

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability

**SUBJECT:** *GOLDEN BEAR PROPOSAL***AUTHOR:** *Strategic Landuse Planning Manager - Peter Mann*

APPLICATION NUMBER:	18/2011/10/1
PROPOSAL:	REZONING PROPOSAL
PROPERTY DESCRIPTION:	GOLF COURSE, HOTEL ACCOMMODATION AND RESIDENTIAL SUBDIVISION
PROPERTY ADDRESS:	LOTS 1-4, DP 869651 WINE COUNTRY DRIVE, POKOLBIN
ZONE:	RU4: RURAL SMALL HOLDINGS
OWNER:	CAPITAL CORPORATION PTY LTD
APPLICANT:	HDB TOWN PLANNING & DESIGN

SUMMARY

This report presents an assessment of a planning proposal to amend the permissibility of land uses on Lots 1 to 4 DP 869651, Wine Country Drive, Pokolbin (the Land is sometimes referred to as the Golden Bear site). The planning proposal is made in conjunction with a development concept for residential subdivision, hotel, tourist and visitor accommodation, an 18-hole golf course, function centre, spa and associated recreation and retail facilities. A number of the proposed uses were prohibited under the Cessnock Local Environmental Plan 1989, and these prohibitions have increased under the Cessnock Local Environmental Plan 2011 that was gazetted on 23 December 2011.

RECOMMENDATION

1. That Council note the Planning Proposal is inconsistent with the strategic context set by Cessnock City Council in Cessnock 2020 Community Strategic Plan and the Cessnock City Wide Settlement Strategy.
2. That Council note the Planning Proposal is inconsistent with the strategic context set by the Lower Hunter Regional Strategy.
3. That Council note an amendment to the Cessnock Local Environmental Plan 2011 in accordance with the Planning Proposal is not justified as it is:
 - Contrary to regional and local strategies;
 - Contrary to good planning practice; and
 - May prejudice the future viability of the Vineyards District as a tourist destination.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



BACKGROUND

References

Throughout this report the planning proposal and the development concept are referred to collectively as **the Proposal**, given that the objective of the planning proposal is to allow for that specific development. Other abbreviations used in this report are shown in bold type and in brackets in the following lists. The Proposal is written in the following documents:

- *Revised Planning Proposal For Jack Nicklaus Golf Course of Australia, Pokolbin – November 2011*, HDB Town Planning and Design;
- *Revised Planning Proposal For Jack Nicklaus Golf Course of Australia, Pokolbin – December 2011*, HDB Town Planning and Design

The latter version was lodged by letter on 7 December 2011 to account for a change in the exhibited draft *Cessnock Local Environmental Plan 2010* that made *recreation facility (outdoor)* a prohibited use in the proposed RU4. This report refers to, and quotes from, the latter version.

Other supporting documentation lodged with the Proposal comprises:

- *Assessment of Impact of Resort on Golf and Wine Tourism 2007*, Macroplan Australia Pty Ltd (Appendix A of the submission) (**Macroplan 2007**)
- *Social Impact Assessment 2005*, HDB Town Planning and Design (Appendix B of the submission) (**SIA**)
- *Economic Impact Assessment 2008*, Macroplan Australia Pty Ltd (Appendix C of the submission) (**Macroplan 2008**)
- *Agricultural Land Suitability Assessment 2004*, Peak Land Management (Appendix D of the submission) (**Peak**)
- *Viticultural Assessment 2007*, Allynbrook Pty Ltd (Appendix E of the submission) (**Allynbrook**)
- *Preliminary Archaeological Investigations 1998*, Burramoko Archaeological Service (Appendix F of the submission) (**Burramoko**)
- *Statement of Effect on Flora and Fauna 2005*, Wildthing Environmental Consultants (Appendix G of the submission) (**Wildthing**)
- *Public Utilities Servicing, Flood Plain and Stormwater Management, Preliminary Water Balance, Proposed Sewerage Treatment and Effluent Reuse 2005*, ACOR Consultants Pty Ltd (Appendix H of the submission) (**ACOR**)
- *Bushfire Threat Assessment 2005*, HDB Town Planning and Design (Appendix I of the submission) (**Bushfire Assessment**)
- *Geotechnical Assessment*, Coffey Partners International 1997 (Appendix J of the submission) (**Coffey**)
- *Traffic Assessment Report 2005*, Better Transport Futures Transport Planning and Engineering (Appendix K of the submission) (**Better Transport**)
- *Written Compliance - Vineyards District Community Vision 2011*, HDB Town Planning and Design (Appendix L of the submission) (**VDCM**)

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



The following State Government (**State**) documents are referred to:

- *A Guide to Preparing Planning Proposals*, State of New South Wales through the NSW Department of Planning July 2009 (**the Guide**)
- *Lower Hunter Regional Strategy*, State of New South Wales through the NSW Department of Planning October 2006 (**LHRS**)
- *Draft Centres Policy – Planning for Retail and Commercial Development, consultation Draft April 2009*, State of New South Wales through the NSW Department of Planning April 2009 (**Centre's Policy**)

The following Cessnock City Council (**Council**) documents are referred to:

- *Cessnock Local Environmental Plan 1989*, now repealed (**LEP89**)
- *Cessnock Local Environmental Plan 2011*, gazetted 23 December 2011 (**LEP2011**)
- *Cessnock 2020 Community Strategic Plan*, adopted October 2010 (**CSP**)
- *Cessnock City Wide Settlement Strategy*, adopted September 2010 (**CWSS**)
- *Vineyards District Community Vision Community Consultation Report*, Straight Talk September 2011 (**VDCV**)
- *Planning Investigation Study: Development Within the Vineyards District*, James Matthews 2010 [**Matthews**]

The following diagrams and extracts from the proponent's submission are provided in the Enclosures:

- Enclosure 1 Location plan
- Enclosure 2 Aerial photograph
- Enclosure 3 Development concept
- Enclosure 4 Proponent's *Net Community Benefit Test*
- Enclosure 5 Proponent's Sustainability Criteria Assessment
- Enclosure 6 Proponents Compliance with s.117 Directions

1.1 Planning Proposal Summary

The Proposal contains a draft amendment to Schedule 1 of LEP11 to incorporate "an additional permissible use" on the Land, and a map amendment to reflect the additional use. The proposed amendment is quoted from the Proposal. This is also the stated objective of the Proposal. [p 8 & 10]

"To enable such parts of the "Jack Nicklaus Golf Club Resort" on Lots 1-4 DP 869652, Wine Country Drive, Rothbury, (as identified on the additional permitted uses map) 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, in the opinion of the Council, required as an integral part of a major tourist and visitor accommodation development."

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



The amended permissibility of land uses on the Land is necessary to allow for a specific development concept that includes:

- 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.

1.2 Permissibility

The Land was zoned 1(v) Rural (vineyards) under LEP89. Residential subdivision down to 450m² was not permitted in the zone, by way of a general restriction of 1 dwelling house per 40 ha. All other forms of permanent *residential accommodation* were prohibited in the zone, as was *hotel*. *Recreation area, recreation facility and integrated tourist facility* were permissible in the zone with consent.

