are supportive for the same reasons as that of the Vintage. The Association is also of the view that whilst they do not want to lose wine growing land, the subject land is not acknowledged as being good grape country.

7 REVIEW

7.1 Background

It is understood that the Department has requested that the two proposals be considered under one draft Local Environmental plan amendment. In that regard, whilst it is important to note that there are similarities between the two projects, eg golf course, tourist accommodation etc., there are also differences.

In particular the VBL project is an established Tourist Resort with golf course, club house, recreation facilities, 44 Mercure serviced apartments and residential housing on a range of lot sizes. In that regard it is noted that the VBL site has an approval for 482 residential lots and 40 rural residential lots, of which 328 residential lots and 21 rural residential lots, are already in existence.

The VBL development, and its current proposal, would also appear to be clearly consistent with the objectives of Part E2 (The Vintage) in that it is considered to be compatible with the viticultural and agricultural industry in the vicinity, and it does not, and will not detract from the areas rural character.

Further to the above, it is clear that the developments' primary purpose is as a tourist facility, which embraces and links with the theme per se of the wine district by the inclusion of the Beggars Bridge Vineyards and associated cellar door sales, and that any residential development is seen as being subservient to its role as a tourist destination linked to the wine industry.

This is however, not to suggest that the Golden Bear site would fail because it has not necessarily embraced the viticultural theme in a way that VBL has. There are of course other issues to be

considered, including the fact that the proposal is a major integrated tourist development which has the potential to enhance the established and desired character of the Hunter Valley Wine Region as an international, national and regional destination. These issues are addressed as follows.

7.1.1 Potential Population Growth

Whilst it is appreciated the objective of the consultants brief is to assess the implications of permitting a further 550 dwellings in this locality, in addition to the 522 lots approved at the Vintage, given that it is only the permanent residential component which necessitates an amendment to Clause 17, the focus of this review, in terms of the existing planning framework, is the implications of permitting permanent residential development as a standalone residential development, which is perceived to be inconsistent with the Lower Hunter Regional Strategy.

The impacts on the Vineyards District in terms of the agriculture value of land, its rural character, and potential loss of agriculture land, potential conflicts with adjoining land, precedent, and the needs of the future residents are, however, also addressed below

In relation to the permanent population proposed within the two development proposals, the Strategic Review undertaken by Strategy Hunter Consultants (the "Croft Report") in June 2008 notes that, based on the Macroplan report, only 20% of the proposed dwellings of the Golden Bear Resort would be occupied by full time permanent residents, with the balance being weekenders, corporate rentals and the like. Croft also notes that whilst not specifically stated for the Vintage development, he has adopted a similar figure for that resort.

Based on the above, Croft concludes that the existing probable permanent population for the Vintage site would be 299 persons, and if the proposed development was approved, there would be an increase of 208 persons, and another 186 persons if the Golden Bear project was approved. That is a total of 693 persons should both proposals be approved.

Croft in his report notes that this level of population is approximately twice the size of the population of the small local village of Mulbring, which at the 2006 had an estimated population of 315 persons. The total population for that census district however was 759 persons.

This would appear to be a reasonable scale at which it could be anticipated that there would not necessarily be any increased demand for services, particularly having regard for the predicted demographics of the future population and socio economic status, and the services to be provided on site by the two proponents.

It is also possible that the amount of future permanent accommodation could be increased to approximately 30% of the total residential accommodation in the longer term, without necessarily increasing any significant demand for additional services. This should however be subject to further review upon reaching the level referred to above, subject to the Department of Planning's concurrence. In that regard it is noted that based on a maximum 30% permanent residential component, there would be a possible permanent population of approximately 1039 residents. Whilst this is in excess of that living within the Mulbing census district, it is considered not to be unreasonable in the circumstances.

Whilst it is appreciated that there is a potential to have a maximum population living at the two resorts (if approved) at one time of almost 2000 persons, this is however highly unlikely.

More importantly, and as has been indicated previously, the purpose of this report is to review whether Clause 17 of Council's LEP should be extended or amended to accommodate permanent residential occupation, not to assess necessarily, the accumulative population as a result of tourist accommodation, which of course is already permitted with Council consent

Accordingly the basis of this report is based on the assumption that only 20% of the residential accommodation will be available for permanent occupancy, although, and has been indicated above, it is unlikely that even at a maximum 30% capacity, the demand for additional services is unlikely to be significantly different, bearing in mind that the permanent residential needs to be subservient to the tourist use.

7.2 Key Issues

Having regard to the above the key issues have been identified as follows:

- Consistency with Strategic Framework;
- Loss of prime agriculture and viticultural land;
- Loss of rural character
- Land-use conflicts
- Cumulative impacts and precedents;
- Provision of infrastructure;
- Tourism
- Economic
- Other issues
 - Future habitat protection
 - Native vegetation
 - Soil salinity

These issues are addressed below.

7.3 Strategic Framework

Much has been written about the inconsistency of the two proposals with the Council's policy in respect of the permissibility of permanent accommodation within the Vineyard District and the 2005 Synergy Report, the Lower Hunter Regional Strategy (LHRS) 2006, the Cessnock City Wide Settlement Strategy (CCWSS) 2007, and of course the report undertaken for Cessnock City Council by Strategy Hunter Consultants – (June 2008) titled "Strategic Review – Permanent Residential Development" "Vintage Balance Land and Golden Bear".

Concern was also expressed in early correspondence as to the inconsistency of the proposals with the Regional strategy by the Director General of the Department of Planning, and the Minister for Planning.

In respect of the above it is noted in particular that Section 117 Direction No. 30 (4 April 2007) requires a draft LEP to be considered within the regional strategy, a LEP may be inconsistent with the terms of the direction only if the Council can satisfy the Department of Planning that the extent of the inconsistency with the regional strategy

- a) is of minor significance; and
- b) the draft LEP achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes and actions.

It is further noted that the Hunter Regional Environmental Plan (HREP) 1989, like the Environmental Planning and Assessment Act itself, has objectives to promote, amongst other matters, the provision for the variety and choice of housing and the development of “the region as an important tourist destination for the area”.

The HREP also sets out those matters which Council must take into consideration with proposing a draft LEP.

In particular the HREP has set out a number of principles (Clause 23) including

“b) support tourism development proposals which help to provide a wide range of high quality alternatives and accommodation types, and which are in accordance with tourism development planning prepared by the Tourism Commission”.

Whilst it is appreciated that there are competing objectives within the EP & A Act and HREP (and other documents), and must also be considered as part of this assessment, it is the view of this report, that consideration of the amendment to Cessnock LEP to date, has focussed on the inconsistency with the Lower Hunter Regional Strategy and associated policy documents, with little emphasis on the importance of tourism in the Vineyard District, and the potential for the “net inflow of money or job to the region”.

These issues are addressed below.

7.3.1 Lower Hunter Regional Strategy (LHRS) 2006

In that regard it is noted that the LHRS document is the principle document for guiding urban settlement in the Cessnock Local Government Area.

In summary, the LHRS clearly seeks to contain residential development either within or adjacent to existing urban development, unless a range of rigorous criteria are met (the Sustainability Criteria).

The Sustainability criteria establishes the Departments position in relation to the location of future urban settlement in the Lower Hunter, in the knowledge however that innovative development proposals can still be considered even though they may be outside the areas identified in the Regional Strategy.

It is necessary for proponents of future development proposals to demonstrate to Council as well as the Department of Planning, that their proposals can satisfy the Sustainability Criteria.

It is noted in particular the Department requires, as with all rezoning proposal, a thorough assessment of the merits of the draft LEP by the LEP Review Panel, as well as requiring public consultation through the statutory processes as set out in the Environmental Planning and Assessment Act 1979

Whilst the strategy is very clear about its goal to protect the unique character of the Vineyards District, it is less clear about the potential employment within the area and the need to widen the tourism product to attract international, as well as domestic, interest.

The LHRS focuses on growth around existing centres and to limit urban expansion.

It is also my understanding that the CWSS was produced by Council in response to an identified need to consider current planning policy and to embrace the principles of ecological sustainable development.

Neither the LHRS, nor the CWSS identify the subject sites for urban development.

It is noted however that there are provisions for rezoning of this nature to occur outside of the identifiable settlement strategy where the sustainability criteria is met. Similarly the Section 117 Direction allows for a draft Local Environmental Plan to be inconsistent with the Regional Strategy, if it is of a minor significance, and does not undermine the overall intent of the Strategy.

In that regard it is noted that both proposals have addressed the sustainability index and concluded that the detailed criteria set out in the index can be met. Copies of the proponent's responses to the Sustainability criteria are shown at **Appendix 6**.

Whilst it is not the intention of this review to assess those responses, it is considered that they are adequate for the purpose of the draft LEP proceeding to exhibition. This comment has to be read in the context that what is being sought is an extension and amendment to Cessnock LEP, to permit limited permanent residential development in association with a tourist development which is already permissible with Council consent

The comment also has to be read in the context that, in preparing the draft LEP, whether the proposed permanent resident occupancy, is consistent with the Lower Hunter Regional Strategy, not just in terms as to its compliance with the recommended settlement strategy, but with the other objectives of the strategy including but not necessarily limited to, employment opportunities and the economic development of the Region, a point which appears to have been overlooked in this process to date.

