



PLANNING PROPOSAL
Amendment to the
Cessnock Local Environment Plan 2011

“GOLDEN BEAR”

**Rezoning of Lots 1-4, DP 869651
Wine Country Drive, Pokolbin**

**Version 1.0
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PART 1: OBJECTIVES and BACKGROUND

At the meeting held on 15 February 2011, Cessnock City Council resolved to prepare a draft Local Environmental Plan over Lots 1 to 4 DP 869651, Wine Country Drive, for the “Jack Nicklaus Golf Course of Australia - Pokolbin” which is generally known as the “Golden Bear” and referred to as such in this Planning Proposal.

The location of the Golden Bear Planning Proposal is in the vicinity of “The Vintage” golf and residential development, located at the edge of Cessnock City’s Vineyard District. The Golden Bear golf course development is considered by Council to have significant merit with respect to the development of tourism opportunities within the Cessnock Local Government Area (LGA). An integral part of the Planning Proposal is the provision of 300 permanent residences to support the ongoing operation of the golf course.

Objectives

Council, as identified in its resolution of 15 February 2012 to forward the Planning Proposal to the Department of Planning and Infrastructure (DoPI) for “Gateway” determination considers the proposed development to have significant value for the Cessnock Local Government Area (LGA) which includes:

- *The proposal is considered a positive tourism based use of the land on the edge of the Vineyards District that is not suitable for viticultural uses;*
- *The proposal will broaden the tourism appeal of the LGA to a national and international market; and*
- *The proposal’s co-location next to the existing ‘Vintage’ Golf development has strategic merit creating a golfing tourist destination with significant flow on benefits to the Vineyard District tourism market and the Cessnock LGA (Council resolution 15 February 2012)*

Zoning

The Land is zoned RU4 Rural Small Holdings under Local Environmental Plan 2011. Residential subdivision down to 450 m² is not permitted in the RU4 zone, by way of a general restriction of 1 dwelling house per 40 ha, and all other forms of permanent residential accommodation are prohibited. Other uses, including hotel or motel accommodation, recreation facilities (indoor), recreation facilities (major), recreation facilities (outdoor) and retail premises are also prohibited in the RU4 zone. Permissible uses include Function centres and tourist and visitor accommodation

PART 2: EXPLANATION of PROVISIONS

The Proposal seeks to amend Schedule 1 of the Cessnock Local Environmental Plan 2011 to incorporate “an additional permissible use” over the land which would not otherwise be permissible under the current RU4 - Primary Production Small Lots Zone applying to the land. The supporting ‘Additional permitted uses’ map would also be amended to reflect the proposed additional uses.

The proposed amendment to Schedule 1 of Cessnock LEP 2011 is:

“To enable such parts of the “Jack Nicklaus Golf Club Resort” on Lots 1-4 DP 869651, Wine Country Drive, Rothbury for subdivision of lots to a minimum lot size of 450m² and the development of Recreational Facilities (Outdoor) and (Indoor), Tourist and Visitor Accommodation and Dwelling Houses provided at an equal 50/50 provision (temporary and permanent residency), hotel, function centre, retail premises and associated uses where the subdivision is required as an integral part of a major tourist and visitor accommodation development”

The proposed amendment to Schedule 1 of Cessnock LEP 2011 is being requested to facilitate an overall, but integrated development concept that includes a:

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

Zoning Matters

The intention of Cessnock Local Environmental Plan 2011 is to allow for low scale tourist activity, in the RU4 - Primary Production Small Lots Zone that is complementary to the wine industry and that will support wine tourism in a way that does not detract from the rural character of the Vineyards District.

There are significant permissibility issues related to the proposal with respect to the current RU4 Zone applying to the land to which the planning proposal applies. These include

- 1) the proposed residential subdivision, permanent residential accommodation, golf course, hotel and associated recreational and retail facilities are prohibited and these uses are included in the planning proposal;

- 2) 'Health Spa' is not defined by the standard instrument template and this use is included in the planning proposal;
- 3) 'Hotel and motel accommodation', 'shop' and 'helipad' are defined terms in the Cessnock LEP 2011 I and are prohibited in the RU4. These uses are included in this planning proposal.

Matters that Council considers should be addressed by the Studies

To assist Council with the assessment of the rezoning proposal and better address the issues raised in the preliminary planning assessment, the following studies would need to be updated and/or provided new:

- Contaminated lands (new);
- Aboriginal archaeology (new);
- Agricultural Land Suitability Assessment;
- Social and Community Impact assessment;
- Economic impact assessment;
- Bushfire threat;
- Traffic Impact Assessment;
- Public utilities, including a Sewage Treatment & Effluent Re-use Investigation & Design;
- Agricultural land suitability; and
- Geotechnical assessment.

