

Planning and Environment

Report No. PE153/2014

Planning and Environment

**SUBJECT:** *PLANNING PROPOSAL - VINTAGE BALANCE LAND***RESPONSIBLE OFFICER:** *Acting Strategic Land Use Planning Manager - Scott Christie*

APPLICATION NUMBER:	18/2012/11
PROPOSAL:	Planning Proposal – The Vintage And Vintage Balance Lands
PROPERTY DESCRIPTION:	Lot 106, DP 1038043, Lots 1–48 and 50–103, DP 270293, Lots 1–23 and 25–30, DP 270292, Lots 1–38 and 40–48, DP 270295, Lots 1–44 and 46–60, DP 270343, Lots 1–39, 42–67 and 69–86, DP 270372, Lots 1–10, DP 270384, Lots 1–3, DP 270340, Lots 1–11, DP 270479, Lots 1–45, SP 76654, Lots 1–24, DP 270459, Lots 1–4, DP 270636, Lots 1–17 DP 270688, Lots 1–10 DP 270721, Lots 1601, 1603 and 1605, DP 1142579, Lots 1503–1506, DP 1110274, Lots 2150–2151, DP 1185744, Lot 12, DP 1187663, Lots 1305 and 1307, DP 1077114, Lot 2202, DP 1167247, Lot 21–23 DP 1044459, Wine Country Drive, Rothbury; and Lot D, DP 182933, Palmers Lane; and Lot 2411, DP 1060722, McDonalds Road, Rothbury.
PROPERTY ADDRESS:	Wine Country Drive, Palmers Lane And McDonalds Road Rothbury
CURRENT ZONE:	RU4 Primary Production – Small Lots
PROPOSED ZONE:	SP3 Tourist
OWNERS:	Shellharbour Unit Trust
APPLICANT:	The Stevens Group

SUMMARY

The purposes of this report are:

- To inform Council of the public submissions and State Agency responses to the public exhibition of the Planning Proposal.
- To advise Council of the further evaluation of the Planning Proposal and negotiations with the proponent and representatives of the owners particularly in relation to the comparative levels and progressive development of tourist accommodation units and tourism assets relative to the development of residential subdivision and dwellings.
- Recommend the way forward to Council for this Planning Proposal.

RECOMMENDATION

1. That Council support the Planning Proposal to rezone The Vintage Site from RU4 Primary Production –Small Lots to SP3 Tourist and to make related amendments to the Zoning, Minimum Lot Size and Urban Release Area maps, Schedule One and the introduction of a new Clause 7.11 in the Cessnock Local Environmental Plan 2011 subject to the following modifications:
 - a) The definition of integrated tourist development, being amended to:
a development that is undertaken on the subject land which is predominantly tourist and visitor accommodation and tourist facilities in combination with other uses permissible on the land.
 - b) Amendment to item 7 of Schedule 1 of the CLEP 2011 to include:
 - *health services facility; and*
 - *development for the purposes of shops, as identified in the Strategy Plan, that are primarily intended to service tourists being permitted with consent. The combined gross floor area of these shops must not exceed 1000m2.*
2. That Council endorse the Staging Plan (Enclosure 1) as submitted by the proponent with the exceptions that Stage 4 must include the maximum completion of 300 dwellings before a minimum of 200 tourist accommodation units are subject to construction certificates;
3. That the Planning Proposal, as modified, be forwarded to the NSW Department of Planning and Environment with the request that the Amendments be made to Cessnock LEP 2011;
4. That those persons who made a submission be advised of Council's decision.

BACKGROUND

This Planning Proposal has an extensive history dating back to the Council approval of the Vintage Master Plan in December 1996, which was based on an amendment to the Cessnock Local Environmental Plan, 1989 – predominantly through Clause 17.

Following progressive development of the site in accordance with the Master Plan approval of 1996, subsequent development consents and the relevant Development Control Plan chapter, 375 lots have been approved, 238 dwellings and 144 tourism accommodation units and a range of tourist and recreational assets have been constructed to make the Vintage a very significant tourist development within the vineyards.

This historical development has been based upon approvals for, and the legal definition of, a "tourist recreational facility":

"Tourist recreational facilities mean an establishment primarily providing or intending to provide holiday accommodation, entertainment or recreation".