The Land is zoned RU4 Rural Small Holdings under LEP11. 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. *Hotel or motel accommodation, recreation facility (indoor), recreation facility (major), recreation facility (outdoor)* and *retail premises* are also prohibited in the RU4 zone. *Function centre, tourist and visitor accommodation* are permissible with consent in the RU4 zone.

Under LEP11 the proposed residential subdivision, permanent residential accommodation, golf course, hotel, spa and associated recreational and retail facilities are prohibited. The tourist elements are permissible with consent. The intention of LEP11 is to allow for low scale tourist activity, in the RU4 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. For this reason, most of the proposed uses in the Proposal are prohibited.

1.3 The Land and Location

The Land, Lots 1 4 DP 869651, Wine Country Drive, Pokolbin, is approximately 241.5 ha in area and is located 15 km north of the city of Cessnock and 8 km south of the town of Branxton, on Wine Country Drive, in an area known as Pokolbin North (see location plan Enclosure 1). Wine Country Drive is the main road between Cessnock and Branxton and gives access to Pokolbin North and its many wineries and tourist accommodations. The Vineyards District is a specialised centre recognised in the LHRS for its economic importance in the region and its contribution to tourism in NSW. Most of the Vineyards District, including the Land, is zoned RU4.

The Land is flat to gently sloping, and is rural in character, having been substantially cleared and used for agricultural activities, mainly grazing. Black Creek runs through the middle of the Land, generally in a north-south direction, and drains further to the north into the Hunter River. The Land consists of improved pasture with areas of woodland and regrowth in the south and west. The woodland consists mainly of Lower Hunter Spotted Gum-Ironbark

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Forest, the regrowth is dominated by juvenile Eucalypt species with minimal scattering of Melaleuca, and the narrow strip lining Black Creek is dominated by two species of Casuarina (Wildthing p1). Structures on the Land include fencing, dams, sheds, feed silos, holding yards, a dwelling, and a derelict homestead.

Wine Country Drive runs along the western boundary of the Land. Rural land with similar character to the Land adjoins to the north, south and east. Extensive views are available from the road through the Land, to the ranges in the distance to the north and east. To the west of the Land is a residential/golf course/tourist accommodation/spa development known as *The Vintage*. Views from the road of *The Vintage* and the land beyond are obscured by a high, grassed mound ("buffer") that has been placed between the road and the development.

Huntlee township, adjacent to Branxton about 8 km to the north, is identified for development (through a recent rezoning) for a population of 20,000. The F3 Freeway extension is approved for construction and will incorporate an exit at Branxton. The F3 to Branxton link will provide an interchange at Branxton that will give access to Wine Country Drive and increase access to the Vineyard District from the north.

The following attributes have been identified from the supporting documentation submitted with the proposal:

- The Land is identified as Class 3 under the NSW Agricultural Land Suitability system [Peak p19] and, while the soils are relatively poor compared to prime agricultural land, show some degradation from over grazing and over clearing, and some of the infrastructure is rundown, the Land is suitable for grazing and pasture improvement [Peak p4]. The Land is not considered suitable for viticulture production [Peak p4 & Allynbrook p3].
- A preliminary archaeological investigation revealed Aboriginal artefacts and sites are present on the Land; however, the proposed development site has not been researched enough to enable the significance of these to be determined. [Burrarako p 5 & 6].
- A community of Grey-Crowned Babblers (bird) was found to be living on the Land and is associated with the remnant Lower Hunter Spotted Gum – Ironbark Forest also found on the Land in the remnant vegetation. [Wildthing p1 & 2]. The former is a threatened species and the latter is an endangered ecological community as per the *Threatened Species Conservation Act 1995*.
- The lower reaches of the Land adjacent to Black Creek are subject to inundation in the 1% Annual Exceedance Probability Storm Event [ACOR p3].
- The Land is bushfire prone, as per Council's Bushfire Prone Land Map, [Bushfire Assessment p.1].
- The traffic impacts will be minimal and well within capacity limits of Wine Country Drive. [Better Transport p14].

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



1.4 Recent history

The previous owner of the land requested rezoning of the Land for a development similar to that foreshadowed in the Proposal in the late 1990's, following approval of *the Vintage*. That request did not proceed and the Land subsequently sold to the current owner. A rezoning request to accommodate the development concept foreshadowed by the Proposal was originally lodged with Council in 2005.

A development comprising 522 residential lots, 445 tourist accommodation units, 300 tourist "keys", a golf course, clubhouse, spa and recreation facilities was approved on *The Vintage*, mainly in 1986 and 1996, and is partially constructed and occupied. *The Vintage* was approved under clause 17(2) of LEP89 that provides:

"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."

It should be noted that Clause 17(2) was a specific amendment to LEP89 originally to allow otherwise prohibited components of the Cypress Lakes development further to the west, and then subsequently to allow the otherwise prohibited components of the Vintage development (residential subdivision and permanent residential accommodation).

An extension to *the Vintage* is also proposed that would increase the residential component, by 250 private lots/dwellings and 200 seniors housing units, on land known as *The Vintage Balance Land*. Clause 17(2) of LEP89 does not apply to the Land or the *Vintage Balance Land* and an LEP amendment is required if either proposal is to proceed. (Note that an amendment to this effect is now required to be introduced in LEP2011).

Council commissioned two reports in relation to the proposed developments and the requested rezoning – one known as the 2005 *Warne Report* and the other known as the 2008 *Croft Report*.

The 2005 *Warne Report* investigated the appropriateness of permanent residential development as part of tourist development in the Vineyards District and concluded that permanent residential development in the Vineyards District should not be considered "until an overall settlement hierarchy has been established and the implications for future demand for tourism accommodation in the Vineyards District are more fully understood." (Note that a settlement hierarchy was adopted by Council on 1 September 2010 and is discussed under **Point 2.2.2**).

The 2008 *Croft Report* reviewed the strategic context of permanent residential development, focusing on the Land and *Vintage Balance Land*. The review also considered the wider context of the Vineyards District, and recommended, among other things, "that Council not agree to additional residential development for permanent residents on the Jack Nicklaus site (the Land) and the Vintage Balance Land, or in the Vineyards District generally."

Despite the findings of *Warne* and *Croft* Council sought approval from the then NSW Department of Planning (the Department) to prepare amendments to LEP89 to enable permanent residential development as an "integrated" part of the two "tourist" proposals. The Department sought independent advice from Charles Hill Planning on the implications of

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



extending the provisions of clause 17(2) to enable the additional permanent residential component on the two sites. This report concluded:

- There would be negligible impact on potential loss of agricultural land or value. With proper planning and management, it is not anticipated there will be any significant adverse impacts on the rural character of the locality;
- Any potential land use conflicts are capable to be managed through the establishment of adequate buffers;
- Unlikely to set a precedent given the statutory and non-statutory framework and any future proposal would need to be considered on its merits;
- Given the socio-economic status of the residents, the limitation on permanent residential accommodation, the expected permanent population within both developments, the need for any services is not anticipated (taken from a report prepared by the NSW Planning and Assessment Commission to the Hon Kristina Keneally dated 24 November 2009).