Croft in his report suggests that the probable permanent resident population will grow from 299 under the current Clause 17 area, to 693 residents, (based on a permanent occupancy rate of 20%) should both proposals be approved.

Assuming an occupancy rate of 2.1 persons per household(based on Section 94 assumptions) this would mean an increase in the number of dwellings from 142 to 340, or a total of approximately 100 additional permanent dwellings for the VBL site, and 90 for the Golden Bear site. Based on a 30% permanent occupancy, this would result in a total of 504 dwellings, an increase of a further 174 dwellings.

Given the extent of development being promoted at Huntlee to the north, comprising some 7200 residential lots, 300 rural residential lots, and 160 hectares of employment lands, not to mention the Greta release, it can be concluded that the proposed draft LEP to facilitate permanent residential accommodation on the two sites would be of a minor significance, if restricted to 20% of all dwellings (even with a possible maximum 30%), having regard to the extent of development proposed in the two release areas. That is approximately 5% the size of Huntlee based on a maximum of 330 lots, and 7% based on a maximum of 504 lots.

Further to the above, whilst the "Croft Report" acknowledges that the two proposals are "integrated tourist developments", it is claimed that the two proposals will "have significant permanent residential population with a consequent need for urban services, including human and community services, and therefore constitute a form of urban development in this context", and are therefore inconsistent with the local and regional framework.

As is indicated later in the report however, given the socio economic status of the future residents of the proposed developments, it could be anticipated that there would be a lower demand on Government provided community services, such as health, because the residents would be more likely to purchase privately delivered services related to a more conventional residential development.

Furthermore both proponents have, or are proposing, as is detailed later in this report, to provide essential services to the two sites.

A range of community facilities are also proposed to meet the needs of the new release area at Huntlee, including library, community centre, and a range of community provided services and retailing commensurate with an expected population of some 20,000 persons.

It is clear that development of Huntlee will bring a wide range of services to the two sites. Whilst these services will be some 5 to 7 kilometers from the two sites, and presumably beyond a suitable walking distance, given the socio economic status of the future population, the unique market niche which this type of housing that the two developments will attract, and the scale of permanent residential population proposed, this would not appear to be a significant issue, particularly having regard to the fact that the two proposals are part of an Integrated Tourist Development.

As is explained in more detail later in this report, the two proposals are also consistent in particular with the objectives of the Rural SEPP and those of the Rural 1(v) of the CLEP. That is the proposals do not adversely impact on prime viticulture land, but encourages

"appropriate leisure and tourism development on land which is environmentally capable and suitably located as a means of improving the region's economic diversity and employment prospects"

Notwithstanding Croft's comments, it can be concluded that the proposed amendment to Clause 17 is not inconsistent with the State and regional direction for development in the area, and as is indicated further in this report, the amendment will not adversely impact on the Vineyards District to any significant degree.

Needless to say, I note also that the Director General has indicated that he is prepared for the Golden Bear project at least to proceed providing in part, that Council addressed the consistency with the Lower Hunter Regional Strategy, and the importance of the Vineyards District, and the appropriateness of permanent residential development and potential land-use conflicts. These matters are addressed later in this report.

Further to the above it is noted that there would appear to be a number precedents in relation to the issue of permitting permanent residential accommodation inconsistent with a Regional Strategy.

I note for example the existing Terrey Hills Country Club and associated residential development in Warringah LGA as a standalone residential development. It is located some 4 kilometers from Terrey Hills neighborhood shopping centre, with access to higher order shopping centers and educational facilities some 10 to 15 kilometers away. It has an articulated water supply, and on site sewerage disposal. It is a much smaller development however consisting of some 30 permanent dwellings

More particularly I note that the South Coast Sensitive Urban Lands Review chaired by Dr Andrew Refshauge, recommended, amongst other matters, that in respect of the Comberton Grange, that whilst the Panel did not support the development of stand alone residential settlement on the grounds that it conflicts with one of the key principles of the draft South Coast Strategy (ie "not new towns or villages will be supported"), and its potential impacts on the delivery of essential services, it recommended that the

"Development of the land is supported only if it comprises a fully integrated tourist facility with associated residential development, on the grounds of its potential employment benefits to the Shoalhaven area.

The amount of residential development should be limited to in the order of 200 – 300 dwellings. This should be reviewed upon reaching that amount.

Whilst in general discussions it has been suggested that a lower permanent residential accommodation might more acceptable, I have not been presented with any argument on which to suggest a basis for setting a limit, other than that contained in the macroplan that a limit of 20% might not be unreasonable.

I note however that, whilst there appears to be general acceptance by the proponents that a permanent residential component of 20% to 30% could be anticipated, they do not agree with a limit being imposed, as this would be counterproductive to the interests of the long term investor.

The other difficulty of course is that in reality there does not appear to be any statutory limit on the amount of permanent residential accommodation that could be developed on the existing Vintage site.

In any case, any such development should be subservient to the primary objective of protecting the Vineyard District in terms, not only the value of the agriculture resource, and the need to protect the rural character of the area, but also in recognition of the Tourism potential of the district, and its contribution to the economic growth of the Region.

7.4 Loss of Prime Agricultural and Viticultural Lands

The Department of Primary Industry (DPI) have expressed concern in relation to the loss of prime crop and pasture and viticulture land on the Golden Bear site.

As indicated previously, and as with most statutory and non-statutory provisions, there are competing objectives. This is certainly the case in respect of the EP and A Act which seeks to manage and conservation of agricultural land, whilst encouraging "the promotion and co-ordination of the orderly and economic use and development of land. An objective of the Rural (1(v) zone also refers to the

protection of prime viticultural land and the DPI notes that prime viticultural soils comprise an extremely small part of viticultural areas in the Cessnock LGA

The Rural SEPP provides for the identification of State significant agricultural lands for “the purpose of ensuring the ongoing viability of agriculture on that land, having regard to social, economic and environmental consideration”.

But the SEPP also provides for the facilitation of “the orderly and economic use and development of lands for rural and related purposes.

Similarly the Hunter Regional Plan encourages the region as an important tourist destination; and to protect prime crop and pasture land from alienation, fragmentation, degradation and sterilisation (**Clause 24**) and E2 (The Vintage), “to encourage tourism development that is environmentally acceptable and compatible with the viticultural and agricultural industry existing in the locality”.

Whilst the DPI acknowledges that the current zoning permits with Council consent, tourist developments including golf courses, it claims that the Strategic Policy indication was aimed at protecting resources of State and Regional significance and to clarify preferred land use and development options for the viticultural district as is reflected in the 1(V) zone.

In relation to the above it is noted in particular that the DPI concerns relate to the whole of the development of the Golden Bear site rather than the specific proposal to increase the amount of permanent residential developed on the subject land.

This is an issue which would be more appropriately addressed at the development application stage, as apart from that part of the application that proposes, permanent residential, the remainder of the development is permissible with Council consent.

Notwithstanding the above however a “Viticultural Soils Assessment of the Golden Bear Golf Resort” has been undertaken by HDB Planning and Design (November 2007) by Steve Geff of Allynbrook P/L.

This report assesses the suitability of the soils for wine grape production, and in particular the location of prime viticultural soils and prime viticultural land.

The report concludes that the majority of the area surveyed contained soils that are not prime viticultural soils, and are in fact low agriculture value.

According to the report only the alluvial soils adjacent to parts of Black Creek would be described as “prime” viticultural soils, and these represent less than 5% of the total area surveyed. This area is also subject to flooding.

The report also advises that the cost for a vineyard are substantial, particularly in an area which is not prime viticultural land, and where operating costs would be expected to be higher.

The report concludes that

“Development other than wine grape production on this parcel of land will have a negligible impact on the total potential supply of winegrowing in the Hunter, and indeed in this local area”.

Further to the above and, as indicated previously, whilst the VBL site is included within an area defined as Regionally Significant Agricultural land, the Golden Bear site is not. It is also noted that no land has been identified in the Rural SEPP as being of State Significant Agricultural land.

In respect of the Golden Bear site, and its absence from the area defined as Regionally Significant Agriculture lands, the DPI advises that this site was initially excluded from the 1(v) zone to facilitate a long standing community title tourist development.

However, during the development of the Lower Hunter Regional Strategy, consultation with the NSW Department of Planning, there was support for the mapping of all lands within the Rural 1(v) zone as regionally significant agricultural lands, and they were subsequently surprised to find that the land had been excluded as part of the Lower Hunter Regional Strategy.

An assessment of the agricultural land suitability of the VBL site (Note: assessment did not include Beggars Bridge) was also undertaken by Peak Land Management Pty Ltd.

The report concludes that

"This property is generally of low to moderate agricultural production. It is limited by the high cost of capital infrastructure, its soils and their poor nutrient and physical characteristics, dry climate, limited irrigation water availability, and high overheads. The proponent has wisely left some of the most suitable viticultural land to the south as a rural lot, preserving this area for a potential expanded vineyard operation over that currently in existence. The remaining land, with the exception of a minor area of prime viticultural land to the north, is poor grazing country of low carrying capacity, and low economic return."