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Council resolved in September 2008 to proceed with a draft Local Environmental Plan for the Vintage Balance Land (VBL). This led to assessments by the (then) Department of Planning, Planning Assessment Commission and other independent reports which, in combination, led to non-support to progress this Vintage Balance Land Planning Proposal to the Gateway Determination.

Following Council's adoption of the Vineyards District Community Vision in August 2012, Council again resolved to prepare a draft Local Environmental Plan over the VBL and submit this to the then Department of Planning and Infrastructure in February 2013. The NSW Department of Planning & Infrastructure issued the Gateway Determination - subject to conditions including a timeframe for completion of 18 months – on 7 May 2013. A response is awaited to Council's request to the Department of Planning and Environment for an extension to the timing of completion.

On 20 August 2014 (Enclosure 2), Council resolved as follows:

"That the Planning Proposal to rezone The Vintage Site from RU4 Primary Production – Small Lots to SP3 Tourist and to make related amendments to the Zoning, Minimum Lot Size and Urban Release Area maps, Schedule One and the introduction of a new Clause 7.11 in the Cessnock Local Environmental Plan 2011 be placed on public exhibition for 28 days".

Late on 3 December 2014 the proponent made a further submission seeking to clarify and correct information that the proponent had previously provided in relation to the staging plan and in particular, the overlaps between the master plan approvals and the Vintage Balance Land planning proposal. Hence, this is a clarification/correction of the proponent's final submission which is at Enclosure 4.

REPORT/PROPOSAL

In summary, the Planning Proposal encompasses:

- Introducing the SP3 Tourism zone in Part 2 of the CLEP 2011;
- Re-defining the development as "an integrated Tourist development" (from the previous legal definition of "tourist recreation facility");
- Rezoning the Vintage site - (comprising the existing Vintage and the VBL) from RU4 Primary Production Small Lots to SP3 Tourism;
- Including additional Local Provisions into CLEP 2011 via a new Clause 7.11;
- Amending the zoning, minimum lot size and urban release maps; and
- Retaining the existing Schedule 1 over the existing Vintage site and amend land use provisions contained within.

In the Planning Proposal:

Integrated tourist development, (as defined in the Planning Proposal), means a development that is undertaken on the subject land providing tourist facilities that must include a 27-hole golf course and substantial tourist and visitor accommodation in combination with other uses permissible on the land. (This is recommended for change to give flexibility to configuration of the golf course).

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The main objective of this Planning Proposal is to enable the Vintage development to become an economically viable and sustainable major integrated tourist development. The expansion of this facility onto the VBL is effectively building upon a relatively unique integrated tourist development that will ensure short, medium and longer term benefits to the local and regional economies. The Planning Proposal is recommended for support (with some variations from the Proposal as submitted by the proponent) primarily on the basis of the economic and social benefits that will flow to the Hunter Valley and Cessnock City.

The nominated development associated with the Planning Proposal encompasses:

- An additional 9 holes of golf;
- Cellar door & café on the corner Palmers Lane & Wine Country Drive;
- Expansion of vineyards on Palmers Lane;
- 260 residential lifestyle lots;
- 40 rural lifestyle lots;
- 200 residential resort lifestyle units;
- 210 tourist accommodation units consisting:
 - 50 unit lodge development at site entrance on Wine Country Drive
 - 40 tourist units around vineyard facility on Beggars Bridge
 - 60 unit 3.5/4 star motel on the SG7 precinct of the master plan.
 - 20 Tourist apartments within the Commercial Tourism precinct
 - 40 unit Medi-Spa
- Conference facility, residence and restaurant to host a wine and cooking school within the Beggars Bridge precinct; and
- Retention of vineyards within the Beggars Bridge precinct of the Master plan.

This existing development site contains an international standard 18 hole golf course, two hotels (Grand Mercure Apartments and the Chateau Élan Spa and Resort), conferencing, wedding and function facilities, recreation facilities and an extensive open space network. The Master Plan approved in 1996 includes a 522 lot residential lifestyle estate and 785 tourist units. Total investment to date is estimated at over \$500m. The value of this extension is approximately \$400m bringing total investment at the Vintage to approximately \$900m.