The Department then prepared a report, referring to the Charles Hill Report, recommending that the Minister agree to both draft LEPs and for both development proposals proceeding, subject to a restriction on permanent dwellings (250 for the *Vintage Balance Land* to be linked to the proposed 300 tourist keys, and 300 for the Golden Bear, based on the 250 short stay apartments/villas and 50 room hotel) (taken from a report prepared by the NSW Planning and Assessment Commission to the Hon Kristina Keneally dated 24 November 2009).

On 29 October 2009, the Hon Kristina Keneally, MP, then Minister for Planning, requested advice from the NSW Planning and Assessment Commission (PAC) on the Department's report. The PAC, consisting of Janet Thompson (chair), Donna Campbell and Garry Payne, investigated and prepared a report that concluded "that the recommendations in the Department of Planning's report that the LEPs proceed is contrary to sub-regional strategies and to good planning practice and may prejudice the future viability of the vineyards area as a tourist area". The LEP amendments have not proceeded. The proponent for the Land has requested a formal opinion from Council on the rezoning via the Proposal that was submitted in March 2011.

Matthews found that a number of large tourist developments that had been approved had not been fully developed – the combined existing and potential supply was 2067 rooms, of which 667 - or 32% - had not been developed [Matthews p.14]. With an estimated occupation rate of all tourist accommodation at 50% on any given night, there were approximately 1400 rooms available [Matthews p.15]. There is a large quantity of land within the Vineyards District that has development entitlement that would significantly increase the tourist accommodation yield. Equity and sustainability needs to be considered, as large developments significantly impact on the feasibility of future development and large numbers of people are drawn away from the existing accommodation [Matthews p.29].

REPORT/PROPOSAL

This report does not provide a comprehensive or detailed assessment of the development concept, or a detailed analysis of the supporting documentation. Given the recommendation of this report and the significant age of some of the supporting documentation (and hence non-compliance with current requirements) the report provides an assessment of the

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Proponent's justification for the Proposal, incorporating conclusions from the supporting documentation where relevant, and focuses on strategic issues. A brief outline of the content of each of the supporting documents is provided in **Points 2.3.1, 2.3.2 and 2.3.3.**

2 Planning Proposal Justification

The Director General has, under Section 55(3) of the EP&A Act, issued requirements regarding the specific matters that must be addressed in the *Justification*. The structure of the *Justification* is set out in the Guide and is provided in Part 3 – *Justification* of that document. This structure has been used by the applicant and is followed here to allow for a comparative response to be addressed.

2.1. Need for the Planning Proposal (Section A of the Guide)

2.1.1. *Is the planning proposal a result of any strategic study or report?*

There are no strategic studies or reports that encourage the type of development that is proposed in the Proposal. Conversely, there are a number of strategic documents that contain a consistent set of planning principles to guide development in the Vineyards District and prevent the type of development that is proposed. The consistent principles that are espoused in the relevant strategic documents are discussed below in more detail under **Point 2.1.3** and include:

- Maintain the viticulture and rural character of the Vineyards District;
- Locate residential development in close proximity to identified centres and employment areas in order to maximise access to services and employment opportunities;
- Minimise conflict between viticulture and non-viticulture land uses;
- Enable continued rural use of land which is complementary to the viticulture character of the area;
- Encourage tourist development that is consistent with the viticulture character of the district;
- Avoid any increase in dwelling entitlements on rural zoned land.

It is stated in the Proposal "The site is not identified as 'release area' within the Lower Hunter Regional Strategy 2006-31, however is considered to satisfy the sustainability criteria (refer to Section B)" 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 recognized tourist facility with permanent occupancy by way of an additional permitted use can therefore be considered." [Proposal p.12]

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

2.1.2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



It is stated in the Proposal "The Department of Planning have identified the Gateway Process as the most appropriate course for this proposal. It is therefore considered that an amendment through the gateway process to the Draft Cessnock LEP 2010 or existing Cessnock LEP 1989 (whichever applies at the time) is the most effective and timely method to achieve the desired outcome, rather than seek to resurrect previous applications." [Proposal p.13] The source of the Department's advice is not specified.

It is agreed that amending LEP11 is the only way to achieve permissibility of the proposed uses that are currently prohibited on the Land. However, the proposed drafting of the amendment to Schedule 1 of LEP11 is inconsistent with the Local Plan Making Directions, made under s 117(2) of the EP&A Act, and the Standard Instrument format (explained at **Point 2.2.4**). The preferred methods are to either apply a zone in which the desired uses are permissible, or allow an additional land use or land uses that are defined in the standard instrument.

It is not considered timely to effect the proposed amendment, given LEP11 has recently been gazetted and is based on current strategic context and documentation, all of which has been subject to government and public consultation. Strategic consideration of tourism and diversity of business opportunities in the Cessnock LGA is identified in Council's CSP and it is considered timely to wait until that strategic work is undertaken to consider the proponent's claims in support of the Proposal. Specifically Council needs to determine whether a proposal that caters to golfers as a niche market, and whether having a golfing 'hub' on the edge of the Vineyards District, would support the wine industry and wine tourism or whether such development will detract from the viability of the Vineyards District.

2.1.3. Is there a net community benefit?

The *Net Community Benefit Test* is from the Centres Policy for use in conjunction with rezoning proposals related to centres, but can be adapted for use with other rezoning proposals. A one page *Net Community Benefit Test* is included in the Proposal and is attached to this report at Enclosure 4. It is stated in the Proposal "*Based on the answers it is evident the Planning Proposal will result in a "Net Community Benefit"*" [Proposal p.14]. It is not explicitly stated what the net community benefit will be.

The proponent prepared the *Net Community Benefit Test* without the participation of Council, and Council has not endorsed the proponent's '*Net Community Benefit*'. The level of detail and analysis in the *Test* is limited and does not reflect the likely impact of the Proposal, which is a major departure from the current strategic planning context and recently adopted planning controls. Figures and examples 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