Further

"This land is predominantly unsuited to viticulture. Where suitable soils are present on the property some vineyard and/or olive plantings could occur, and most of these areas have been preserved to the south on the proposed rural lot. Some land will be lost to viticultural production, but this is only around 9% of the total property."

Given the actual value of the land its development potential next to the vintage with significant proven demand for housing and golf course demand, it is a harder proposition to warrant leaving it as agricultural land. The proposed subdivision/development of the land will allow a variety of other uses, and greater financial input and returns for the district than its present underused state."

It is the consultants' view that the proposed structure plan satisfies the agricultural objectives of both Cessnock City Councils and Department of Primary Industries. This is due to the low economic agricultural nature of the property in that it does not contribute significantly to cattle production in the district, and preserves / expands most of the prime viticultural land and vineyard potential on the property."

7.4.1 Productive Potential

It is noted that the aims under **Clause 2** of the Hunter Regional Environment Plan are

“to promote a balanced development of the region and improvement of its urban and rural environments and the orderly and economic development and optimum use of its land and other resources, consistent with the conservation of natural and man made features so as to meet the needs and aspirations of the community.”

Similarly within Cessnock LEP, the objectives of the 1(v) zone include the need to maintain prime viticultural land, whilst encouraging “appropriate tourist development consistent with the rural and viticultural character of the Vineyard District”.

Further that E3 (Vineyards District) to Cessnock DCP 2006, “to protect and enhance the rural and viticultural character of the Vineyards District by ensuring that it does not become over developed”.

The DPI acknowledge that capital investment in a major tourist development and the potential economic value of residential development will invariably be greater than that from viticultural or tourist development.

In that regard the DPI encourages the *“Council to adopt a more holistic approach which reflects the full range of community and environmental values and ESD principles (rather than economic potential in isolation), and to consider the relative importance of this zone and the gateway site for viticulture related development”*.

The DPI appears to accept that the agricultural return is minimal or marginal, given that the potential costs are gross margins and not a profit and does not include fixed or overhead costs, such as depreciation, interest rate payments, rates, which have a potential to have a significant impact.

According to HDB, when these amounts are added together with the purchase price of the property, the establishment, stocking and prime improvement or establishment of vineyards are included in the calculation, the interest rates alone, are most likely to cancel out any potential profit.

The proponents for the Golden Bear also note that agriculture production is seasonal, and given that water supply in this locality is limited, an agricultural practice *“could not support the cost of further water allocation as the PID is already substantially over committed with long waiting lists”*.

They conclude that the size and its water logged soil would not permit a viable agricultural activity to be undertaken on the site with any degree of certainty.

Clearly the return and benefit to the community would be significantly greater as a result of the extension and development of these major tourist facilities, than would occur in regard to a marginal struggling agricultural venture.

Accordingly, whilst a small portion of the site has been identified as prime agricultural land, it would appear not a viable agricultural resource and its use for another purpose would not significantly impact on the agriculture potential of the area,

7.4.1 Loss of Rural Character

Visual Impact

There is a proposal to extend the F3 from Sea Hampton to Branxton. When the extension is built there will be an exit ramp from the Freeway south-east of Branxton, which will increase the use of Wine Country Drive, and an access to Wine Country.

Traffic destined for Wine Country will pass through urban development within the proposed Huntlee development and north Rothbery, before entering the more rural landscapes to the south along Wine Country Drive.

In that regard it is noted that the subject developments would be the first significant developments within Wine Country from the northern approach.

The Croft report acknowledges the importance of ensuring that what happens on the subject lands “sets a character consistent with the overall theme of Wine Country, that is, high quality recreational experience within the relaxed rural ambiance of the vineyard area.”

Croft also notes that the Vineyards comprise a variety of closed landscapes, that the predominant landscape is open undulating landscapes framed by the Broken Back Range.

Croft further acknowledges that golf courses are generally compatible with this landscape, but intensive urban setting generally are not.

He concludes that the extent of the development of the Vintage is consistent with this landscape, being relatively low intensity as well as being set back from Wine Country Drive.

Insite Planning and Engineering undertook a Visual Impact Assessment of the VBL site.

The analysis found that the existing Vintage development, the Brokenback Range and the Bimbadgen Bell Tower are the most dominant visual features of the northern approach to the precinct of the Vineyards District in which this site is located.

According to the assessment, the existing Vintage development adjacent to the study area “*establishes a unique built form and density for the precinct. It is highly viable and encroaches on the edge of the Vintage Balance Land and has therefore altered the rural landscape of this location*”.

The report also acknowledges that Wine Country Drive is the principle tourist route and entry point to the Vineyards District, as well as the primary public place winery point onto the subject lands.

Palmer's Lane is also acknowledged as being an important local access road serving a number of small wineries / cellar doors. According to the assessment this lane is an attractive tree lined drive that reflects the rural and viticultural character of the broader Vineyards District, and borders the site at its southern boundary.

Further to the above it is considered that the Beggars Bridge site is a logical extension of the VBL site as it immediately abuts the north and western boundaries of Vintage, its inclusion as part of the VBL site would be bounded primarily by McDonalds Road and Wine Country Drive providing a consistent streetscape and forming a wide regularly shaped development parcel that lends itself well to physical and operational integration with the Vintage site.

In that regard, it is noted that the Vineyard DCP identifies that a large part of the VBL site as visually significant. The visually significant features of the site have been identified and considered in the development of the proposal.

The built form is confined to the area identified as Precinct 2 in the Visual assessment report, being the central area which is largely visually enclosed by existing vegetation and the topography of both the site and study area. The proponents propose that the built form in this area be confined to rural residential along the southern edge, with limited development in Precinct 1 (being Hawkin's Hill which is highly exposed and visible when approaching from the north along Wine Country Drive)

In respect of Precinct 3, being Palmers Lane area which although highly visible, is less exposed than Wine Country drive, it is proposed to retain this area as an agricultural holding containing the southern access road.

Accordingly it is considered that the topography of the site will enable development to occur without affecting the visual significance of the site, and that restricting the majority of the development to approximately one third of the site will substantially reduce the impact on the location.

Selective landscaping should also mitigate the impact on distant and local views.

In respect of the Beggars Bridge site, it is noted that this site is an important visual cue for the northern entry to the Vineyard District, as seen from Wine Country Drive, as well as the primary public place viewing point into the subject site. Macdonalds Road is also an important local access road, which is an attractive tree lined drive that reflects the rural and viticulture character of the area. It is proposed to provide vegetative screening along the northern and western and part of the southern boundary of this site which will complement the rural and viticultural character of the area.

It can therefore be concluded that incorporation of this site into the Vintage Development, and the decrease in density of development towards the edge of the Vintage precinct will have minimal if any adverse impact on the visual significance and reference point of this locality by retaining the existing dwelling and vineyards on the summit of the hill.

A visual assessment was also undertaken on behalf of the proponents for the Golden Bear site by Arris Group (November 2007) in respect of the potential impacts of the proposed Golden Bear Golf Report, on the scenic quality, a visual character and qualities of the Vineyard District.

The report concludes

- “• *The subject site presents a range of opportunities, including its conversion into a golf resort as proposed. It is subject to a range of constraints, including its visual exposure to Wine Country Road, situation near a gateway to the Vineyards District, low existing capacity to absorb development without change and proximity of rural land uses.*
- *The proposed master plan appropriately addresses each of the future opportunities and existing constraints of the site.*
- *The flat topography of the site, low viewing angles from the public domain and presence of existing native vegetation, gives the site a high future capacity to absorb the proposed development without significant changes to the visual character of the site or the locality.*

- *The wide buffer zones proposed are in excess of what is required to manage the interfaces with rural land and satisfy the requirements of the DCP with regard to minimizing conflicts between adjacent uses.*
- *The buffer zones are also more than sufficient to provide space for future landscape screening, vegetation rehabilitation, mass plantings and multiple compatible uses of the site's landscape.*
- *A naturalistic theme for the landscape of the site as indicated in the Master Plan can increase the low scenic quality of the land, integrate it into the developing character of the setting and have significant ecological and sustainability benefits for the development itself.*
- *The analysis of view place and view sensitivity showed that the land is highly suitable for the intended use and that appropriate visual impact mitigation measures will reduce or eliminate significant impacts.*
- *The development is considered to be compatible with the site and does not have the potential to impact negatively on the "Gateway to the Vineyards District".*

In relation to the Golden Bear site it is considered that the site does generally not have any intrinsic qualities which would prevent the proposed development from happening, that is with the exception of the area of residual woodland and forest vegetation which is proposed to be incorporated into the future design of the proposal.

It is further considered however that views from sensitive locations along Wine Country Drive are capable of being managed by appropriate planting and landscape design, to provide an adequate landscape buffer to the built environment and golf course use of the site. This buffer should enhance the visual experience of an otherwise low to moderate scenic quality within this locality.