These studies will form the basis for assessing the Planning Proposal and would be professionally reviewed by Council Officers. Where required independent studies would be undertaken to validate information relating to the proposal.

Cessnock DCP 2010

An amendment to Cessnock DCP (2010) is also proposed and would follow consultation with all relevant public authorities.

PART 3: JUSTIFICATION

In accordance with the Department of Planning's "Guide to Preparing Planning Proposals", this section provides a response to the Department's guidelines.

- Section A: Need for Proposal;
- Section B: Relationship to Strategic Planning Framework;
- Section C: Environmental, Social and Economic Impact; and
- Section D: State and Commonwealth Interests

Section A: Need for Proposal

1. Resulting from a Strategic Study or Report

The proponent has stated that

"The site is not identified as 'release area' within the Lower Hunter Regional Strategy, however is considered to satisfy the sustainability criteria" and "Importantly this site has not been identified as regionally significant agricultural land on the Natural Resources Map in the Lower Hunter Regional Strategy. Therefore the development of the site to provide an internationally recognised tourist facility with permanent occupancy by way of an additional permitted use can therefore be considered."

With this in mind, the Cessnock City Council, at the meeting held on 15 February 2012, resolved to proceed with a Planning Proposal over this site after considering that the proposed development has significant benefits for the LGA and region, including:

- a) The proposal is considered a positive tourism based use of the land on the edge of the Vineyards District that is not suitable for viticultural uses.
- b) The proposal will broaden the tourism appeal of the LGA to a national and international market.
- c) The proposal's co-location next to the existing 'Vintage' Golf development has strategic merit creating a golfing tourist destination with significant flow on benefits to the Vineyard District tourism market and the Cessnock LGA.

No reference is made in the Proposal to any other strategic document or lack of consistency with any of the relevant strategic documents.

2. Planning Proposal as best way to achieve to objectives

There are three approaches that could be applied to achieve the objectives of the Planning Proposal:

1. Apply an appropriate zone in which the desired uses are permissible;
2. Allow an additional land use or land uses that are defined in the standard instrument in the current RU4 zone; or

3. Amend Schedule 1 of Cessnock Local Environmental Plan 2011.

Cessnock Council resolved to amend Schedule 1 of Cessnock Local Environmental Plan 2011 as best way to achieve the permissibility of the proposed uses that are currently prohibited on the Land.

3. Net Community Benefit

The proponent considers that generally, the site is situated on edge of the vineyard area and adjacent to a similar type development and if it proceeds, it will significantly increase the variety and the quality of golf based tourism and introduce an international connection in the region.

However, the *Net Community Benefit Test* prepared by the proponent was undertaken without the participation of Council.

The report to Council on the proposal identified with respect to the *Net Community Benefit Test* undertaken by the proponent that the level of detail and analysis in the assessment is limited and does not reflect the likely impact of the Proposal, which is a major departure from the current circumstances of the Vineyards District as reflected in the planning controls recently adopted for the area. The figures and examples in the proponent's assessment are not used to weigh the perceived benefits against the negative impacts, nor is the Proposal evaluated against any relevant base case, including retaining the existing zoning and rural use on the land. Without such analysis it is not possible to determine what net community benefit there will be from the Proposal

Council will seek to analyse these matters through a comprehensive consideration and assessment of a social and community impact study, economic impact assessment, and an agricultural land suitability assessment that should be undertaken as part of the Planning Proposal.

Section B: Relationship to Strategic Planning Framework

4. Consistency with Objectives and Actions within Regional Strategies

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy does not identify this site as a new release area. Similarly, the Lower Hunter Regional Strategy does not identify the site as regionally significant agricultural land.

The site is relatively unconstrained and there would be little impact on the environment if the development were to proceed. It is acknowledged that the site is situated on edge of the traditional vineyard area and would be adjacent to a similar type development being "The Vintage" golf course development which also contains residential development. If it were to proceed, it would increase the variety of golf based tourism and possibly increase the areas international profile.

The Proponent has included an assessment of the proposal against the Sustainability Criteria stipulated in Appendix 1 of the Lower Hunter Regional Strategy, necessary because the Land is not identified as an urban release area. Council's assessment against the sustainability criteria is provided below. As a comparison, the Proponent's table of assessment against the Sustainability Criteria is included in the Proponents' Planning Proposal in Appendix 4.