The following Table provides an analysis of the proposal against the *Net Community Benefit Test*. It is noted that the *Test* is not entirely applicable to the Proposal and the responses have been tailored accordingly. The responses indicate that the Proposal is unlikely to have a *Net Community Benefit*.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Evaluation Criteria	Comment
Will the LEP be compatible with agreed State and regional strategic direction for development in the area?	No – the proposal is not consistent with the LHRS or state policies on residential and rural development that generally require: • protection of the wine industry and the rural and viticulture character of the Vineyards District; • residential development to be focused in and adjacent to existing towns and villages; • no increase in rural residential development until existing zoned land has been fully developed; • no reduction in rural lot size or increase dwelling entitlement on rural land;
Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub-regional strategy?	Yes - The Land is within the Pokolbin vineyard and tourism precinct that is identified within the LHRS as a specialised centre. The key function of this specialised centre is the concentration of regionally significant economic activity and employment focused on the wine and wine tourism industry. The LHRS indicates the centre will accommodate 1600 additional jobs but does not require any additional housing.
Is the LEP likely to create a precedent or create or change the expectations of the landowner or other landholders?	Yes – the circumstances that have been used to justify the Proposal are not unique to the Land. The proposal amounts to a residential zoning of the Land on the basis that a tourist facility will be included. Given the financial benefit of rezoning rural land for residential use it is possible that other rural landowners will seek such a rezoning on the basis of incorporating a tourism component.
Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?	Yes – the previous iteration of this Proposal, and another on the adjacent <i>Vintage Balance Land</i>, have been considered in the past in two Council commissioned studies that addressed the residential component. Both studies concluded that the rezoning proposals not be supported and that residential use of the lands could have negative impacts on the area's rural and viticulture character, and on the viability of its wine and wine tourism industry. The NSW Planning Assessment Commission supported these conclusions in a report to the then Minister for Planning in November 2009 and the proposed rezoning was not progressed.
Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?	Uncertain - it is indicated in the Proposal that 248 long-term jobs will be created, with 67 of those in the region. However there is no analysis of how the Proposal might impact on the viability of wine and wine tourism, or comparison with

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Evaluation Criteria	Comment
	employment opportunities that would be created from other types of development in the region with a similar level of investment. Further, there is no analysis of the need for the recreation and class of tourist facility proposed and whether the proposal will generate additional tourism and employment, or whether it will simply draw patronage from similar developments in the area – that is transfer benefits rather than create additional or net benefit.
Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?	Yes – while the Proposal would contribute 300 dwellings to housing stock, there is no analysis of whether the type of housing proposed will address housing need in the region and the Cessnock LGA, and no analysis of the impact of the proposed housing on affordability. Given that the proposed housing is for the upper end of the market the Proposal could contribute to reduced affordability in the region and in the Cessnock LGA and increase the difficulty of finding affordable accommodation for low-income households.
Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport?	Yes - it appears that Wine Country Drive is capable of servicing the proposed site for traffic. Hunter Water has noted that the proponents intend to manage waste water on site but, if connection to the sewer is to be sought, further detailed advice and approval will be required. Hunter water has not formerly indicated that capacity or connection is available. No - 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. 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.
Will the proposal result in changes to the car distances traveled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?	No – while not directly applicable in relation to customers, employees and suppliers, it is conceded 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 greenhouse gas emissions.
Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?	Not directly applicable.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Evaluation Criteria	Comment
Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?	Yes – The land is bushfire and flood prone. A threatened species associated with an endangered ecological community, has been found on the land. Both are required to be considered and protected under the <i>Threatened Species Conservation Act 1995</i>. Aboriginal archaeology has been found on the Land and is required to be considered and protected under the <i>National Parks and Wildlife Act 1974</i>. A study of European heritage has not been undertaken and needs to be addressed under the <i>Heritage Act 1979</i>. A named creek runs through the Land and is required to be considered and protected under the <i>Water Management Act 2000</i>. Requirements for protection in relation to flora and fauna, aboriginal archaeology, possible European heritage, bushfire and flooding, and the riparian area will, to some extent, constrain development on the Land.
Will the LEP be compatible/complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve?	No – residential development, hotel, retail and recreation facility are not considered appropriate in the RU4 zone and are therefore prohibited – an indication that such land uses are not compatible/complimentary with surrounding land use, which is predominantly rural and low scale tourist facility. The Proposal will have a negative impact on the rural and viticulture character of the area, as it will introduce uses that are not compatible/complimentary and will significantly increase the density of development on the Land in comparison to most of the surrounding land. The site is a northern gateway into the Vineyards District (that will increase in importance with the F3 extension to Branxton). A high-density development at the gateway to a rural area is not an appropriate public domain element and will detract from the rural and wine tour experience. Any attempt to hide the development behind a buffer will cut off the view from the road, across the site to the ranges that is a characteristic feature of this rural area.
Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?	Uncertain – there are two similar developments in the Vineyards District (<i>the Vintage</i> and <i>Cypress Lakes</i>). A third development and the extension of <i>the Vintage</i> may increase choice and competition for tourists. It is stated in the Proposal that the residential subdivision is required to make the proposed golf course and tourist facility financially feasible – such limited feasibility indicates that the proposal is not the best use of the land in terms of orderly and economic development.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Evaluation Criteria	Comment
If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?	Uncertain – continued residential development outside of the existing centres may eventually lead to services being required in the vicinity and the concentration of golf courses may lead to the development of a centre of sorts.
What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?	Nil – it has not been demonstrated in the Proposal that there are clear public benefits. While there is provision of housing, employment and possibly competition, most of the benefits will accrue to the owner of the land and the occupiers of the development, most of which will come from outside of Cessnock LGA. There are potential negative impacts of the proposal (as outlined above) that are currently considered to outweigh any benefit such as the limited employment opportunities. By not proceeding with the rezoning at this time the negative impacts of the development can be avoided and further strategic work can be undertaken to determine whether the opportunity of becoming a nucleus for quality golf course (and the need to provide significant residential development to shore up the feasibility of such) will benefit or undermine the wine and wine tourism industry in the Vineyards District.

2.2. Relationship to strategic planning framework (Section B of the Guideline)**2.2.1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?**

It is stated in the Proposal "This planning proposal is not inconsistent with the visions expressed in the *Lower Hunter Regional Strategy 2006*, in that it will provide for a specific housing market and create an employment source that will continue long into the future as well as include self funded infrastructure and be designed to protect and enhance the environmental and ecological values of the site" [Proposal p.15]. The Proponent has included an assessment of the proposal against the Sustainability Criteria stipulated in Appendix 1 of the LHRs, necessary because the Land is not identified as an urban release area.

The thrust of the LHRs is to focus housing and employment growth in Newcastle and in/around a hierarchy of regional centres (that includes Cessnock), emerging centres and lower order centres, in a more compact rather than dispersed form of development, and to protect employment and rural lands from inappropriate development. To support this focus, urban release areas are identified and councils are required to limit further dwelling entitlements in rural areas and maintain or increase minimum lot sizes for dwellings in rural zones.

Pokolbin is identified as a specialised centre in the LHRs, with an expected increase of 1600 jobs. As part of the balancing process between competing interests for land in the Vineyards

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



District, the LHRS also requires councils to protect agricultural land from encroachment by urban and rural-residential development [LHRS 2006, p 36-37]. In recognition of this approach, the LHRS also makes a clear distinction between this form of specialised centre and other commercial centres by not allocating any associated dwelling capacity projections to support its employment growth.

The LHRS requires a consistent approach to the zoning of rural lands that espouses protection from inappropriate and incompatible land uses, but includes the Sustainability Criteria that provide a framework to consider inconsistent planning proposals that nonetheless have merit. The Proponent's table of assessment against the Sustainability Criteria is included in the Proposal and is attached to this report at Enclosure 5. While the Proposal is not considered to have merit the responses in the Table are provided as a comparison to the Proponent's responses. The responses indicate that the Proposal is unlikely to contribute to sustainable development or exhibit enough merit to overcome the negative impacts.