The proponent has advised that this Planning Proposal will also enable the development for the following commercial facilities which are currently within the Master Plan:

- 6 specialty/tourist retail shops;
- 120 seat family restaurant;
- 300m2 Sports bar;
- 200m2 Wine bar;
- 300m2 General store/mini supermarket;
- 3 practitioner doctor's surgery; and
- Pub / Hotel.

Item 7 of Schedule 1 of the Cessnock LEP 2011 provides for additional permissible uses on the existing Vintage site. This Schedule will remain in the CLEP 2011 and is recommended for adaptation to facilitate additionally proposed uses.

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It is a longstanding objective of the Department of Planning and Environment for the provisions of this Planning Proposal to be consistent with the adjacent Golden Bear Proposal. (Council considered the Golden Bear Planning Proposal under report EE6/2014 at its meeting of 22 January 2014 and resolved to forward the Planning Proposal to the Department of Planning and Environment for the Plan to be made). The re-zoning of the Golden Bear site has been approved by the Minister.

Public Exhibition

The Planning Proposal with the range of supporting studies and other relevant documentation was placed on public exhibition from 27 August 2014 to 24 September 2014. The Planning Proposal was also referred to all of the State Government Agencies and other organisations referenced in the Gateway Determination of May 2013.

The responses to that public exhibition are explained in more detail in "Consultation" below and in the summary of public submissions and State Government Agency advices which is Enclosure 3.

The Key Issues

There are five (5) key issues arising from the professional assessments, public submissions and State Government Agency advices:

1. *How should the continued financial viability and sustainability of the Vintage be ensured so that the development fulfills its role as an important driver of, and is a strong attraction for tourist development which will support economic development and employment diversification in the Hunter?*
2. *Particularly given the provision required for the LEP amendment for the Jack Nicklaus resort/Golden Bear development – what legal and policy provisions should be established to ensure that the levels and progressive timing of tourist accommodation units and tourism assets relative to the development of residential subdivision and dwellings to:*
 - a) *Fulfil the legal definitions and LEP provisions?*
 - b) *Provide reasonable equity relative to the Jack Nicklaus/Golden Bear resort?*
and
 - c) *Not progressively become a predominantly residential development with consequent precedent issues?*
3. *Whether the strategic justification in terms of positive contributions to local and regional economies employment levels and diversification is sufficient to warrant such a substantial residential development as is proposed at the Vintage Balance Land in the Vineyards District*
4. *Whether the types and scale of certain uses proposed on the site – particularly shops and health consulting rooms – are appropriate and that it can be ensured that these uses and their scales will not detract from service levels in more appropriate and centralised locations such as Cessnock itself*

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5. *How should the traffic management requirements of the combined generation of traffic by the Vintage and the Jack Nicklaus/Golden Bear resort be best implemented give the advice of the Roads & Maritime Services that there should be combined funding of a new round-a-bout by the Stevens Group and the proponents of the Jack Nicklaus/Golden Bear resort?*

Key Issues 1 to 3:

The first three issues will be dealt with in combination:

The establishment of legal and policy provisions to ensure compatible levels of tourist unit / accommodation with residential unit / dwelling development on the Vintage overall is a critical issue for the following reasons:-

1. The Planning Proposal for the VBL is founded upon the overall Vintage development being an integrated tourist development zoned SP3 Tourism - hence the primary purpose and domination of land uses / development should be tourist oriented;
2. The integrity and credibility of Council planning for the integrated tourist development and the applicable SP3 Tourism zone must be founded upon that dominance of tourist orientated uses and developments;
3. The integrity and credibility of Council planning in terms of the City-Wide Settlement Strategy and strategies for rural land use and the protection of the vineyards in particular;
4. The NSW Department of Environment, recently approved the Golden Bear development / Jack Nicklaus development on adjacent land was based upon the following clause:-

"Development consent must not be granted to any development on the land to which this clause applies unless:

- a) *The consent authority is satisfied that the development is integrated tourist development;*
- b) *The total number of dwellings on that land does not exceed 300;*
- c) *The total number of rooms used for the purpose of tourist and visitor accommodation on that land does not exceed 300; and*
- d) *"Development consent must not be granted to any development on the land to which this clause applies unless:*
 - i. *The consent authority is satisfied that the development is integrated tourist development;*
 - ii. *The total number of dwellings on that land does not exceed 300;*
 - iii. *The total number of rooms used for the purpose of tourist and visitor accommodation on that land does not exceed 300; and*
 - iv. *The total number of permanent residential dwellings must not exceed the total number of serviced apartments and / or hotel and motel*

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accommodation units used for tourist and visitor accommodation at any time.