Augmentation of the riparian buffer, planting associated with the golf course on the flood plain, and increased vegetation associated with future residences, which are set back behind the flood plain and golf course, will partially screen the development from Talga Road, and providing a suitable setting

It can therefore be concluded that both proposals will be compatible with the rural character of the area.

7.5 Land-Use Conflicts

The DPI has expressed concern as to the potential conflicts with adjoining land-uses, particularly in regard to the future development in the south-east corner of the site, where the adjoining land is "likely to comprise land of Clause 2 Agriculture Sustainability, and be well suited to the viticultural development or cropping activities. The buffer at this point is limited to 80m".

The DPI recommend greater buffers of up to 300m, 40 m if appropriate vegetation exists (based on Queensland Government guidelines).

It is noted that Council through its DCP provides guidelines as to the appropriate buffer necessary, in particular between viticultural activities and residential development, as does the Department Circular D9.

These controls would need to be taken into account when considering any future development of the site having regard to adjoining land uses, and consent authority would need to satisfy itself as to the adequacy of those buffers having regard to the particular circumstances of the case.

It is noted however that the Golden Bear site is predominantly surrounded by tourist related uses and not large vineyard operations as is evidenced by **Figure 3**. It is further noted that the existing 1(v) zone stops at Old North Road and Talga road on the northern boundary of this site

The permanent occupancy component of the development is located within the centre of the resort complex, and the dwellings are some 200 to 300 metres, either across the golf course or landscape area to the edge of the site

Black Creek is a heavily vegetated permanent water course located along the north to the eastern boundaries of the site. Development in this location is also setback some 200 metres from Black Creek. On the northern side of Black Creek is located the former Talga Road Rural Life style Subdivision which is typified by 25 acre lots, some small vineyards. All lots have a dwelling on them.

Adjoining the northern side of Talga road is the existing 1(c) and 1(c)2 zone

Further to the above, and to the south of the subject lands, Council has already granted approval for tourist cabins and a separate approval for 25 acre lots further to the east of these cabins. It is unlikely that there would be any conflicts between these uses and that proposed for the subject land.

Accordingly it can be concluded that the proposed development is unlikely to result in any land use conflicts with adjoining properties.

In respect of the VBL site, it is noted that this site has, as I have mentioned elsewhere in this report, been identified for tourist recreational development since the mid 1980's when the first planning strategy was developed for the vineyards district.. This area also includes land to the west of the site and Macdonalds Road. Further to the west and north, the land has been identified within an area generally suitable for small lot rural subdivision.

More particularly it is noted that land to the east of the Vintage site, and generally to the east of Wine Country Drive is proposed to be developed for a future integrated tourist facility being the Golden Bear development.

It is proposed to provide future residential development in the northwest corner of that part of the site currently occupied by Beggars Bridge, and to the south of Macdonalds Road. It is noted however that apart for a small section of that site in the northwest corner, the land is over 100 metres from the vineyards situated on the land to the north of Macdonalds Road.

To the west is the Blueberry Hill Vineyards, bed and breakfast and cellar door sales. The vineyards on this property are located over 100 metres from the future development of the VBL site

Accordingly whilst some amendment may be required in respect of the proposed development in the northwest corner of the site, it can be concluded that both proposals are capable of complying with Council requirements and therefore it is unlikely that any potential for adverse impacts would occur..

7.6 Cumulative Impacts and Precedents

The DPI advised that it had previously objected to the Vintage Club proposal

“Being located at the northern entrance to the Pokolbin Vineyard district, its scenic amenity is strategically impacted in establishing the agricultural character of the region”.

The DPI also recommended that

“large scale tourist or residential complexes such as proposed should be located outside the (then) 1(g) zone.”

The DPI further advised that

“The proposal (The Vintage) will established precedent for further large scale non agricultural related land uses in the zone, particularly on primary grazing land in the locality and contribute to the overpricing of land for economically viable vineyard enterprises”.

According to DPI these concerns are particularly pertinent to the Golden Bear Project which would clearly:

- “ - establish the character of the vineyards district as being focused on golf courses related tourism and residential development interest of viticulture;*
- Create strong precedent for further such residential development within this important viticultural zone, and*
- restrict future viticultural development option.”*

As indicated previously a purpose of this report is to assess whether Clause 17 of CLEP should be extended or amended to accommodate permanent residential accommodation within these two integrated tourist developments.

Terms of Reference 3 also requires that I consider and assess:

“The precedent created for other similar proposals for more intensive subdivision in the Vineyards district”.

In that regard it is noted in particular that the VBL site has been identified for tourist recreational development since the 1980's, when it was included in an area “being generally suitable for both major tourism and small lot rural development”.

Whilst the Golden Bear site was not identified for any particular use, the area generally to the east was shown as being an “area generally suitable for small lot rural development.

Notwithstanding the above however, Council's adopted strategic policy position on permanent residential development in the Vineyards District is that it not be supported beyond the current provisions in LEP 1989 (ie 1 dwelling per 40 hectares or vacant existing holding as well as enabling the development of 'The Vintage' through the existing provisions of Clause 17).

This strategic position has also been advocated by the Hunter Valley Wine Country Industry Association (HVVIA), formerly the Hunter Valley Vineyard Association, and Wine Country Tourism.

Council's strategic position in this respect was also emphasized in the adoption of the Synergy Report in 2005.

The 2005 Synergy Report commissioned by Council investigated the appropriateness of permanent residential development in the Vineyards District, recommending that it not be supported beyond the current provisions in Cessnock LEP 1989. Council adopted the Synergy Report and its recommendations on 5 July, 2006.

Despite Council's strategic position in relation to permanent residential development in the Vineyards District, Council supported the preparation of a draft LEP to exhibition with the primary objective of furthering permanent residential development at the site on the Golden Bear site, and subsequently the VBL site when its application was submitted to Council to extend the permanent residential component of its existing development.

Clause 17 of the CLEP, which predates the Council's adopted strategic position, and also predates the 1(V) Rural (Vineyards) zone, which created the original lifestyle development on the Vintage site.

The vintage site caters for a niche market, as will the Golden Bear site, principally those seeking a golf course residential lifestyle within a prestige estate.

According to the Croft report, anecdotal advice from tourism sources during the preparation of this report, strongly suggest that at least one additional prestige golf course would provide additional depth to the local tourism market, as keen golfers tend to stay in an area and play different courses over their stay.

In that regard Croft states that

"Another high quality golf course would assist the area develop a critical mass of golf courses to offset a wider range of visitors and for longer periods."

In terms of cumulative impact and precedent, it is therefore a question as to how many additional golf courses might be feasible and / or viable in the region.

In that regard it is noted in particular that any increase in permanent residential occupation would require a rezoning, to be supported by the Council and of course the Department of Planning.

There is already in place a number of strategic documents which require Council to have regard for the protection of regionally significant agricultural land, the promotion, co-ordination and the orderly and economic use of land, and the promotion of tourism in particular. These documents include for instance the EP & A Act, the Rural SEPP, Hunter Regional Environmental Plan and CLEP.

Through these and subsequent documents, Council (and the Department of Planning) are able to control the assessment of additional permanent residential development, that can be accommodated in the district.

Such sites would need to ensure that regionally significant agricultural and viticultural land was not adversely impacted, that sites were of a size to accommodate the development proposed, and was of a scale and in a location that did not impact adversely on the rural character of the area, was capable of providing or had access to appropriate infrastructure and servicing and most importantly, that the permanent population accommodation was subservient to the tourism activity.

In that regard whilst the DPI may with hindsight be right in that the original Vintage proposal would establish a precedent for further large scale non-agricultural related land uses in the zone, the extension of the permanent population on the Vintage site, and that of the Golden Bear site, are in part a response to a changing tourism environment, and in the case of the Golden Bear site, adjacent to a similar established tourism activity, at the gateway to the Wine District and in close proximity to existing and future urban development.

Notwithstanding the above however, it is important that the Council, and the Department, continue to not support the development of standalone residential settlement unless it is consistent with the key principles of the Lower Hunter Regional Strategy, and its impacts on the delivery of essential services have been considered.

Development of permanent residential should only be supported if it is part of a fully integrated tourist facility with associated residential development (on the basis of the potential employment benefits to the Lower Hunter Region), and providing that the permanent residential component is subservient to the primary objective of protecting the Vineyard District in terms, not only of the value of the agriculture resource and the need to protect the rural character of the area, but also in recognition of the Tourism potential of the district, and its contribution to the economic growth of the region.

In that regard, whilst I have insufficient material before me to determine the significance of the agricultural land within the 1(v) zone, other than that it has in the main been identified as Regionally significant, that is excluding the alleged mapping error in relation to the Golden Bear site, and having regard to the importance which the Department of Primary Industry places on this area generally, the Department may wish to consider the inclusion of the 1(v) zone(excluding the two proposed sites) in the SEPP Rural lands as being of State significance.

Furthermore, and as has been indicated previously, any development proposals comprising permanent residential development, should not comprise more than 20% of the total dwelling stock within any development proposal, with a possible maximum of 30% which is to be subject to review, once the level recommended above has been reached. The 20% restriction is consistent with the recommendations of Macroplan, and the assumptions adopted by Croft in his report where he estimates that the probable total population if both proposals were to be approved would be 693 persons. That is, an anticipated increase of 394 persons on top of the 299 assumed as probable under the current clause.