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 greenhouse gas emissions. 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.
3. Housing Diversity - Provide a range of housing choices to ensure a broad population can be housed	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. It is intended that the proposed housing will be taken up by corporate investors (40%), second and third home buyers (40%) and relatively

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Sustainability criteria	Comment
	affluent and retired/semi-retired permanent residents (20%). 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.
4. Employment Lands - Provide regional or local employment opportunities to support the Lower Hunter's expanding role in the wider regional and NSW economies.	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; • 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. 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. 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. 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.
5. Avoidance of Risk - Land use conflicts and risk to human health and life, avoided	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. 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.
6. Natural Resources - Natural resource limits not exceeded, environmental footprint minimized.	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.
7. Environmental Protection - Protect and enhance biodiversity, air quality, heritage and waterway	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

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Sustainability criteria	Comment
health	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. 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. A Water Balance report is included in the supporting documentation. 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.
8. Quality and Equity in Services - Quality health, education, legal, recreational, cultural and community development and other Government services are accessible.	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. 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.

2.2.2. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The proponent does not make any reference to *Cessnock 2020 – Community Strategic Plan (CSP)* in the Proposal. The Proposal is considered only against the most relevant objectives of the CSP. Without evidence to the contrary in the Proposal, it is considered that the proposal will not contribute to the following adopted community objectives, given that the objectives are about people living in the Cessnock LGA and the Proposal is, to a large extent, about providing for the recreational and social needs of communities that live elsewhere.

- Promoting social connections;
- Strengthening community culture;
- Promoting safe communities; and
- Fostering an articulate and creative community.

It is considered that the Proposal will not directly contribute to the following economy objective at this time. The Proposal is presented as a means of increasing and diversifying tourism. However, it is identified in the CSP that there is a need to develop specific tourism strategies for "towns, villages and niche markets" to achieve the increase in tourism. The Proposal is pre-empting 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.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



- Increasing tourism opportunities and visitation in the area

It is considered that the Proposal will have a negative impact on the rural character of the area (as per the following environmental objective) in that it presents a higher density development in a generally very low-density environment. The current rural landscape would almost completely disappear under the manicured character of the golf course and urban style built form.

- Protecting and enhancing the natural environment and the rural character of the area,

Cessnock City Wide Settlement Strategy 2009 (CWSS)

The CWSS was originally prepared in 2003 and endorsed by the Department in 2004 as an environmental study for the purposes of preparing a new citywide LEP. The original CWSS was catchment based and incorporated growth and management principles, objectives and actions for each identified catchment. All references to catchments were removed in a review undertaken in 2009 in order to align the CWSS with the standard instrument format of the LEP 11

In the Proposal, reference is made to the 2003 version and catchments, and the fact that the Black Creek catchment is not specifically identified for residential development. It is stated in the Proposal "However the CWSS does identify the need for additional residentially zoned land. It is considered the environmental constraints identified by the Strategy can be addressed and the development of the site is compatible with the surrounding land uses particularly the "Vintage Golf Course". The proposal is not inconsistent with the Strategy." [Proposal p.18] No detail about the environmental constraints so identified, or what part of the Strategy the Proposal is consistent with, is provided.

A study of residential development is included in the CWSS and provides the following conclusion:

"This analysis confirms the dispersed nature of settlement growth across the LGA, with significant development pressures for dwellings in the rural areas. Continuing with this pattern of growth will not lead to the development of a settlement hierarchy underpinned by the creation of sustainable communities. The CWSS seeks to address these competing interests by redirecting dwelling demand into a more sustainable settlement pattern, in accordance with the actions contained in the LHRs."

Further, it is stated that the sites identified for potential urban release areas in the Strategy are currently more than sufficient to accommodate Council's needs for population growth within the next 25 years" and "will provide a range of housing choice and locality and public transport options." [CWSS p.55]

It is further stated in the CWSS that "Council has recently considered the issue regarding the suitability of the Vineyards District to accommodate permanent residential occupation in association with major tourism developments. The 2006 review found that there was little justification to amend Council's LEP to support permanent residential occupation in and around the various nominated major tourist resorts either existing or proposed within the Vineyards District. Such a proposal is inconsistent with local and State policy and has the potential to detract from the character of this area that is primarily dedicated to winemaking. Accordingly, Council resolved not to support any additional permanent residential occupation

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



as part of any major tourist development in the Vineyards District. This direction from Council is supported in the CWSS 2009." [CWSS p.157] The relevant Directions and Actions provided in the CWSS in relation to Settlement Hierarchy and Tourism are:

Direction 1: Contain the urban footprint to that identified in the LHRS and the CWSS 2009.

Action 1: Council not support any further 'englobo sites' for urban expansion beyond that identified in the Lower Hunter Regional Strategy and the CWSS. "Innovative proposals" can be considered under the Sustainability Criteria outlined in the LHRS.

Action 2: Council to review this position in five years in accordance with the LEP review process.

Direction T1: Retain current planning controls for the Vineyards District, where appropriate.

Direction T2: Council not support any additional permanent residential occupation as part of any major tourist development (existing or proposed) as a policy direction of Council.

Direction T4: Simplify planning controls for tourist accommodation units by linking permissibility with dwelling entitlement in the rural areas of the LGA.

Direction T5: Retain adopted directions in CWSS (2003) that introduce density provisions for tourist accommodation units in the rural areas of the LGA.

Council intends to undertake an Agricultural Lands Study that will determine the base requirements for sustainable agriculture (including dwelling entitlements) and retain the 40 ha development standard for rural lot size for a dwelling until the findings of the Study are available. There are no Directions or Actions in the CWSS that explicitly support the Proposal.

Vineyards District Community Visioning 2011 (VDCV)

Appendix L of the supporting documentation to the Proposal provides "The Planning Proposal's compliance with the Draft Objectives and Draft Action Plans identified within the vision issued on 16 September 2011" It is stated in the conclusion "that the proposed Jack Nicklaus Golf Course generally satisfies the draft objectives and actions of the Vineyards District Community Vision. The supporting studies undertaken for the planning proposal and submitted in March 2011 identify that the proposed land uses for the site are appropriate and do not compromise the character of the area or the availability of prime agricultural or viticultural lands."

The VDCV was initiated by Council to identify community goals and priorities, and develop an action strategy to guide the future of the Vineyards District. The project was undertaken on behalf of Council in August and September 2011. A draft report was issued for public comment on 16 September 2011. The report provides draft vision statements and draft actions to support the vision statements.