In summary, some key points for responding to the three key issues are:

- Council, has to be satisfied that the developments and uses are consistent with meeting SP3 zone objectives, the local provisions in the LEP and the land use table for the SP3 zone together with the legal definition as an “integrated tourist development” Hence, this includes consideration of, and judgments about:
 - a) The level and timing of residential developments to validly support viability and sustainability;
 - b) The level and timing of tourist accommodation units;
 - c) The level, timing, value and proportionate use by tourists/visitors of recreational and tourist assets.
- The JBAS Report “Golf Tourism and Economic Analysis concludes that 1022 residential lots are needed to establish a minimal (2 percent) operational profit and that 1540 lots would be needed to achieve a 10 percent operational profit margin;
- However, \$92 million of capital assets have been created which are subject of full or high proportionate use by tourists/visitors e.g. 63 percent users of the golf course are tourists/visitors;
- 89 percent of residential dwellings in the Master Plan of 1996 have been subject of development consent whereas 18 percent of the tourist units so nominated have been given consent. However, 238 dwellings have been built on 375 approved lots and 144 tourist units have been completed. Seventy-six (32 percent) of the residential dwellings are recorded as available for consistent tourist rental;
- Hence, if it is accepted that the 76 (32 percent) are tourist units then to date, 162 (238-76) permanently occupied houses compare with 220 tourist units (144 + 76) in terms of development to date. This is a ratio of 42 percent residential:58 percent tourist;
- If 32 percent of dwellings being used for consistent tourist rental sustains, the 500 residential dwellings in the subject Planning Proposal would include 32 percent or 160 tourist units – leaving 340 residential dwellings. If these 160 tourism units are added to the 210 tourist units planned in this Planning Proposal, then there are 370 tourist units - which, in turn, means that the end result will be 370 tourist units compared with 340 residential dwellings – 52 percent tourist:48 percent residential.
- However, while making such estimates of proportionate use as tourist units is a valid methodology, the proportion will be variable and may not continue to be so high. The proportion can only be one indicative basis of judgment that the development is an integrated tourist development;
- The value of tourist assists already created and committed for the future also represent crucial bases for such a judgment and these are estimated at \$92 million to date and major investments as contained in the Planning Proposal.

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- A Staging Plan, embodied in relevant LEP provisions and a complimentary DCP is crucial for achieving the objective of enable the Vintage development to become an economically viable and sustainable major integrated tourist development – thus making the contributions sought in the public interest to short, medium and longer term benefits to the local and regional economies.

The Staging Plan

Based upon negotiations with Council's Manager of Strategic Land Use Planning and Consultant Strategic Land Use Planner, a Staging Plan has been submitted by the proponent relevant to the subject Planning Proposal which Enclosure 1 commencing as Stage 4 on page 18.

In summary, the Staging Plan submitted by the proponent is as follows:

- *Stage 4 (the first for implementing the Planning Proposal if it is approved) is proposed to comprise:*
 - *18.7 million of tourist/recreational assets (commercial tourist precinct, golf course extension and vineyard at Palmers Lane and Cellar Door);*
 - *A 200 room, \$50 million hotel; and*
 - *437 dwellings of which 32 percent (140) are submitted as being validly counted as tourist units.*
- *Stage 5 is proposed to comprise:*
 - *The Pub and ancillary commercial facilities at the corner of Wine Country Drive and McDonalds Road;*
 - *The 60 unit tourist accommodation facility; 160 residential lots and 40 'rural lifestyle' lots – with the submission that the 32 percent should apply to the 200 residential/rural residential lots to constitute 64 holiday homes.*
- *Stage 6 (the final stage) is proposed to comprise:*
 - *A \$1.5 million Amphitheatre; and*
 - *551 tourist accommodation units.*

Conditions to apply in the DCP provisions on the stages would be:

- *That the commercial tourist precinct and the 9 hole golf course be completed before any subdivision certificate(s) being released for the residential lots proposed in stage 4 – (including the 32 percent asserted to become holiday homes); and*
- *That the 200 unit hotel proposed in stage 4 would have to be completed and operational before any further residential development in Stage 5 would be subject of any development consents.*

The end result is submitted by the proponent as being 71 percent tourist to 29 percent residential.