The amount of permanent accommodation should be limited to in the order of say 100 additional dwellings(with a possible maximum of 362) for the VBL site, and 90 (with a maximum of 132) for the Golden Bear site. It is envisaged that the amount of permanent residential development would be included as part of a Development Control Plan or master plan applying to the two sites, and linked to the Draft LEP , and could be reviewed upon reaching that level subject to the concurrence of the Department of Planning.

Whilst the above proposition was addressed in the Golden Bear proposal, there obviously appears to be some reluctance by both proponents to agree to such a restriction, due in part, as I understand, to the fact that such a restriction in the longer term may affect the future sales of properties within the

development. That is, most purchasers may buy on the basis of an investment, and make the properties available for tourist accommodation through the Management of the resort, but may also wish to maintain their right at some time in the future, to live there permanently should they so desire.

It is acknowledged that this issue may require further discussions with both proponents before being incorporated as a policy position. However in the absence of any advice to the contrary, it is considered that adoption of the constraint referred to above should be adopted in this instance.

Notwithstanding the above however, it is considered that given the existence of the existing Vintage development, and proven record of quality of development, located at the gate way to the Vineyard District, the fact that the agriculture resource is only a small part of the site and most likely not viable for future agricultural use, will have minimal if any visual impacts, has in place adequate services to accommodate the increased population, and capable of managing any potential land use conflicts, it is high unlikely that approval of the proposal will necessarily trigger any cumulative impacts or precedents.

Similarly with the Golden Bear site, but more particularly, that it is in a position to complement the development of the VBL lands at the gateway to the Vineyard District. In that regard I am not aware of any other situation within this locality capable of meeting the same criteria.

Accordingly it can be concluded that an amendment to CLEP to permit the permanent residential components of the proposed development is, subject to the adoption of the above mentioned principles, unlikely to have a substantial cumulative effect, or create a precedent for any unsuitable future development proposals.

Further, any future developments would need to be considered on their merit, having regard to the statutory and non statutory framework that applies to the zone, and the circumstances of the case existing at that time.

7.7 Provision of Infrastructure

Whilst both proponents have assessed the availability of infrastructure based on the maximum potential growth, I note that Croft in his report indicates that although the existing Vintage development has the potential for 1494 residents (based on the Section 94 Plan assumption of 3.1 persons/dwelling), that this figure is unlikely to be achieved in practice because of the demographics of the residents are likely to be more aged than in a generic urban release area, the target age group for residents being over 50 years.

Croft also suggests that a number of residences are likely to be occupied part time, being used for tourism purposes, ie weekenders, holiday rentals, corporate retreats etc.

According to Macroplan's estimate for the Golden Bear proposal, only 20% of the residences may be occupied full time. On this basis a "probable" permanent population of the existing Vintage village would be 299 residents, or 448 if 30 % permanent accommodation was permitted.

Based on the new proposal for the Viuntage site and applying the 20% assumption, the probable additional population has been calculated at 208 residents, or 312 persons if a 30% assumption was adopted.

That is a total anticipated population between 507 to 760 permanent residents

In respect of the Golden Bear site, an occupancy rate of 2.1 persons per dwelling and applying the 20% rule, the probable figure is likely to be an additional 186 residents, or an additional 279 persons if a figure of 30% was adopted.

The Croft report concludes that based on the assumption of a 20% permanent occupancy;

“the probable resident population would increase from 299 under the current Clause 17 area, to 693 residents should both proposals be approved.

It is also noted that if the permanent occupancy was increased to 30% the maximum population would be approximately 1039 persons.

It is considered that this additional population is not significant in terms of service delivery, but as has been indicated previously, should only be considered once the level of 20% has been reached.

According to VBL the demographic profile of the Vintage “lifestyle” is enjoyed by affluent, highly mobile individuals and satisfies a market niche not identified elsewhere in the Hunter.

In that regard it is noted that it is anticipated that the Huntlee and Greta Residential releases will cater of the lower end of the market.

According to VBL the land price in Cessnock is \$120,000 whilst the Vintage is \$230,000. The median house price in Cessnock is \$240,000, whilst at the Vintage it is \$560,000.

The Vintage, is not a traditional residential estate, but a lifestyle choice as it integrates permanent residential allotments with tourist orientated facilities.

The Golden Bear development is of a similar nature.

According to a survey by VBL, the majority of buyers of residential land and houses at the Vintage use The Vintage as their second home.

60 % of all purchases are aged 50 to 55 years, 30% are 40 to 50 years and 10% are 27 to 40 years. The vast majority, 70% spent time at two permanent houses (Tuesday to Thursday) in Sydney and their weekends at the Vintage.

VBL conclude, based on the demographic profile of existing Vintage residents, that it is unlikely that the future residents will have:

1. Higher than average incomes and therefore higher levels of discretionary spending;
2. Fewer children;
3. Little if any impact on child related social infrastructure such as Schools and Childcare.
4. Little if any impact on other social infrastructure, ie public transport, medical services etc.

In respect of the VBL it is noted that infrastructure was anticipated and included by the developers in the Vintage Stage one development so it is already in place.

According to the proponents of the Golden Bear site, Stage 1 of the proposal will include the golf course and part of the motel complex, with the residential development occupancy after the main core component of the tourist related activities are completed.

It is anticipated that the construction of the residential component will extend over a ten year period.

It is proposed to expand the water supply currently servicing the Vintage development opposite the site at the developers cost.

Effluent product from the resort and permanent occupancies is proposed to be collected and treat on-site for reuse. Each of the dwellings will be connected to a non-potable water supply, to supply toilets, washing and yard use.

The operation of the golf course will rely on grey water generated from the 300 dwellings and the motel for irrigation.

According to the proponents of the Golden Bear site Energy Australia has recently started construction on a major substation 500 m to the north-west of the site on the corner of Old North Road and Wine County Drive, and that there is ample availability to cater for the needs of the proposed development.

Similarly, access to telecommunication lines are also available in Wine County Drive and gas may be available in the future with the development of the Huntlex project 3 km to the north of the subject land.

Adequate open space will be provided with access to the proposed golf course and surrounding recreation activities, and there is a regular bus service between Branxton, Cessnock and Maitland which is available to future residents. The proponents acknowledge however that a private vehicular transport would not likely be the preferred means of transport.

It can be concluded however that the use of either site as an integrated tourist development, and in particular, for permanent occupancy, is not likely to have a significant impact on infrastructure provisions.

Notwithstanding the above however it would be anticipated that Council would seek appropriate contributions in accordance with S94 of the Act for enhancement to local and regional infrastructure, bearing in mind the government's cap of \$20,000 per allotment.

In respect of the proposed seniors housing in the VBL site, I have not seen the legal advice provided but I assume the basis for the proposition" is on land adjoining which is used for urban purposes"

The objectives of SEPP (Housing for Seniors or people with a disability) is to;

- a) *Increase the supply and diversity of residences that meet the needs of seniors or people with a disability and,*
- b) *Make efficient use of existing infrastructure and services and,*
- c) *Be of a good design.*

Part 1A of the policy requires the proponents to obtain from the Director General of the Department of Planning, a Compatibility Certificate having regard to specific criteria listed in the Policy. Part 3 Division 2 sets out the Design principles that apply.

Whilst it is not the intention of this report to examine in detail any particular types of housing such as that proposed for senior housing, such proposals do require particular services which would need to be provided or be available to the site, before either the Department was prepared to issue a certificate of compatibility, and or the Council were able to approve such an application.

Without details of the particular proposal, and given the limitation proposed on permanent residential accommodation referred to above, it is not possible to comment on the extent and availability of services with any confidence, other than to note that there would appear that, given the demographic profile of the future residents, and likely occupancy rates, that adequate services would be able to be provided.

7.8 Tourism

As acknowledged previously, previous strategies and reports have focussed on the issue of permanent residential accommodation, and the proposals consistency or otherwise with the various settlement strategies.

However it is important to note that the two proposals have a primary focus on tourism.

In that regard, and as I have already noted elsewhere in this report, the subject sites are located in an area which is widely acknowledged as one of the most important tourism areas in the Hunter region.

Further and as I have also acknowledged previously, any permanent residential development should be subservient to and supportive of tourism development and not have an adverse impact on the tourism potential of Wine Country.

The proponents argue that the residential development is necessary to secure the economic viability of the tourism components of the subject developments. This arrangement also has to be understood in the context of an increasing competitive tourist environment, and the need to reaffirm the primary importance of viticulture to Wine Country tourism, whilst advocating the need to widen the mix of tourism product in order to ensure that the area remained attractive to tourists in the light of changing tourist tastes.

Golfing tourism and sophisticated resorts can be seen to be as complementary to the Tourism product in Wine Country, a belief apparently supported by Tourism NSW, the Tourism Strategic Plan 1998 – 2008, Hunter Wine Country, and the Hunter Region Tourism Strategic Plan which at the time identified that the Hunter Region was

“suffering from stagnant visitation, a low market share, and sitting at the cusp of the product life cycle”.