Strategic issues identified through the VDCV are ongoing infrastructure requirements, protection and management of the unique natural environment and agricultural land, and the continued development of local and regional employment opportunities. It is stated in the draft report that community participants were united in their desire to see the Vineyards District thrive and maintain its viticultural and rural character, that the tourist interest is considered to be primarily in viticulture, and that tourists feel that they are in the Vineyards District when they enter it is important. The relationship between landscape, viticulture, rural area and tourism is recognised.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



A series of vision statements based on two community workshops(adopted by Council on 19 October 2011) and individual inputs were refined and tested at a third community workshop with the following draft vision statements agreed:

"The Vineyards District:

V: has High quality infrastructure and services which meet the community's needs;

V: Maintains and preserves the rural amenity, character and scenic vistas of the region for future generations to enjoy;

V: Council and community work collaboratively;

V: Promotes a clear, unified tourism and wine branding, identity and strategy;

V: Allows and fosters a mix of diverse business and employment options – creating a balance between working vineyards, residential, visitors and tourist amenity. [VDCV p15]

It is stated in the VDCV that the key issue where disagreement occurred was the appropriate level of residential development in the Vineyards District. While all agreed that development needed to be in keeping with the area, there were conflicts of opinion over whether to allow any residential development in the area at all. Some participants thought no residential development at all was appropriate, while others thought residential development on a small to medium scale to meet demand and in keeping with the character of the area was appropriate. [VDCV p8]

A key theme in the vision statements and the draft actions 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. [VDCV p]

The VDCV 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.

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

State Environmental Planning Policies (SEPPs) that are relevant to the planning proposal must be identified and the relationship of the planning proposal with those SEPPs must be discussed.

SEPP 44 is the only SEPP referred to in the Proposal. It is stated in the Proposal that "initial site investigations included a Statement of Effect on Threatened Flora and Fauna. The statement includes consideration of the provisions of SEPP 44 and concludes that the land is neither potential Koala habitat nor core Koala habitat."

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



SEPP 55 Contaminated Land is not addressed by the Proponent and is considered to be relevant.

2.2.4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Proponent has identified the following s 117 Directions as relevant to the proposal (a table of the Proponent's comment against each Direction is included at Enclosure 5). Council's comment on consistency is included here for comparison. Directions not included in the Table are considered to be not applicable to the Proposal. Consistency with the directions is required in all LEPs. However, the following criteria can be applied to an inconsistency to enable a proposal that has merit to be considered:

"If the inconsistency can be:

(a) justified by a strategy which:

- *gives consideration to the objectives of this direction,*
- *identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and*
- *is approved by the Director-General of the Department of Planning, or*

(b) justified by an environmental study prepared in accordance with section 57 of the Environmental Planning and Assessment Act 1979 which gives consideration to the objectives of this direction, or

(c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or

(d) is of minor significance.

The Proposal is considered to be inconsistent with most of the relevant directions below, for the reasons given against each direction in the Table. The inconsistencies have been considered against the criteria above, and it has been determined that there is no justification for the inconsistencies. As discussed above, in relation to the justification for the planning proposal, the Proposal is not consistent with any state policy on residential and rural development, regional strategy or local strategy. An environmental study has not been undertaken in accordance with s 57 of the EP&A Act in relation to the Proposal.

The Proposal is not of minor significance given that it will result in an almost total change of land use from rural to urban, recreation and tourist uses. While it is not proposed to rezone the land from its current RU4 Rural Small Holdings Zone, this is irrelevant as post development there will be nothing rural about the Land.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Direction	Comment
1. Employment and Resources 1.2 Rural Zones The objective of this direction is to protect the agricultural production value of rural land. 1.5 Rural Lands The objectives of this direction are to: ▪ protect the agricultural production value of rural land, ▪ facilitate the orderly and economic development of rural lands for rural and related purposes.	Any proposal to rezone land from a rural zone or for provisions that will increase the permissible density on land within a rural zone must be justified. 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 m². 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. For the above reasons the Proposal is considered to be inconsistent with directions 1.2 and 1.5. For the reasons outlined at the head of this Table there is no justification for the inconsistency.
2. Environment and Heritage 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.	No documentation regarding European heritage has been lodged with the Proposal. While there are no listed items on the Land, there could be potential heritage, particularly in the vicinity of the derelict homestead on the Land. 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. No provisions are included in the Proposal to protect heritage on the Land. For the above reasons the Proposal is considered to be inconsistent with direction 2.3. For the reasons outlined at the head of this Table there is no justification for the inconsistency.
3. Housing, Infrastructure and Urban Development 3.1 Residential Zones The objectives of this direction are: ▪ to encourage a variety and choice of housing types to provide for existing and future housing needs, ▪ to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services,	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 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). For the above reasons the Proposal is considered to be

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Direction	Comment
and - to minimise the impact of residential development on the environment and resource lands. 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 following planning objectives: - improving access to housing, jobs and services by walking, cycling and public transport, and - increasing the choice of available transport and reducing dependence on cars, and - reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and - supporting the efficient and viable operation of public transport services, and providing for the efficient movement of freight.	inconsistent with direction 3.1. For the reasons outlined at the head of this Table there is no justification for the inconsistency. Direction 3.4 applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. 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. For the above reasons the Proposal is considered to be inconsistent with direction 3.4. For the reasons outlined at the head of this Table there is no justification for the inconsistency.
4. Hazard and Risk 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 - to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land. 4.4 Planning for Bushfire 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; and - to encourage sound management of	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. 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. At this stage it is not considered that the Proposal is inconsistent with direction 4.3 or 4.4. However, to be acceptable both studies need to be undertaken in accordance with the most recent versions of the relevant documents and incorporate all relevant information on mitigation measures and how these will affect the Proposal and other attributes of the Land such as threatened species. This rework can be undertaken if the Proposal is approved for the Gateway Process.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



Direction	Comment
bush fire prone areas.	
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 direction requires draft LEPs to be consistent with a regional strategy released by the Minister for Planning. As discussed in relation to justification for the Planning Proposal the Proposal is not consistent with the LHRS. 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 6.3 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. For this reason the Proposal is inconsistent with direction 6.3 and there is no justification for the inconsistency.

2.3. Environmental, social and economic impact (Section C of the LEP Guideline)**2.3.1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

Wildthing identified a community of Grey-Crowned Babbler on the Land. It is not known whether the community is still on the Land. The bird is a ground forager, but lives in trees, and is associated with the remnant Lower Hunter Spotted Gum – Ironbark Forest also identified on the Land. [Wildthing p1 &2] The Grey-crowned Babbler is a threatened species and the Lower Hunter Spotted Gum – Ironbark Forest is an endangered ecological community (EEC) as per the *Threatened Species Conservation Act 1995*. When studied in 2005, the relatively small area of woodland was degraded but showed signs of re-growth and dead and hollow trees, and fallen timber. [Wildthing p 18] The Babbler's inhabit and forage in this habitat, and similar habitat was not identified on adjoining sites. A family will inhabit approximately 12ha and removal of the habitat on the Land will result in the family leaving the site, either through migration or death. [Wildthing p 25].

Wildthing recommend sufficient habitat, including hollow trees, fallen timber and invasive weed free undergrowth, be left on the Land to enable the family to survive (approximately 12 ha). It is also recommended that habitat enhancement occurs after construction and that this may require replacement of proposed landscaping, orchards and vines with Babbler habitat. [Wildthing p32] It is stated in the Proposal that the design is such that the bird community and the forest community will be protected. However, it is not clear how this is to be

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



achieved given that residential, golf course, landscaping and tourist accommodation is proposed in close proximity to, and over, the areas of remnant vegetation on the Land.