Council Sustainability Assessment against LHRS Criteria

Sustainability criteria	Comment
1. Infrastructure Provision - Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.	The Proposal is not consistent with the relevant regional strategy (LHRS), or State strategies that require urban development within and adjacent to existing centres to enable economies of scale and orderly extension of infrastructure. The Proposal may require extension of water and sewage services that are not currently associated with adjacent urban development and therefore, can't be considered to be efficient. The cost of extending services to the Land has not been provided so it can't be determined and Hunter Water has not provided specific advice in this regards as part of the proposal
2. Access - Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided.	From the traffic study lodged with the Proposal it appears that Wine Country Drive is capable of servicing the proposed site for traffic and there will not be a negative effect on the sub-regional road network. A private bus service running infrequently past the Land is the limit of public transport. The level of public transport servicing the Land is unlikely to increase given its isolation from the town centres and the lack of critical mass for efficient public transport. There is no pedestrian or cycling access to the site and while the proposed internal design provides for pedestrians and cyclists, no such access is proposed to or from the Land. It is stated in the Proposal that the residents of the site would use private cars for most trips. Given the distance of the site to centres this is likely to result in significant additional private car use that will contribute to

	<p>greenhouse gas emissions.</p> <p>It is clear that the Land cannot be serviced with efficient transport services of any kind, let alone those that form part of a larger urban area, and that residents would rely almost exclusively on the use of private vehicles for access. The Proposal, therefore, does not “show the capacity to make a positive contribution to achievement of travel and vehicle use goals” that focus on increased use of public transport, walking and cycling and decreased use of private vehicles.</p>
<p>3. Housing Diversity - Provide a range of housing choices to ensure a broad population can be housed</p>	<p>The Proposal does not refer to the geographic market spread of housing supply in the Cessnock LGA or the region, or to any government targets established for aged, disabled or affordable housing. There is no consideration of housing needs in the Cessnock LGA and no assessment of how the proposal would meet local housing needs.</p> <p>It is intended that the proposed housing will be taken up by corporate investors (40%), second and third home buyers (40%) and relatively affluent and retired/semi-retired permanent residents (20%).</p> <p>Given that the Cessnock LGA is identified as an area of relative disadvantage, with strong demand from low-income households and those with special needs, the proposal is unlikely to add housing stock that will satisfy local demand. The proposed housing has the potential to divert resources away from satisfying local need and, by raising the value of the Land, contribute to an increase in housing prices in the area.</p>
<p>4. Employment Lands - Provide regional or local employment opportunities to support the Lower Hunter's expanding role in the wider regional and NSW economies.</p>	<p>In the Proposal it is stated that jobs will be provided during construction and jobs will be provided in the long term. However these jobs will be provided at the expense of;</p> <ul style="list-style-type: none"> • consistency with State, regional and local strategies; • consistency with local planning controls; • the loss of rural land to residential development that is not sustainably located or serviced. • a development that may detract from the greater employment activity of wine making and wine tourism by negatively impacting on the rural and viticulture character of the area and contributing to rural land prices and thus encouraging further pressure for residential development in the Vineyards District. <p>While Pokolbin is identified as a specialised centre for its economic contribution to the region, with 1600 additional jobs, no dwelling growth is identified outside of Cessnock.</p> <p>Dwelling growth for Cessnock is to be accommodated within the centre, in the existing residential area and in new release areas identified on the LHRS Strategy Map. None of these apply to the Land. The Land is identified in the LHRS Strategy Map as Rural and Resource Land, and as Rural Land and Environmental Assets on the Natural Resources Map.</p> <p>In light of the above it is uncertain whether the proposal will maintain or improve the existing level of sub-regional employment self-containment and it is considered that the Proposal will not result in additional employment being provided in appropriately zoned areas.</p>