That report claimed that without rejuvenation, tourism in the region would decline, and that this was particularly true for Wine Country.

The proponents have indicated the importance of the proposed residential developments as a contributor to the economic viability of the proposed or existing tourist recreational facilities, and I

understand Council has been provided with financial information in order to assess the validity of these statements.

Whilst Council will need to check the validity of these statements as part of any subsequent development application, it is clear as to the economic benefits to the region in relation to the two proposals, and the need to;

a) encourage the development of tourism facilities which will result in a net inflow of jobs to the region, and which will be environmentally acceptable;

b) support tourism development proposals which help to provide a wide range of high quality attractions and accommodation types, and which are in accordance with tourism development plans prepared by the Tourism Commission.(Clause 23 of Hunter Regional Environmental Plan)

7.9 Economic

According to the VBL report, the proposed amendment to Clause 17 of CLEP will provide major economic benefits to the local community and region, building on existing operations which are a major economic contribution to the Cessnock Area.

In that regard it is noted that the existing Vintage Development provides

- 130 on site jobs in golf operations, maintenance, real estate sales and lettings, the clubhouse, Vintage management services, marketing and general operations;
- 200 on-site jobs in the spa, villas currently being constructed and the hotel;
- 30 employees in Great Mercure reception, cleaning and maintenance.

VBL expects these numbers to grow with additional tourist accommodation, the future amphitheatre, a medical practice, and general store.

According to VBL the amendment to Clause 17 will create approximately 600 – 800 jobs during construction as well as new employment opportunities with extensions of existing facilities.

According to Council, projected monetary and fiscal analyses (commercial in confidence) have been provided by the proponents for the VBL site to illustrate the commercial relationship between the existing Vintage development and the development of the VBL site. According to Council it is evident from the material provide that the long term economic sustainability of the existing Vintage development is heavily reliant upon the subsequent successful development of VBL.

The Council acknowledges that the key driver of the Vintage project is the golf club, and without strong membership, budgets could be cut, with a possible reduction in maintenance, and a general lowering in the general standard and visual appeal of the site.

In that regard Council concludes that it is essential that the golf club operations be sustainable and affordable to the project on an ongoing basis.

According to a report prepared by AGIS Group on behalf of the proponents for the Golden Bear Site, this development will during construction:

- Yield \$400 m of economic benefits of which \$160 m will flow to the Hunter;
- Create 2,300 full time jobs with 1,400 of these in the Hunter;
- Produce
 - An annual economic benefit from the residential component of \$7.23 m (\$6.14 m in the Hunter)
 - An annual economic benefit from the resort complex of \$31 m (\$18.5 m in the Hunter) and create 211 full time jobs (48 in the Hunter)
 - An annual economic benefit from the golf course of \$4 m (\$2.5 in the Hunter) and create 29 full time jobs (19 in the Hunter).

Averaged over a 10 year cycle, the annual benefit to the National economy would be \$190 m of which \$4.4 m flows to the Hunter.

Further to the above the proponents for the Golden Bear development claim that to foster investment in these forms of large-scale tourist orientated developments, some commercial activities need to be accepted.

"The economics of investing such large amounts of money in the establishment of these courses needs to be recouped early in the development life and the sale of a limited number of permanent occupancies is a means of not only underpinning the future patronage of the course, but creating the cash flow. This form of development has worked well with the Vintage adjacent to the Golden Bear site."

Council acknowledges the economic benefits to the locality which would emanate from approval of this development proposal, and, coupled with the existing Greg Norman designed Golf Course at the neighboring Vintage golf Course, believe that the Cessnock LGA has the potential to become an International golfing destination.

The Croft report acknowledges that the proposed tourist developments and golf courses would be an important addition to the local community, which would "complement and add depth to the tourism offerings of Wine Country".

Croft also notes the advice provided by Macroplan Consultants, that the residential component of the development would need to be constructed to ensure that the development was viable, although they suggest that the economic advice applies to the whole district, rather than specifically to the subject land.

Whilst Croft acknowledges that it was beyond the scope of his study to confirm the validity of these statements, it would appear on the surface at least, following discussions with NSW Tourism, that if the objective of promoting tourism in this region is to be enhanced, it may be necessary to offer incentives (such as limited provision of permanent accommodation) to achieve this objective.

Needless to say, this is an issue which could be more appropriately dealt with at the Development Application stage.

Clearly however the proposed housing would deliver economic benefits to the area, with a high income clientele less likely to be attracted to the other existing and future residential areas in Cessnock and Branxton, and would most likely further expand the existing market attracted by the existing Vintage development.

7.10 Other

Fisheries Habitat Protection

The Department of Planning Industry have expressed concern in relation to the impact of the Golden Bear proposal and Black Creek and aquatic habitats.

As indicated previously, these concerns relate to the whole development rather than the specific issue of permanent residential accommodation, and as such, would more appropriately be dealt with at the development application stage.

In that regard however I note that no works are proposed within Black Creek, or the riparian buffer to the creek. In respect of any other defined storm flow path to the creek, these will also need to be protected in any future design, as will future design measures such as sedimentation and erosion. Control measures need to be put in place to address any adverse impacts on the site from stormwater overflow.

Native Vegetation

The CMA has expressed concern in relation to potential clearing and compliance with Native Vegetation Act.

Their concern relates to the development of the whole site rather than the permanent residential occupancy uses which are already permissible with Council consent.

Nevertheless, the proponents would have to comply with the Native Vegetation Act (if applicable) as part of any future development application.

Notwithstanding the above the proponents have indicated that subsequent studies have revealed that there are no threatened flora species or population a site, and as such the CMA concerns in respect of endangered ecological communities is no longer applicable.

Soil Salinity

The CMA have also noted that there is a potential for salinity hazards with future development. This is also an issue which would more appropriately be dealt with at the development application stage.

8 CONCLUSION

In preparation of this report I have reviewed all documentation provided to me, and consulted with individuals and relevant agencies.

The report concludes that subject to limitation on the future permanent residential development, the Department should allow the draft LEP extending and amending the provisions of Clause 17 of Cessnock LEP to proceed to exhibition.

In respect of the Department of Planning's Terms of Reference the following are my responses.

"1. The impact on the Vineyards District in terms of the agricultural value of the land, rural character and the potential loss of agricultural land."

Response: It is considered that there will be negligible impact on the Vineyards District in terms of the potential loss of agricultural land or loss in agricultural value of that land, and with proper planning and management of each site, it is not anticipated that there will be any significant adverse impacts on the rural character of the locality.

"2. The potential for conflict with adjoining lands and associated agricultural enterprises."

Response: Given the establishment of the Vintage site, as the future development and layout of the Golden Bear site, and existing and future land uses, it is considered that any potential land use conflicts are capable of being managed through the establishment of adequate buffers.

"3. The precedent created for other similar proposals for more intensive subdivision in the Vineyards District."

Response: It is unlikely given the statutory and non statutory framework in place and proposed limitations in respect of permanent residential accommodation, that there will be any cumulative impacts or precedents by the amendment to CLEP Clause 17. Any future proposal would need to be considered on its merits having regard for the circumstances of the case at that time.

"4. The needs of residents to access to Government infrastructure such as health and education services, as well as access to retail services."

Response: Given the socio economic status of the residents, the limitation on permanent residential accommodation, the probable population within both developments, the provision of infrastructure and relevant services to be provided by the developer, and the location of other facilities in close proximity to the proposed development eg health or retail services, it is not anticipated that there will be a need for any other services to be provided.

9 RECOMMENDATIONS

The Council (and the Department) should continue to maintain its position that permanent residential development in the Vineyards District not be supported, unless it is consistent with the key principles of the Lower Hunter Regional Strategy, and its impacts on the delivery of essential services has been considered.

Development of permanent residential be supported only if it is part of a fully integrated tourist facility, and providing that the permanent residential component is subservient to the tourist use, as well as satisfying the other objectives of the zone in particular (but not necessarily limited to) potential loss of prime viticultural land, the size of property on which the development is proposed, and compliance with the Department of Planning's Sustainability Index.

That the amount of any permanent residential development proposal be restricted to 20% of the total residential development proposed, to be reviewed upon reaching that level and subject to the concurrence of the Department, with a possible maximum of 30%.

That the Department support the extension and amendment to Clause 17 of CLEP to permit the permanent residential accommodation within the two sites. That any amendment to Clause 17 include a limit as to future permanent accommodation, either in a Development Control Plan or Master Plan for the two site, linked to the Draft LEP.

That Council be required to prepare a Development Control Plan/Master Plan which defines the subdivision patterns and the location and type of land use within the two sites, and a staging plan for the development. The staging plan is to be linked to the achievement of the tourist facilities on site such that those facilities must be provided before the next stage can be approved for development. The aim of this mechanism is to ensure that the future development achieves its purpose as a major tourist facility and not just a residential estate.

The development control plan/master plan should specify the maximum permitted development intensity, including the maximum number of residential and rural lots, and make provision for developer contributions, open space, landscaping design control, general development controls, and rural buffer zones.