There is likelihood, therefore, that a threatened species or EEC will be adversely affected as a result of the Proposal.

2.3.2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

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." [p 4]

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." [p 3]

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

Burramoko 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

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



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 p.1)

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. (ACOR p.20)

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. (ACOR p.5)

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. (ACOR p.21)

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.

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

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



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. (Coffey p.i)

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 engineers 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.

Land Contamination

It is stated in the Proposal that an assessment of potential contamination sources on the site was completed during the initial site investigations and concluded that the site is unlikely to be contaminated from previous land use practice. [page 26] This assessment was not submitted with the Proposal. 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.

2.3.3. How has the planning proposal adequately addressed any social and economic effects?

Economic Assessment

Macroplan 2007 aims to present an analysis of the benefits the proposed development will bring to the Vineyards District through complementing wine tourism. The document outlines expenditure by golf tourists and compares this with expenditure of wine tourists. Of note are the figures for expenditure that show wine tourists spend more than golf tourists (\$45 more per night international, \$71 more per night domestic). [p15 and 16].

Macroplan 2008 aims, as outlined on page 16, are to:

- Examine the features that make this site unique in the 1(v) area having regard for its intended use;
- Examine the locational requirements of permanent occupancy/golf tourism mix, drawing on case studies;
- Examine the potential for this form of development on this site at a local and regional level; and
- Examine the economic and social benefits that a mixed development of this kind can bring to the area.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



The economic impact identified in the report is expenditure associated with construction activity, new residents, tourism, and conference business activity. No dollar figure is put on the impact. A number of social impacts are also identified in the report and include employment (and associated training and experience), but it is not explained how these have been derived. [p 323 and 35] It is difficult to determine what the purpose of this report is as there are not definitive conclusions, nor facts or figures to support the anecdotal evidence.

Figures stated for the Proposal [p 28] are summarised below. The source of these figures is not identified.

- \$6.5 m into the economy on an annual basis – generated by additional tourists;
- \$150 capital investment to establish the resort;
- \$6.5 recurring operational costs annually;
- \$7.23 m annual benefit nationally from residential facility with \$6.1 m benefit to Hunter region annually involving some substitution effect from other areas of the economy;
- \$31 m annual benefit from resort with \$18.5 m captured by the Hunter region;
- \$4m annual benefit from golf course, with \$2.5 m flowing to the Hunter region;
- 211 full time jobs associated with the resort with 48 in the Hunter region;
- 29 full time jobs generated by the golf course with 19 in the Hunter region.

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 not convincing.

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.

Social Impact Assessment

The SIA uses 2001 census data. It is concluded in the SIA that the development will result in minimal social and economic impacts. Although the SIA was submitted to Council in 2011, it has not been updated with 2006 census data. The SIA lacks substance and none of the expected aspects of a SIA are included such as:

- Comprehensive community profile based on most recent data (census, SEIFA etc);
- Identification of population groups likely to be affected by the proposal;
- Identification of social issues (such as housing need, employment and workforce training needs, recreation needs, community cohesion) and links to Council and regional strategic documents;

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



- Identification of social impacts (as opposed to economic or planning impacts),
- Identification of mitigation measures;
- Weighting of negative and positive impacts;
- Consultation methodology and results of consultation.

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.

2.4 State and Commonwealth Interests (Section D of the Guideline)

2.4.1. Is there adequate public infrastructure for the planning proposal?

This will be at the developer's expense. The provision of infrastructure has not been costed in the Proposal and the final methods of water reticulation and effluent disposal have not been resolved, but it is unlikely that provision of adequate infrastructure would prevent the Proposal from progressing.

2.4.2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The Proposal has not yet proceeded to the Gateway process and formal consultation with public authorities on the Proposal has not been undertaken.

Part 4 – Community Consultation

Part 4 - Details of the Community Consultation that is to be undertaken on the planning proposal.

It is stated in the Proposal that the gateway determination will specify the community consultation. A consultation period of 14 days is indicated and a typical LEP exhibition and consultation process is outlined.

OPTIONS

The Council has the following options.

1. The Council may determine to refuse the Planning Proposal as per the recommendations of this report as :
 - it is inconsistent with the strategic context set by Cessnock City Council in Cessnock 2020 Community Strategic Plan and the Cessnock City Wide Settlement Strategy;
 - it is inconsistent with the strategic context set by the Lower Hunter Regional Strategy;
 - the proposed amendment to Cessnock Local Environmental Plan 11 in accordance with the Planning Proposal is not justified as it is contrary to regional

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



and local strategies; contrary to good planning practice and may prejudice the future viability of the Vineyards District as a tourist destination; and

- updated investigations and additional information are required to justify the Planning Proposal as currently submitted to Council in relation to impacts on wine tourism, economic and social impacts; sustainability of agricultural lands; Aboriginal and European heritage, flora and fauna impacts, bushfire assessment and protection, traffic impact assessment and contaminated land investigations.

2. The Council may determine to approve the Planning Proposal to amend Schedule 1 of LEP 11 to "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 450 m² 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, in the opinion of the Council, required as an integral part of a major tourist and visitor accommodation development" for the following reasons:

(To be provided by Council)

Then subsequently:

- request a Gateway Determination on the Planning Proposal from the NSW Department of Planning and Infrastructure under s.56 (2) of the *Environmental Planning and Assessment Act 1979*; and
- request the Proponent to prepare a draft Development Control Plan, in consultation with Cessnock City Council, to address design and development issues, conservation and other management measures that will reduce any negative impacts related to the proposed development of the subject land.

CONSULTATION

- Manager Strategic Landuse Planning
- Group Leader Strategy and Sustainability

STRATEGIC LINKS

a. Delivery Program

NIL

b. Other Plans

NIL

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



IMPLICATIONS

a. Policy and Procedural Implications

The implications for Council policies are covered in the body of this report. In summary the Proposal is inconsistent with:

- a. Cessnock Local Environmental Plan 2011 in that it proposes land uses that are not consistent with objectives and controls of the RU4 Rural Small Holdings Zone;
- b. Cessnock 2020 in that it does not contribute any of the adopted community objectives;
- c. Cessnock City Wide Settlement Strategy 2009 in that it proposes residential development outside the identified areas and is not considered to be in keeping with sustainable development practice.

b. Financial Implications

NIL

c. Legislative Implications

Relevant Acts are detailed in the body of this report. In particular the Proposal is inconsistent with the *Environmental Planning and Assessment Act 1979* in that it;

1. Does not promote the proper management of resources, does not promote the social and economic welfare of the community or a better environment, and does not promote the orderly and economic use and development of land;
2. Is inconsistent with the Lower Hunter Region Strategy by proposing residential development that is not within or adjacent to an existing centre and not demonstrating that it will not have a negative impact on the viability of the Vineyards District wine and wine tourism industry,
3. Is inconsistent with s 117 Directions 1.2, 1.5, 2.3, 3.1, 3.4, 5.1 and 6.3 and no justification for the inconsistency has been demonstrated.