The limitation of 1000m² is recommended for the maximum gross floor space of shops in the commercial tourist precinct (shops does not include cafes, restaurants or doctor's surgeries).

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The recommendation is for the endorsement of the Staging Plan as submitted by the proponent with the exceptions that Stage 4 must include the maximum completion of 300 dwellings before the requirement that a minimum of 200 tourist accommodation units subject of construction certificates. This must precede any additional residential development in Stage 5 being subject of development consents;

The reasons for this recommendation are:

- a) The historical dominance of development consents for residential development compared to tourist accommodation units; and
- b) The uncertainty that the 32 percent of residential dwellings being for tourist rental continuing and being valid and consistent for future stages; and
- c) The crucial need for Council, as the relevant planning authority for the Planning Proposal and consent authority for future development applications, to be satisfied that future development is compliant with the definition of integrated tourist development and with the objectives and provisions of the SP3 zone generally.

It is important for Council to note that this staging plan and the conditions for staging tourist and residential developments will be included in a DCP given added weight through local provisions and reference to the DCP in Clause 6.3 dealing with Urban Release Areas.

Key Issue 4:

The Planning Proposal as exhibited referenced:

- a) The definition of **integrated tourist development**, as meaning:
a development that is undertaken on the subject land providing tourist facilities that must include a 27-hole golf course and substantial tourist and visitor accommodation in combination with other uses permissible on the land. This is recommended for change to give flexibility to configuration of the golf course;
- b) Amendment to item 7 of Schedule 1 of the CLEP 2011 to include:
 - health services facility; and
 - Development for the purposes of shops that are primarily intended to service tourists is permitted with consent. The combined gross floor area of these shops must not exceed 350m².

The proponent has submitted that the reference to 27 hole golf course should be deleted to give flexibility and that the floor space for the commercial tourist precinct should be 1785.5m² (refer page 18 of Enclosure 1).

Enabling flexibility for the golf course design and configuration is accepted. The removal of the reference to 27 holes is recommended.

Enabling flexibility for the golf course design and configuration is accepted and the removal of the reference to 27 holes is recommended.

The submission from the proponent for 1785.5m² includes a café, restaurants, speciality shops and "commercial" outlet which is understood to be a 816m² supermarket. This outlet, and the increase from 350m² to 1785.5m² overall for the commercial tourist precinct, raises issues about drawing trade away from Branxton, Cessnock and, in the future. Huntlee

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business centres. Given the extent of proposed increase of 350m² to 1785.5m², there could be a case for re-exhibition.

Council must be satisfied that this precinct is serving a predominantly tourist market and meeting the overall definition for the Vintage of integrated tourist development. Hence, while a corner store might be an acceptable proposal to serve residents and tourists at the Vintage, the scale of the "commercial outlet" and the precinct overall is considered excessive. Hence, an upper limit of 1000m² is recommended. It is recommended that the reference to 27 holes be deleted as part of a re-definition and that the limitation of floor-space be changed from 350m² to an increase of 1000m².

Key Issue 5:

The RMS is requiring the provision of a roundabout jointly and proportionally funded in relation to this VBL Planning Proposal and the Jack Nicklaus Resort / Golden Bear development. The proponent's response to this is on pages 23 and 24 of Enclosure 1.

It is understood that that no direct negotiations have taken place between the two development parties and that the Stevens Group are of the position now that, based upon the Traffic Assessment Report submitted with the Planning Proposal, a roundabout is not needed to enable the development subject of this Planning Proposal to proceed. However, there needs to be negotiation as to how to progress this matter and as suggested at the meeting.

It is proposed that the general principles and framework be drafted for a Planning Agreement which the Stevens Group and the Jack Nicklaus Resort components could consider as being a voluntary planning agreement to resolve this matter and build in the contingency, which is of concern to the Stevens Group, of how this funding is to be established if the Jack Nicklaus Resort / Golden Bear development does not proceed.