That the two proposals be combined into one Local Environmental Plan as indicated previously by the Department of Planning, and that requirements of S62 of the EP and A Act be recommenced, including consultation with the relevant agencies.

That given the amount of documentation submitted by the two proponents, an environmental study not be required. However, any exhibition should include all material provided by the proponents in support of their applications, ensuring in particular that the issues raised by the Director General in his letter of 22/01/07 are also addressed by the proponents, this would include, but not necessarily limited to the proponents responses to the Section 117 Directions, and the Department's Sustainability Criteria.

Appendix 1

Consultants Brief

Appendix 2

VBL

List of Environmental Studies

- Flooding
- Stormwater
- Geotechnical
- Bushfire
- Agricultural land sustainability and Viticulture
- Ecology
- Aboriginal Archaeology
- Servicing
- Visual
- Traffic
- Irrigation
- Social & Economic

Appendix 3

GOLDEN BEAR

List of Environmental Studies

- Agricultural Land Suitability Assessment
- Statement of Effect on Threatened Flora and Fauna
- Visual Impact Assessment
- Assessment of Noise Impact
- Aboriginal Archaeological Assessment
- Preliminary Geotechnical Assessment
- Traffic Assessment Report
- Servicing Strategy
- Flooding and Stormwater Management
- Water Balance
- Wastewater Management
- Irrigation
- Bush Fire Hazard Assessment
- Employment and Economic Impact Assessment

Appendix 4

General Development Principles (refer Clause 10 of CLEP)

10 General Development Principles – Rural and Environmental Protection Zones and Hunter Employment Zone

(1) In determining any application for consent to carry out development on land within Zone No. 1(a), 1(a1),k 1(bwc), 1(c), 1(c1), 1(c2), 1(f), 1(v) or 7(d1), the Council shall have regard, in addition to the matters specified in Section 90(1) of the Act:

(a) to the following general principles:

- (i) development should be generally compatible with the rural suitability and capability of the land on which it is to be carried out, as indicated on maps deposited in the office of the Council,
- (ii) development should be of a type compatible with the maintenance and enhancement, as far as is practicable, of the existing rural and scenic character of the City of Cessnock,
- (iii) development (other than development on land within Zone No. 1(c), 1(c1) or 1(c2)) should not materially reduce the agricultural production potential of the land on which it is to be carried out, or of adjoining land,
- (iv) the existing and possible future use of the land and of other land in the locality should not be prejudiced (particularly in the case of land which contains recoverable mineral or extractive resources),
- (vi) development should not materially affect any wildlife refuge, significant wetland or any identified site containing Aboriginal archaeological relics and such relics or places should be preserved where necessary,
- (vii) development (including associated access roads) should not create or worsen soil erosion potential through the action of wind or water or the alteration of land form, and adequate measures should be taken to avoid such an effect,
- (viii) adequate utility services and community facilities should be available to the land and its future occupants, and the land should be capable of accommodating on-site disposal of domestic waste and the provision of a domestic water supply, including a fire-fighting capacity,
- (ix) development should not have the possible effect of creating demands for unreasonable or uneconomic provision or extension of services by the Council or any other public authority,
- (x) development should not create significant additional traffic or create or increase a condition of ribbon development on any road, particularly a main or arterial road, relative to the capacity, standard and safety of the road,
- (xi) the creation of vehicular access to a main or arterial road should be minimised and where no alternative access is available, the location and treatment of the access should minimise potential traffic hazards,
- (xii) development should incorporate adequate drainage measures, including sediment and waste control, and prevention of the uncontrolled flow of water across the land or adjoining land,

- (xiii) development should not lead to any deterioration of water supply or water quality within a water catchment,
 - (xiv) where land is proposed to be cleared, vegetation should be retained in appropriate locations to reduce the visual impact of clearing to the maximum extent consistent with the rural character of the area,
 - (xv) in the case of land within Zone No. 1(v), the general impact of development on the scenic catchment of the vineyards district should be minimised,
- (b) to the following principles with respect to subdivision:
- (i) the ratio of depth to frontage of each allotment to be created by the subdivision should be determined having regard to the purpose for which it is to be used and the need to minimise the creation of vehicular access points to any road and particularly to main or arterial roads,
 - (ii) the subdivision should not to any material extent create or increase the potential for ribbon development along any road, particularly a main or arterial road,
 - (iii) adequate all weather flood-free access should be available to each allotment to be created by the subdivision and located so as to minimise the risk of soil erosion,
 - (iv) a subdivision should be designed to maximise the retention of natural vegetation in any subsequent development, to ensure that any buildings likely to be erected on allotments created by the subdivision are able to be sufficiently separated to maintain the rural character of the locality, and to minimise the potential for significant alterations to the natural land form in any subsequent development by way of construction of access driveways, excavations, filling and the like,
 - (v) each allotment to be created by the subdivision should include flood-free land for building sites and for the movement of any stock during floods,
 - (vi) each allotment to be created by the subdivision should provide potential building sites with minimum risk of damage by bushfires or soil instability,
 - (vii) adequate soil erosion control measures should be incorporated in the subdivision, including measures to be carried out prior to the subdivision taking place,
 - (viii) allotments intended for use for pastoral purposes should be of sufficient size to ensure an adequate water supply for stock unless water can otherwise be provided, and
- (c) to the following principles with respect to buildings:
- (i) buildings should be sited and designed and be of an appropriate scale so as to maintain the rural character of the locality, to minimise disturbance to the landscape through clearing, earthworks, access roads, the use of platforms or stilts and other similar construction methods, to maintain slope stability, and to generally fit into their environment to the maximum extent consistent with their being sited to minimise flood and bushfire hazards,

- (ii) buildings should not intrude into the skyline, when viewed from roads or other public places,
 - (iii) buildings should be sited in relation to the boundaries of the site, to existing buildings on the site or on adjoining land, and to potential building sites on adjoining land, so as to avoid too high a concentration of buildings and so that the overall pattern of building development maintains the rural character of the locality,
 - (iv) building materials and painting or other finishes should preferably be of dark natural tones with low reflective quality to the maximum extent consistent with effective heat insulation of the building and the comfort of its occupants,
 - (v) the cartilage of buildings should, wherever possible, be landscaped so as to lessen the impact of buildings on their natural or rural setting,
 - (vi) essential buildings should be sited in positions of least flood risk, and the floor levels of dwellings should be above the 100 year flood level and be capable of withstanding floodwater pressures,
 - (vii) adequate all weather flood-free access should be available to dwellings.
- (2) The Council must, when determining any application for consent to carry out development on land within Zone No. 1(v) that is shown by diagonal broken black hatching on the map (being land that is potentially affected by the activities at the Singleton Army Field Firing Range), have regard to the likely effect of those activities.
- (3) Before granting consent to the carrying out of development on land within Zone No. 4(h), the Council shall have regard to the following general principles:
- (a) development should introduce new or innovative technologies to the State of New South Wales or to the Hunter Region,
 - (b) development should introduce new or cutting-edge research, development or production skills to NSW with potential for increasing the skills of workforces across the State or the Hunter Region,
 - (c) development should provide an integral part of the value-adding chain of an economic activity that is of State economic significance,
 - (d) development should involve research that is part of a long-term research or development program undertaken in collaboration with a tertiary institution,
 - (e) development should recycle or use a significant proportion of the core-business waste product of existing development in the zone and require proximity to that existing development so as to be economically viable,
 - (f) development should require separation from existing settlement or workplaces to comply with acceptable safety margins but not so as to consume so much land that other objectives of the zone are prejudiced,
 - (g) development should require proximity to the 300kv electricity transmission line for its economic viability,

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- (h) development should require proximity to the Sydney-Brisbane trunk fibre-optic cable for its economic viability,
 - (i) development should require direct access to rail-freight services provided by the South Maitland or Richmond Vale Railways,
 - (j) development should require access to high-capacity road networks for access to the ports of Newcastle and Sydney,
 - (k) development should encourage interactive relationships between different forms of development with the aim of optimising the use of energy and resources and minimising pollution and waste products produced by development so as to progressively achieve a closed cycle of resource use,
 - (l) development should maintain the ecological integrity and viability of areas of conservation value,
 - (m) development should protect the Aboriginal and European heritage values of land.