d. Risk Implications

NIL

e. Other Implications

NIL

CONCLUSION

The Wine Industry has a pivotal role in the economy of the Lower Hunter and NSW through exports, regional employment, capital investment and tourism. The Wine Industry also benefits ancillary industries such as equipment and machinery manufacturing and supply, the wholesale and retail sectors, and the tourism trade. The total value of viticulture in Cessnock is estimated at \$1,600 million/yr. [CWSS p 202]

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



The Lower Hunter Regional Strategy 2006 identifies the "Pokolbin vineyard and tourism precincts" as a specialised centre of regionally significant economic activity and employment. Outcomes and actions arising from this Strategy aim to both protect the valuable resource lands from urban and rural-residential encroachment, manage the often conflicting development opportunities (such as commercial vineyards versus tourism opportunities) to avoid detracting from its potential productivity and rural character, and to provide increased opportunities for employment (with an additional 1600 jobs nominated for this precinct over the next 25 years). [CWSS p 202]

The Proposal has been assessed in this context and a number of issues have been identified that work against it.

- The Vintage development, which is being relied on to justify the Proposal, was approved well before the LHRS was researched and adopted. Circumstances and strategic direction has changed since The Vintage was approved.
- There is significant existing and approved supply of tourist accommodation in the Vineyards District, with current supply outstripping demand, and further large scale tourist development at this time is not equitable or sustainable.
- It is clear that the Land cannot be serviced with efficient transport services and that residents would rely almost exclusively on the use of private vehicles for access, indicating that the Land is not suitable for permanent residential accommodation or large scale tourist development.
- The Proposal does not meet local housing need, has the potential to divert resources away from satisfying local housing need and contribute to an increase in housing prices in the area.
- By raising the value of the Land, the Proposal has the potential to raise the value of agricultural land in the area, create pressure for further residential zoning and large scale tourism facilities, and reduce the viability of agriculture, wine production and wine tourism, on which the community currently relies, and wants to protect and further develop.
- Residential development and tourism development that is not low scale (such as the 18 hole golf course, hotel and villa accommodation) is out of character with the rural and viticulture character of the area, and will detract from that character, particularly as the Land is at the gateway to the Vineyards District.
- A comprehensive economic and social impact analysis has not been undertaken on the Proposal and alternatives, such as continued agricultural use or low scale tourism, have not been explored. It has not been demonstrated in the Proposal that there are clear public benefits. While there is provision of housing, employment and possibly competition, most of the benefits will accrue to the owner of the land and the occupiers of the development, most of who will come from outside of Cessnock LGA and the Lower Hunter Region. There are potential negative impacts of the Proposal that are considered to outweigh any benefit such as the limited employment opportunities.

Our Natural, Developed and Cultural Environment

Report No. EE9/2012

Strategy and Sustainability



For the reasons summarised above the Proposal is considered to be inconsistent with the regional and local planning strategies, does not demonstrate clear public benefit, and should not proceed. It is, therefore, recommended that the Proposal not be endorsed to progress for a gateway determination.

The information submitted with the Proposal is all outdated and would need to be undertaken again, in accordance with current legislation and guidelines, should the Proposal be considered to have merit and worthy of further consideration.

ENCLOSURES

<u>1</u>	Location Plan	1 Page
<u>2</u>	Aerial Photograph	1 Page
<u>3</u>	Development Concept	1 Page
<u>4</u>	Proponent's Net Community Benefit Test	2 Pages
<u>5</u>	Proponent's Sustainability Criteria Assessment	3 Pages
<u>6</u>	Proponent's Compliance with s.117 Directions	7 Pages

OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT NO. EE9/2012

SUBJECT: GOLDEN BEAR PROPOSAL

Councillor James Hawkins left the meeting, the time being 9.02pm

Councillor McCudden declared a Non Pecuniary Interest – Insignificant Conflict for the reason that the applicant for this project has done work for a company of which he is a Director. Councillor McCudden remained in the Chamber and participated in discussion and voting.

MOTION Moved: Councillor Smith **Seconded:** Councillor Pynsent

The Council determine to approve the Planning Proposal to amend Schedule 1 of LEP 11 to:

“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” for the following reasons:

- 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.

And for these reasons the Council request a favorable Gateway Determination on the Planning Proposal from the NSW Department of Planning and Infrastructure under s.56 (2) of the Environmental Planning & Assessment Act 1979

PROCEDURAL MOTION Moved: Councillor Parker
Seconded: Councillor Ryan

That the report be DEFERRED and a briefing be held prior to the report coming back before Council.

Councillor James Hawkins returned to the meeting, the time being 9.05pm

FOR

Councillor Parker
Councillor Ryan
Councillor Olsen
Councillor Main

Total (4)

AGAINST

Councillor Davey
Councillor Troy
Councillor Burcham
Councillor Gorman
Councillor McCudden
Councillor Hawkins
Councillor Smith
Councillor Pynsent
Councillor Maybury
Total (9)

The Amendment was **PUT** and **LOST**

PROCEDURAL MOTION**Moved:**

Councillor Ryan

Seconded:

Councillor Parker

That a briefing from the proponent be held and Council consider the report at the next meeting.

FOR

Councillor Parker
Councillor Ryan
Councillor Olsen
Councillor Main

Total (4)

AGAINST

Councillor Davey
Councillor Troy
Councillor Burcham
Councillor Gorman
Councillor McCudden
Councillor Hawkins
Councillor Smith
Councillor Pynsent
Councillor Maybury
Total (9)

The Amendment was **PUT** and **LOST**.

PROCEDURAL MOTION**Moved:**

Councillor Gorman

Seconded:

Councillor Troy

1867

RESOLVED

That the Motion be put.

FOR

Councillor Davey
 Councillor Troy
 Councillor Burcham
 Councillor Gorman
 Councillor McCudden
 Councillor Main
 Councillor Hawkins
 Councillor Smith
 Councillor Pynsent
 Councillor Maybury
Total (10)

AGAINST

Councillor Parker
 Councillor Ryan
 Councillor Olsen

Total (3)**CARRIED****MOTION****Moved:** Councillor Smith**Seconded:** Councillor Pynsent

1868

RESOLVED

The Council determine to approve the Planning Proposal to amend Schedule 1 of LEP 11 to:

"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" for the following reasons:

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And for these reasons the Council request a favourable Gateway Determination on the Planning Proposal from the NSW Department of Planning and Infrastructure under s.56 (2) of the Environmental Planning & Assessment Act 1979

FOR

Councillor Davey
Councillor Troy
Councillor Burcham
Councillor Gorman
Councillor McCudden
Councillor Hawkins
Councillor Smith
Councillor Pynsent
Councillor Maybury

Total (9)**AGAINST**

Councillor Parker
Councillor Ryan
Councillor Olsen
Councillor Main

Total (4)***CARRIED***

This is page 40 of the Minutes of the Ordinary Council Meeting held on 15 February 2012 confirmed on 7 March 2012

.....General ManagerChairperson