OPTIONS

Council has the following options:

1. Adopt the recommendation and resolve to submit the Planning Proposal as modified at Enclosure 1 to the Secretary of the Department of Planning and Environment with a recommendation that the Plan be made; or
2. Decline to proceed with the Planning Proposal, and advise the proponent accordingly; or
3. Decline to proceed with the Planning Proposal, advise the proponent accordingly and direct the General Manager to enter into negotiations with the proponent for amendments to the current Planning Proposal in line with Councils' expressed directions – particularly in terms of increasing the development of, and earlier staging of, tourist accommodation units; development ; or
4. Defer determination of the Planning Proposal to enable a formal public hearing to be conducted.

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CONSULTATION

The Gateway Determination required that Council consult with the following Government agencies:

- NSW Aboriginal Land Council;
- NSW Trade and Investment – Resources & Energy;
- Office of Environment and Heritage;
- Department of Primary Industries – Agriculture;
- Department of Primary Industries – Minerals and Petroleum;
- Hunter Water Corporation;
- Transport for NSW – Roads and Maritime Services;
- NSW Police;
- Hunter Valley Wine and Tourism Association;
- Mine Subsidence Board; and
- NSW Rural Fire Service.

Consultation with these authorities was undertaken in conjunction with the public exhibition of the Planning Proposal.

The Section 117 Ministerial Directions require Council to receive a response from the Mine Subsidence Board and Rural Fire Service prior to exhibition and this was fulfilled. The Rural Fire Service has advised (letter of 16 July 2014) that it has no objection to the proposed amendment to the CLEP 2011, The Mine Subsidence Board have formally advised that the area is not within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, nor has the area been identified as unstable land.

A summary of the submissions received from the public and the advices from State Government Agencies – together with comments in response - is at Enclosure 3.

The most important issues and responses are:

1. *Potential for SIS if critical habitat potentially affected;*

The detailing of the Master Plan – incorporated into a revised DCP chapter - and flora and fauna assessment - are anticipated to ensure no habitat removal and therefore not require a species Impact Statement.

2. *Sound planning and preparation/Management Plan being completed for potential items of aboriginal significance prior to any ground disturbances;*

➤ *The Management Plan to include:*

I. *Area surveyed;*

II. *Methodology for sub-surface testing;*

III. *Mitigation measures and comprehensive trigger points developed in conjunction with MLALC;*

IV. *Care and control of recovered artefacts*

This will be done based upon established working relationships with the Aboriginal Land Council.

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3. *RMS position that the preferred access arrangement with both developments is a four way one lane circulating roundabout on Wine Country Drive which services both developments.*

The RMS is requiring the provision of a roundabout jointly and proportionally funded in relation to this Vintage Balance Lands Planning Proposal and the Jack Nicklaus Resort / Golden Bear development. The proponent's response to this is on pages 23 and 24 of Enclosure 1.

It is understood that no direct negotiations have taken place between the two development parties and that the Stevens Group are of the position now that, based upon the Traffic Assessment Report submitted with the Planning Proposal, a roundabout is not needed to enable the development subject of this Planning Proposal to proceed.

Should the RMS retain the position that the roundabout is needed, and the Jack Nicklaus / Golden Bear development timing is compatible, then there will need to be negotiation as to how to resolve this matter, the establishment of the site as an Urban Release Area and related LEP clauses – including for the DCP – will enable Council to facilitate/ require a good outcome.

An alternative may be for a Planning Agreement which the Stevens Group and the Jack Nicklaus Resort components could consider as being a voluntary planning agreement to resolve this matter and build in the contingency, which is of concern to the Stevens Group, of how this funding is to be established if the Jack Nicklaus Resort / Golden Bear development does not proceed.