<p>5. Avoidance of Risk - Land use conflicts and risk to human health and life, avoided</p>	<p>The Land is flood prone and bushfire prone – requirements for measures to protect the development and its occupants may constrain development on the site. While it is mooted in the supporting documentation a safe evacuation route would be developed none is included either for flood or fire.</p> <p>The site is not surrounded by like uses but is bounded by rural land and rural road. Residential development, hotel, retail and recreation facility are not considered appropriate in the zone that has been applied accordingly, and are therefore prohibited – an indication that such land uses are not compatible/complimentary with surrounding land use. There is, therefore, potential for land use conflicts. It is not considered that a buffer, as suggested in the Proposal, will be effective. A buffer would be effective to screen or adequately separate reasonable similar or compatible land uses and may be particularly effective in visual screening, but not effective where the land uses are as different as rural and urban.</p>
<p>6. Natural Resources - Natural resource limits not exceeded, environmental footprint minimized.</p>	<p>The Proposal does not identify harvestable water rights on the Land and how this compares to proposed water use or what impact water use and interruption to overland flows will have on environmental flows.</p>
<p>7. Environmental Protection - Protect and enhance biodiversity, air quality, heritage and waterway health</p>	<p>The Land is not affected by a Regional Conservation Plan. A threatened species and endangered ecological community have been identified on site. It is stated in the Proposal that the design is such that these will be protected. However, it is not clear how this is to be achieved, given that residential, golf course, landscaping and tourist accommodation is proposed in close proximity to, and over, the areas of remnant vegetation.</p> <p>It is considered the Proposal will have neutral impact on air quality, with negative impacts of spraying and additional vehicle use cancelled out by landscaping and maintenance of vegetation on the Land.</p> <p>A Water Balance report is included in the supporting documentation.</p> <p>Additional work is required to determine the significance of Aboriginal heritage on the Land and how this will be protected, including the involvement and agreement of Aboriginal parties relevant to the Land. European heritage and archaeology have not been investigated on the Land.</p>
<p>8. Quality and Equity in Services - Quality health, education, legal, recreational, cultural and community development and other Government services are accessible.</p>	<p>While it is claimed in the Proposal that the relatively wealthy residents will not require publicly provided services there is not evidence to support this. It is possible that residents could demand services such as schools and shops. It can reasonably be expected that such a population would place a demand for services in the area. The provision of, or extension of publicly funded services to the Land would not be efficient or equitable.</p> <p>The developer would be required to fund the extension of utilities to the Land and augment these where necessary (whether this is the best or most efficient use of resources has not been determined). The developer would also be required to pay Section 94 Contributions, however, these would not cover extension or provision of services on the Land.</p>

5. Consistency with Council's Community Strategic Plan or other Local Strategic Plan

The Proposal is presented as a means of increasing and diversifying tourism. However, it is identified in the Community Strategic Plan that there is a need to develop specific tourism strategies for "towns, villages and niche markets" to achieve the increase in tourism. The Proposal pre-empts the preparation of these strategies and could prove to be contrary to such strategies or work against the development of niche markets that are potentially identified in such strategies.

Council will seek to analyse these matters through a comprehensive consideration and assessment of a social and community impact study and economic impact assessment, and well as an agricultural land suitability assessment to be undertaken as part of the Planning Proposal.

Cessnock City Wide Settlement Strategy

A study of residential development is included in the City Wide Settlement Strategy and confirms the dispersed nature of settlement growth across the Cessnock Local Government Area, with significant development pressures for dwellings in the rural areas. Continuing with this pattern of residential growth will not lead to the development of a settlement hierarchy underpinned by the creation of sustainable communities. The City Wide Settlement Strategy seeks to address these competing interests by redirecting dwelling demand into a more sustainable settlement pattern, in accordance with the actions contained in the Lower Hunter Regional Strategy.

Vineyards District Community Visioning

A key theme in the vision statements and the draft actions produced through this exercise relates to maintaining the character of the area (viticultural and rural). There is support for a study of agricultural lands to identify and protect prime agricultural land, while allowing complementary land uses, such as accommodation and hospitality/retail, on non-prime agricultural land. Further, to allow sufficient housing and other short term accommodation to keep the area vibrant, while maintaining the character of the area - development to be predominantly low density and small scale with, some medium density development appropriate, no impact on scenic vistas or rural atmosphere of the area.

The Vineyards District Community Visioning provides some insight into current community thinking and issues in relation to the Vineyards District. The Vision statements for the Vineyards District were adopted by Council on 19 October 2011. The draft Objectives and Actions were placed on public exhibition until 3 February 2012.

6. Consistency with State Environmental Planning Policies

There are no existing or draft SEPPs that prohibit or restrict the proposed development as outlined in this planning proposal. An assessment of relevant SEPPs against the planning proposal is provided in Table 1 below.

Table 1: Relevant State Environmental Planning Policies

SEPP	Relevance	Consistency and Implications
SEPP 6 – Number of Storeys in a Building	Clarifies the reference to storey, floors and levels.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 21 -Caravan Parks	The SEPP provides for development for caravan parks.	Not applicable
SEPP 22 – Shops and commercial premises	The SEPP provides for the change of use of commercial premises.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 30 – Intensive Agriculture	The SEPP provides considerations for consent for intensive agriculture.	Not applicable
SEPP 32 – Urban Consolidation (Redevelopment of Urban Land)	The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 33 – Hazardous & Offensive Development	The SEPP provides considerations for consent for hazardous & offensive development.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 36 – Manufactured Homes Estates	The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.	Not applicable
SEPP 44 – Koala Habitat Protection	This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP 55 – Remediation of Land	This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination	Potential contamination of the land should be investigated in accordance with SEPP 55, and the information provided before any decision is made on rezoning to enable the responsible authority to be satisfied that the Land is suitable for the proposed uses.
SEPP 62 – Sustainable Aquaculture	The SEPP relates to development for aquaculture and to development arising from rezoning of land and is of relevance for the site specific rezoning proposals.	Not applicable.
SEPP 64 – Advertising and Signage	Aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations	Nothing in this planning proposal affects the aims and provisions of this SEPP.