Appendix 5

Objectives of the Vineyards District

Table: Objectives from Part E3 CDCP

- To reduce the potential for land use conflict between properties.
Examples: 1) by ensuring that tourist accommodation units are not situated in close proximity to operating wineries, potentially subjecting those persons residing in the units to impacts associated with noise and odour and placing undue burden on the winery operator to modify operations; 2) by ensuring that commercial vineyards are not planted too close to dwelling houses or tourist accommodation units and public places, creating a situation of potential spray drift impact and noise.
- To ensure that development is appropriately sited and designed having regard to the opportunities and constraints of a site and its surrounds and the special qualities of the Vineyards District.
- To ensure that built developments proposed in visually significant area (See Figure 2) are considered having regard to the significant landscape features and particular environmental qualities of the Vineyards District.
- To protect and enhance the rural and viticultural character of the Vineyards District by ensuring that it does not become over-developed.
- To require development components to be clustered to reduce visual and total site impact and to reduce the potential for neighbouring land use conflict to occur.
- To promote a visually appealing landscape consistent with the rural and viticultural character of the Vineyards District, recognising the particular qualities of a site and its surrounds.
- To minimise the impact on the viticultural potential of adjoining land
- To ensure that new or expanded commercial vineyards are sited having regard to surrounding development and the potential impacts of chemical spray drift and noise.
- To ensure that specified new development is appropriately sited having regard to the location of neighbouring commercial vineyards, reducing the potential for impacts associated with chemical spray drift from both the ground and aerial application of chemicals.
- To ensure that new or expanded commercial vineyards are appropriately sited having regard to the location of existing neighbouring specified developments, reducing the potential for impacts associated with chemical spray drift from both the ground and aerial application of chemicals.
- To incorporate the use of vegetation chemical spray drift buffers as a means to capture chemical spray drift and reduce the required separation distance between commercial vineyards and specified developments.
- To encourage both the physical separation of commercial vineyards and specified developments within a property and the establishment of vegetation chemical spray drift buffers between commercial vineyards and specified developments to reduce the potential for chemical spray drift and noise impacts within that property.
- To ensure that occupants of new development in the vicinity of Main Road 220 are not adversely affected by traffic noise.
- To ensure that development occurring in the vicinity of Cessnock Airport neither impacts on the operations of the airport nor is adversely impacted by the operations of the airport.

- To ensure in assessing applications for development in the Vineyards District that consideration is given to the potential impact of activities from the Singleton Army Field Firing Range.
- To ensure that long term rural character and amenity is able to be maintained in conjunction with the need to upgrade roads in the Vineyards District.

Appendix 6

VBL and Golden Bear

Responses to

Sustainability Criteria

GOLDEN BEAR SUSTAINABILITY CRITERIA RESPONSE

Infrastructure Provisions

The site is fully serviced with electricity and telecommunications. It is located on a main road, only a short distance from the township of Branxton (5 km), which offers the basic needs for residents. In addition, a shop will be located on site to meet the daily needs. This will include bread, milk and staple foods. A school bus and daily bus service runs between Cessnock and Branxton and the provision of a bus stop on Wine Country Drive would not only service this development, but the adjoining Vintage development.

A full water quality balance assessment has been carried out and effluent will be treated to the highest standard and reused on the site, while potable water will be extended to the site from Hunter Water Board mains, as is the case with the Vintage opposite.

Access

The site has good access to the main arterial road between Branxton and Cessnock. It has access to bus services and is come 5 km from the rail station at Branxton. Predominantly the main mode of transport in this area is by motor vehicle. There is ample capacity within the road systems to cater for this additional flow, with no need to venture off a dedicated main road.

Housing Diversity

Housing on this site is tailored for a high-end recreational use. While it does have diversity in terms of low cost housing, such is available within a 5 km range at Branxton.

Employment Lands

The tourist development is a large employer, both in green keeping and hospitality. The employment offered on this site will complement that throughout the general region and in particular, opposite at other major resorts.

Avoidance of Risk

This site sits adjacent to a similar use and there is no conflict that would arise between these two uses. It is also adjoined on the southern side by tourist accommodation, which would also have no impact. Black Creek forms the north-eastern boundary and introduces a natural buffer zone to other rural residential land along Talga Road. It is considered that the development, when properly planned and constructed, would have an insignificant impact on adjoining land uses.

The site will be re-engineered to a certain extent and to be successful will have to be presented to an extremely high standard. This will ensure that any erosion or sediment is properly dealt with. In addition, water flowing through the site will not be captured and will continue its path unimpeded to Black Creek. Water Storage devices will be introduced into the site, however this will be fed through recycled water or allocations from the private irrigation system.

Natural resources

The development of this site will not impede any natural resources. The site is not suitable for agriculture or viticulture and is not affected by any gas, coal or oil reserves.

Environmental Protection

The development will change the environmental footprint of this area, through the introduction of specific grass species and high control. The site however is not significant in terms of any environmental qualities and works proposed will not impact outside of this area. All runoff from the site will be appropriately controlled and improved, as too will any works proposed for the site.

Quality and Equity in Service

In gauging the quality and equity in services, one has to examine the potential users. This is a sports based resort and people living here will have a keen interest in golf and adequate means to ensure their continued occupation of the site. There will be adequate resources provided within the development to meet these people's needs. In addition, services are also available in close proximity at Cessnock and Branxton to meet unexpected requirements such as health.



Table 7 - Threshold Sustainability Criteria

Threshold Sustainability Criteria	Measurable Explanation Of Criteria	The Vintage Balance Land
1. Infrastructure Provision Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way	- Development is consistent with any regional strategy, subregional strategy, and State Infrastructure Strategy. - The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions. - Preparedness to enter into development agreement.	- The VBL has a similar level of infrastructure service to most areas of the Cessnock LGA. - Infrastructure already exists to the VBL which this proposal can utilise. - The development will meet the cost of connection to infrastructure. - Infrastructure provision has been costed and is economically viable to service the VBL.
2. Access Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided	- Accessibility of the area by public transport and/or appropriate road access in terms of: - Location/Land Use – to existing networks and related activity centres. - Network – the area's potential to be serviced by economically efficient transport services. - Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/transport patterns to make a positive contribution to achievement of travel and vehicle use goals. - No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.	- Existing public transport service levels for the Vineyards are not economical or sustainable. - Existing Vintage facilities reduces need to use other public facilities and services - Same network as the existing Vintage, potential for better servicing through additional population. - The Vineyards catchment has a low level of public transport service needs. VBL can support improved transport but will not make it worse. - No net negative impact on the performance of existing transport. Additional population could support improved transport performance. - Vintage resort will have its own bus service for residents, if demand requires.
3. Housing Diversity Provide a range of housing choices to ensure a broad population can be housed	Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.	The VBL will provide housing diversity that adds to the community structure of the Vintage and accommodation choices within the Vintage and the VBL. In this regard the extension of The Vintage will allow for residential lifestyle opportunities in a range of formats including 'Vintage' style lots (residential), rural residential lots – both of which are currently available at The Vintage, plus a new form of housing referred to as a resort village whereby integrated housing is provided in a community environment with a resort theme.
4. Employment Lands Provide regional/local employment opportunities to support the Lower Hunter's expanding role in the wider regional and NSW economies	- Maintain or improve the existing level of subregional employment self containment. - Meets subregional employment projections. - Employmentrelated land is provided in appropriately zoned areas.	Lifestyle residential developments have a high level themselves in terms of maintenance. There is also the golf course and the resort village itself all of which will generate significant levels of employment.
5. Avoidance of Risk Land use conflicts, and risk to human health and life, avoided	- No residential development within 1:100 floodplain. - Avoidance of physically constrained land, e.g. - high slope - highly erodible. - Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy. - Where relevant available safe evacuation route (flood and bushfire).	- The site has minimal constraints. Only one third of the VBL will be developed so development will be well clear of any site constraints. - Land use conflicts with adjoining Vineyards has been considered and designed into the Structure Plan. - Bushfire threat is low and access from the site is well formed and water is available on site.

6. Natural Resources Natural resource limits are not exceeded/ environmental footprint minimised	• Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows. • Demonstrates most efficient/suitable use of land • Avoids identified significant agricultural land. • Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying. • Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy requires demonstration of efficient and sustainable supply solution.	• Existing infrastructure will be better utilised and no stress will be placed on water supply. Treated water reuse is proposed to reduce the demand on the existing water supply. The WTMP will cater for on-site waste and provide treated water for reuse. • No natural resources exist in this area and no sterilisation will occur. • Servicing report demonstrates that no strain will be placed on servicing and availability is determined. • Good viticultural land is being retained in agricultural lot and commercial vineyard re-established and expanded in conjunction with cellar door operation.
7. Environmental Protection Protect and enhance biodiversity, air quality, heritage, and waterway health	• Consistent with government approved Regional Conservation Plan (if available). • Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities; critical habitat; threatened species; populations; ecological communities and their habitats. • Maintain or improve existing environmental condition for air quality. • Maintain or improve existing environmental condition for water quality • Consistent with community water quality objectives for recreational water use and river health (DEC and CMA) • Consistent with catchment and stormwater management planning (CMA and council). • Protects areas of Aboriginal cultural heritage value (as agreed by DEC).	• Revegetation of identified network and priority corridors; • Recognition of site qualities for fauna movement and creation of improved fauna corridors; • Rehabilitation of eroded creek banks and vegetation stabilisation; • Stormwater management will maintain water quality; • Site contains widespread examples of aboriginal artefacts. These will be conserved in sections of the site where there greatest significance is. • Water quality will not be impacted on as a detailed storm water management strategy has been prepared to address this issue.
8. Quality and Equity in Services Quality health, education, legal, recreational, cultural and community development and other government services are accessible	• Available and accessible services • Do adequate services exist • Are they at capacity or is some capacity available • Has Government planned and budgeted for further service provision	• Additional facilities provided on site. Access to required facilities available. Size of population will support existing facilities and services without placing a strain on them. In fact additional population will allow provision of retail facilities which will improve existing service provision in this area.