4. *The Jack Nicklaus/Golden Bear resort proponent 's submission that:*
- *Vintage PP written before gazettal of Amendment 10 so there are various inconsistencies:*
 - *Objectives – the existing simple objectives should be used;*
 - *Clause 11 should be amended in accordance with Amendment 10;*
 - *“Public utility undertakings” and “telecommunications facility” should be permitted with consent in land use table not in Clause 7.11(7);*
 - *“Dual occupancies” should be removed or made permitted with consent in land use table*
 - *Clause 2.7 should be revised to reflect Section 93C of the Act which enables the provision of a staged development application in lieu of the need to prepare a Development Control Plan;*
 - *Mapping needs to be updated for zoning and minimum lot sizes for the Jack Nicklaus site;*

The Jack Nicklaus/Golden Bear proponent's support is noted. The Jack Nicklaus/Golden Bear resort Planning Proposal is a “greenfield” development to which a different set of provisions are reasonable.

The point regarding “Public utility undertakings” and “telecommunications facility” being permissible with consent in the land use table to the SP3 Tourist zone and not in Clause 7.11 is accepted but other submissions are not recommended to lead to changes.

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Other Negotiations

Council's Strategic Land Use Planning Manager and Consultant Strategic Land Use Planner met with the General Manager and two (2) Senior Planners of the NSW Department of Planning and Environment on 3 October 2014. The purpose, in part, being to discuss the appropriate legal and policy approaches to manage the comparative levels of tourist and residential development at the Vintage. Whilst the representatives of the NSW Department of Planning and Environment accepted that the same Clause as applicable to the Jack Nicklaus resort/Golden Bear was not appropriate, given the extensive history and existing development of the Vintage, it was emphasised that a strong legal and policy approach needed to be negotiated and established by Council to ensure that the ultimate Vintage development complied with the legal definition of integrated tourist development and the SP3 tourism zone. This would also be directed at satisfying the legal provisions and definitions in the Planning Proposal being appropriate to State Government directions and Practice Notes.

Council's Strategic Land Use Planning Manager and Consultant Strategic Land Use Planner have also met with the proponent and a representative of the Stevens Group together with two (2) Senior Professional Planners from the NSW Department of Planning and Environment on 14 November 2014, with apparent resolution of approach agreed with the exception of the number of dwellings in Stage 5.

As a consequence, Council's Consultant Strategic Land Use Planner submitted a proposal to resolve the issues with resolution of approach agreed with the exception of the number of dwellings in Stage 5. The proponent has consequently submitted a proposed staging plan and other provisions on 25 November 2014 which is at Enclosure 1.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment: Objective 3.1 Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

The Planning Proposal has been updated to be consistent with relevant State Environmental Planning Policies and Section 117 Ministerial Directions. Where there are inconsistencies, these have been justified. The Vintage proposal was considered in conjunction with the Golden Bear proposal by The Department of Planning. Therefore, this Planning Proposal for The Vintage needs to propose, as far as is practicable, the same land use objectives, clauses, and the same permissible, prohibited and consent uses which have been resolved for the Golden Bear site.

The Vineyards Vision is supportive of this Proposal.

Cessnock DCP 2010

There is a current Chapter in the Cessnock DCP for the Vintage. Clause 6.3 of the Cessnock Local Environmental Plan 2011 requires that all Urban Release Areas are covered by a site specific DCP.

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Hence, a specific amended DCP chapter will be prepared for the VBL and when adopted, it will become a chapter in Part F "Specific Areas" of the Cessnock DCP. The draft DCP chapter will be in addition to those in the other City wide chapters of the Cessnock DCP, and will need to be considered in conjunction with the general provisions of that Plan. The purpose of the DCP is to achieve as consistent an approach as possible to development at the Vintage as is contained in the city-wide DCP for other release areas.

IMPLICATIONS

a. Policy and Procedural Implications

The consequences, if the Planning Proposal leads to Ministerial approval, is that the Lower Hunter Regional Strategy (LHRS) will need to reflect the policy variation which this Proposal represents compared to the LHRS and the Cessnock City Wide Settlement Strategy will need to be amended to reflect this development relative to settlement and vineyard protection policies.

The project management of the Planning Proposal will be met through rezoning fees. This Planning Proposal is considered to be a Category C rezoning application and attracts a Phase 3 fee of \$18,750 based upon Council's Fees and Charges for 2014/2015.