	and is of high quality design and finish	
SEPP Housing for Seniors or people with a Disability 2004	The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Infrastructure 2007	Provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.	Nothing in this planning proposal affects the aims and provisions of this SEPP.
SEPP Mining, Petroleum Production and Extractive Industries 2007	The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.	Not applicable
SEPP (Rural Lands) 2008	The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.	Not applicable

7. Consistency with s.117 Ministerial Directions for Local Plan Making

An assessment of relevant s.117 Directions against the planning proposal is provided in Table 2 below.

Council's assessment against the sustainability criteria are provided below. As a comparison, the Proponent's table of assessment against the relevant s.117 Directions is included in the Proponents' Planning Proposal in Appendix 4.

Table 2: Relevant s.117 Ministerial Directions

Ministerial Direction	Aim of Direction	Consistency and Implication
1. EMPLOYMENT AND RESOURCES		
1.1 Business and Industrial Zones	Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.	Planning proposal not affected by this direction.
1.2 Rural Zones	The objective of this direction is to protect the agricultural production value of rural land.	The Proposal effectively will rezone the Land from rural to residential, tourist facility and recreation facility and increase the permissible density on part of the Land from 40 ha down to 450 m ² . There will be limited rural use on the Land if the proposed development is undertaken (some olive and vine planting is proposed at the edges of the development) and the proposed uses, particularly residential, golf course and hotel, are not a rural related purpose.

		The Proposal is considered to be inconsistent with direction.
1.3 Mining, Petroleum Production and Extractive Industries	The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Planning proposal not affected by this direction.
1.4 Oyster Aquaculture	Not applicable.	
1.5 Rural lands	The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes.	The Proposal is considered to be inconsistent with directions for the reasons outlined at 1.2.
2. ENVIRONMENT AND HERITAGE		
2.1 Environmental Protection Zones	The objective of this direction is to protect and conserve environmentally sensitive areas.	Planning proposal not affected by this direction.
2.2 Coastal Protection	Not applicable.	
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	<p>Aboriginal artifacts and sites have been identified on the Land. The archaeological study submitted with the Proposal, states that additional work is required to determine their significance and that the consent of the two Aboriginal parties consulted at the time of the study needs to be obtained.</p> <p>No provisions are included in the Proposal to protect heritage on the Land.</p> <p>For the above reasons the Proposal is considered to be inconsistent with direction 2.3.</p>
2.4 Recreation Vehicle Areas	The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i>).	Planning proposal not affected by this direction.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands.	This direction 3.1 applies to residential zones and any other zones in which significant residential development will be permitted. It is considered that this direction is not intended to apply to rural land that is remote from an urban centre. However, the Proposal will result in residential development well outside of

		<p>any urban footprint (existing or proposed). The Proposal has not demonstrated that it meets any specific or identified housing needs for the Cessnock LGA or region. The Proposal is not considered to be an efficient use of existing services (some of which will have to be extended long distances and augmented).</p> <p>For the above reasons the Proposal is considered to be inconsistent with direction 3.1.</p>
3.2 Caravan parks and Manufactured Home Estates	The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.	Planning proposal not affected by this direction.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Planning proposal not affected by this direction.
3.4 Integrating Land Use and Transport	The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.	<p>The Land is not integrated with any centre where there would be potential for meeting the objectives of this direction. Residents and visitors will be reliant on private cars, and will need to make more and longer trips to access goods and services that the residents of centre would generally undertake. The proposal would not improve travel demand including the number of trips generated and the distances travelled. Nor would it increase access to employment, housing and services by walking, cycling and public transport.</p> <p>For the above reasons the Proposal is considered to be inconsistent with direction 3.4.</p>
3.5 Development Near Licensed Aerodromes	The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by incompatible future adjoining land uses	Planning proposal not affected by this direction.
3.6 Shooting Ranges	The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.	Planning proposal not affected by this direction.

4. HAZARD AND RISK		
4.1 Acid Sulfate Soils	The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils	Planning proposal not affected by this direction.
4.2 Mine Subsidence and Unstable Land	The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Planning proposal not affected by this direction.
4.3 Flood Prone Land	The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.	<p>The Land is identified as being Flood Prone. In the supporting documentation it is indicated that flood mitigation and evacuation measures can be implemented to address flooding on the Land and comply with the NSW Governments Flood Prone Land Policy and Council's policies. A range of bushfire protection measures are also identified.</p> <p>While there is little detail, it is considered that any development under the Proposal can be made to comply, by way of amended design or conditions.</p> <p>At this stage it is not considered that the Proposal is inconsistent with this direction 4.3, with studies to be undertaken in accordance with the most recent versions of the relevant documents.</p>
4.4 Planning for Bushfire Protection	The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.	<p>The Bushfire Assessment was prepared prior to the updated Planning for Bushfire Protection Guidelines (2011) and is, therefore, out of date. However, the study does identify that asset protection zones, appropriate building construction levels, road clearance, static water supply, evacuation measures and vegetation management will be required with the Proposal.</p> <p>These measures have the potential to affect the design of the Proposal, and may have consequential effects that have not been considered in the Proposal, such as on use of</p>

		water and removal of vegetation around the proposed facilities. The full impact should be known prior to any rezoning of the Land and Council will seek to consult formally with the Rural Fire Service on these matters as part of the Planning Proposal.
5. REGIONAL PLANNING		
5.1 Implementation of Regional Strategies	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The Proposal is not of minor significance and does not achieve the overall intent of the LHRs is considered to be inconsistent with the Sustainability Criteria in the LRS and there is no demonstrated <i>Net Community Benefit</i> . For the above reasons the proposal is inconsistent with direction 5.1 and there is no justification for the inconsistency.
6. LOCAL PLAN MAKING		
6.1 Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Planning proposal not affected by this direction.
6.2 Reserving Land for Public Purposes	The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Planning proposal not affected by this direction.
6.3 Site Specific Provisions	The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Although the drafting of the “additional use” in the Proposal does not refer to a specific set of drawings, it does describe a particular development and does provide development standards that are not contained in the principal instrument.

Section C: Environmental, Social and Economic Impact

8. Impact on Threatened Species

A Statement of Effect on flora and fauna was undertaken for the site in 2005 by Wildthing Environmental Consultants where it was established that:

- The site contains three (3) vegetation communities, namely:
- Central Hunter Ironbark – Spotted Gum – Iron
- Lower Hunter Spotted Gum – Iron Bark Forest
- Disturbed grazing lands

The site contains the *Pomatostomus temporalis* (Grey-Crowned Babbler), a threatened species as listed in the TSC Act, 1995.

Further discussions with the Proponent and Office of Environment and Heritage will need to be undertaken prior to the Planning Proposal being finalised.

9. Environmental Impact

Agricultural land use

Peak and Allynbrook have tested and identified the soils on the Land in accordance with accepted practices and through accredited soil laboratories. Both have identified that the soil types on the land are generally poor due to type, as well as previous agricultural practices that have overgrazed the land and undernourished the soil. Both identify that the Land is not suitable for viticulture and that it would not be appropriate or wise to develop the land for viticulture.

Peak concludes “that the Land can sustainably continue to be grazed with cattle and support a weaner production enterprise. It can support viticulture and olives or other crops over around 17 hectares (7%) of the land. It will always, however, be an economically poorer business due to the poor soils, limited land area and significant capital injection is needed to upgrade soil nutrient levels and improve pastures.”

Allynbrook concludes “The report establishes that the majority of the area surveyed contains soils that are not prime viticultural soils. They are in fact of low agricultural value.” Allynbrook analyses establishment costs for a vineyard and concludes they would not be justified on the Land. Further, Allynbrook states development other than wine grape production on the Land will have a negligible impact on the potential supply of wine grapes in the Hunter, and indeed in this Lovedale area.”

While the soil analysis may be competent in both reports, the failing is in the fact that both reports have been prepared solely in consideration of viticulture versus the Proposal. Other uses, even continued cattle grazing that seems to be sustainable, have not been given due consideration. Nor have improved and innovative agricultural practices and ventures that have been developed in response to climate change and environmental damage concerns been given any consideration.

Aboriginal Archaeology

Burrarako was undertaken in 1998, well before the guidelines on assessing Aboriginal Cultural Heritage were published by DECCW (2011). The study is, therefore, out of

date. However the study is useful in that it documents evidence of Aboriginal archaeology on the site, and that further potential sites exist. Subsurface investigations are required to determine the nature and extent of archaeological material on the development site.

While the Wonnarua Tribal Council and the Mindaribba Local Aboriginal Land Council were consulted during the study, there is no evidence in the submission that either party has agreed to its content and recommendations for management of Aboriginal archaeology on the Land. Only one party replied to the recommendations of the study, and in that reply agreement was only given to the recommendation that further detailed research and investigation be undertaken into the significance of the items identified on the Land.

Burrarako recommend further investigation, research and consultation be undertaken with all artefacts found being collected should the site be developed, with the exception of one artefact scatter which should not be disturbed during the preliminary subsurface investigations. The impact of the Proposal on archaeology on the site is so far unknown. The Aboriginal archaeological study needs to be undertaken again in accordance with the relevant guidelines and with the participation of the relevant Aboriginal parties.

Water and Flood Management

ACOR have provided written confirmation from service providers (Hunter Water, Energy Australia, Telstra and AGL) that they are able to consider extending services to the Land subject to detailed design. The provision of services has not been costed by ACOR so the feasibility of extended services is not yet known.

ACOR have provided an assessment of potable water consumption, re-use of treated effluent, detention of surface flows above and below ground, and irrigation, and have provided a preliminary water balance that relies on captured stormwater, treated effluent being supplied to the Land from Hunter Water (an unknown quantity at this time) and water supplied from the private irrigation system. It is proposed to supply potable water via Hunter Water and re-use treated effluent on the golf course, olive plantation and vineyards.

Proposed on-site detention facilities will limit the post-developed flows from storm water detention areas to the pre-developed flows. This will ensure that the existing flow regime in Black Creek is maintained.

Proposed options for sewage treatment and disposal are on-site detention and connection to Hunter Water's reticulated scheme. An assessment of an on-site treatment and re-use system is included with the indication that all effluent can be treated on site and re-used with no run-off to Black Creek.

Bushfire Management

The Bushfire Assessment was prepared prior to the updated Planning for Bushfire Protection Guidelines (2011) and is, therefore, out of date. However, the study does identify that asset protection zones, appropriate building construction levels, road clearance, static water supply, evacuation measures and vegetation management will be required with the Proposal.

These measures have the potential to affect the design of the Proposal, and may have consequential effects that have not been considered in the Proposal, such as on use of

water and removal of vegetation around the proposed facilities. The full impact should be known prior to any rezoning of the Land and Council will seek to consult formally with the Rural Fire Service on these matters as part of the Planning Proposal.

Soil Management

An overview of site and soil conditions on the site is presented in Coffey. It is stated in the report that the site is considered to have a low to very low risk of slope instability that is not considered to be a constraint to the proposed development. Further, that soil erosion is not expected to be a constraint provided normal soil conservation practice is adopted and development is carried out with an appropriate soil and water management plan.

Traffic and Transport

An overview of traffic and transport is presented by Better Transport. The document states that traffic impacts will be minimal and well within the road capacity limits. Existing traffic flows (in February 2005) were well within technical capacity limits and operational levels of service good. Public transport, walking and cycling has not been considered. A roundabout on Wine Country Road that would also facilitate traffic entering The Vintage is proposed as the best means of access to the Proposal. Council's engineer's have not assessed the proposed roundabout.

The traffic information in the supporting document is out of date. However, it does indicate that traffic impacts, alternate transport options, and a suitable location for the entrance to the site need to be considered and resolved prior to any rezoning.

10. Social and Economic Impacts

The economic assessment is disjointed and lacks a clear conclusion. There is no comparison with similar activities in the Hunter region economy or elsewhere. There is no comparison with other activities in the Hunter region or the Vineyards District that would enable the reader to compare the benefits or negative impacts of the Proposal. Overall the claims made about the economic and social benefits in the Proposal, namely that "it will be a major stimulus to the economy" and "inject significantly into the local economy and community (sic)", are unable to be quantified at this time.

The economic analysis presented with the proposal is considered to be inadequate and should be undertaken with economic and financial qualifications and experience. The rezoning should not be contemplated until the full economic impact of the Proposal is investigated (including any negative impact on the wine industry and wine tourism in the Vineyards District) and a *Net Benefit* is genuinely demonstrated.

Most of the impacts identified in the SIA are economic or planning impacts, not social impacts. The SIA needs to be reviewed and updated to fully address community needs and the associated facilities required to achieve a net community benefit before any rezoning should be contemplated.

Section D: State and Commonwealth Interests

11. Adequate Public Infrastructure

The provision of infrastructure has not been costed in the Proposal. The preparation of a Voluntary Planning Agreement will be undertaken to ensure the adequate provision of local infrastructure (including the impacts of additional traffic on the local road network generated by future residential development, contributions to local open space and community facilities and drainage works).

12. Consultation with State and Commonwealth Authorities

Council will seek to consult with the following statutory authorities and agencies:

- Department of Planning and Infrastructure (DoP&I)
- Rural Fire Service (RFS);
- Office of Environment and Heritage (OEH);
- Hunter & Central Rivers Catchment Management Authority (CMA);
- Hunter Water Corporation (HWC); and
- Roads and Maritime Services (RMS).

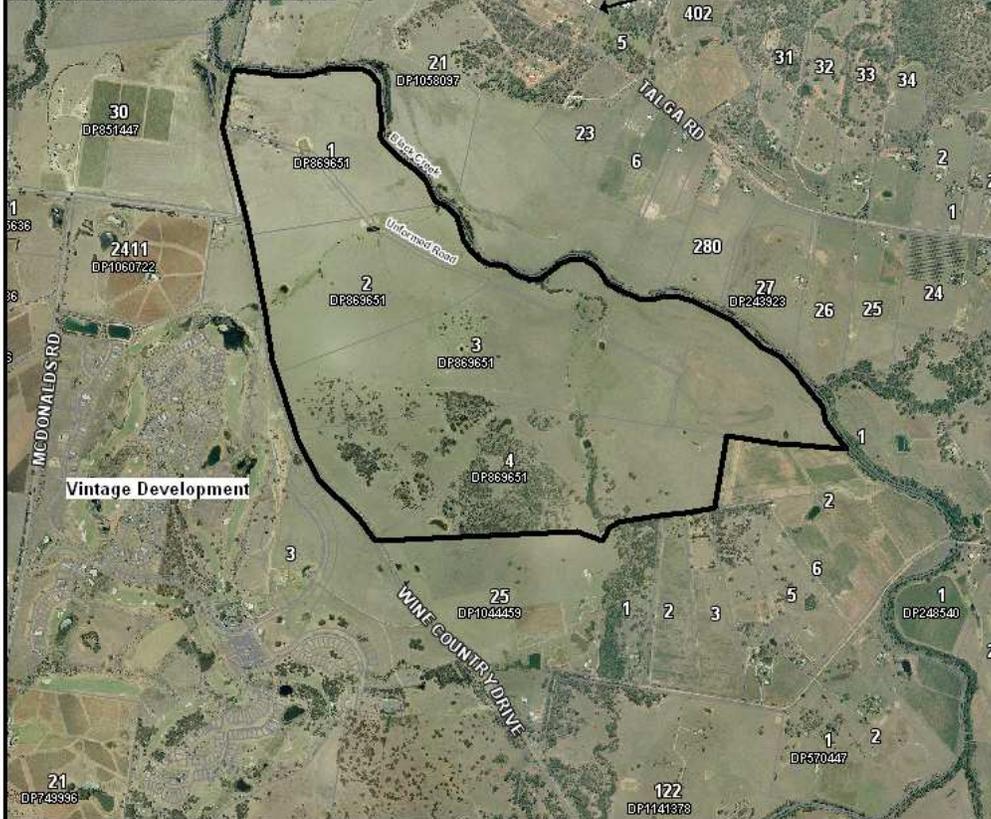
PART 4: COMMUNITY CONSULTATION

Community consultation will be undertaken in accordance with Council's guidelines and any specific requirements made by the Department of Planning and Infrastructure during the gateway determination

Aerial Location Plan :

Lots 1 to 4 DP 869651
1054 to 1184 Wine Country Drive, Rothbury

OVERVIEW MAP



Date Produced :
01 Mar 2012
Designed By :
Cessnock City Council
Scale :
1 : 20,000
Reference :
01 Mar 2012_Golden Bear_Aerial_B Moshage

Coordinate System :
Map Grid of Australia (MGA)
Datum 94
Zone 56.

Imagery :
Capture: 2006, 2007
AUSIMAGE 2011 ©
Sinclair Knight Merz



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Appendix 2: Proposed Zoning Map

The Proposal seeks to amend Schedule 1 of the Cessnock Local Environmental Plan 2011 to incorporate “an additional permissible use” over the Land. The supporting ‘Additional permitted uses’ map will also be amended to reflect this proposed additional use.

The proposed amendment is:

“To enable such parts of the “Jack Nicklaus Golf Club Resort” on Lots 1-4 DP 869651, Wine Country Drive, Rothbury for subdivision of lots to a minimum lot size of 450m² and the development of Recreational Facilities (Outdoor) and (Indoor), Tourist and Visitor Accommodation and Dwelling Houses provided at an equal 50/50 provision (temporary and permanent residency), hotel, function centre, retail premises and associated uses where the subdivision is required as an integral part of a major tourist and visitor accommodation development”

Appendix 3: Council Report and Minutes



Acrobat Document

Council report EE9/2012



Acrobat Document

Council minutes to report EE9/2012

Appendix 4: Proponent's Planning Proposal



Acrobat Document

Proponent's Planning Proposal prepared by HDB Town Planning and Design - March 2011