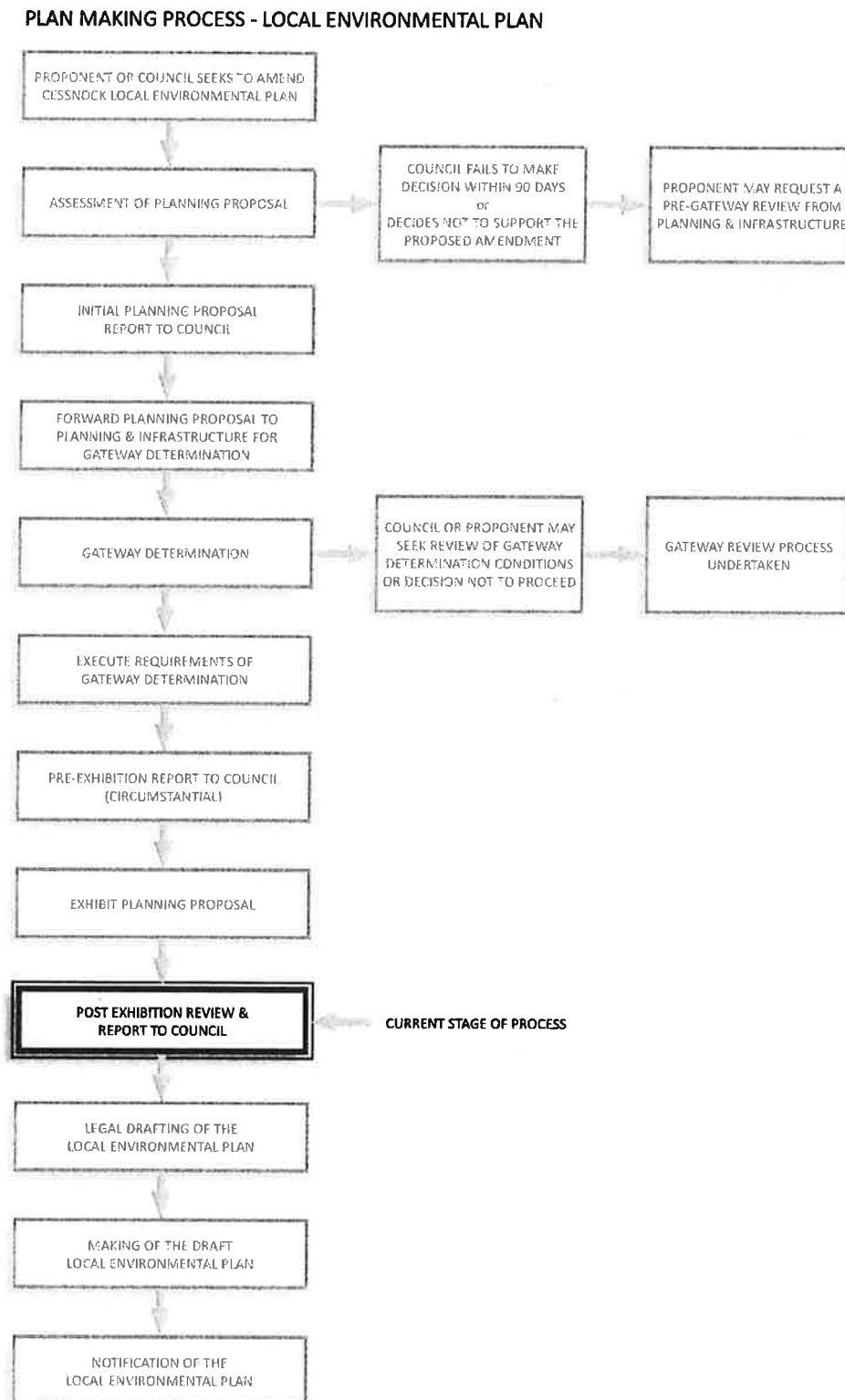
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The Planning proposal's current status is identified in the following flow chart.



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b. Financial Implications

There are no financial issues with the exception that the referenced agreement in the submission by the Pokolbin Rugby Club for the funding of playing fields does not reflect any inclusions or prioritisation in Council's Development Contributions Plans.

c. Legislative Implications

The process underway to develop and finalise the Planning Proposal is consistent with Council's statutory responsibilities under the Environmental Planning and Assessment Act 1979.

d. Risk Implications

The longstanding and sometimes controversial history and a series of recommendations not to proceed with such a strong component/proportion of residential development as a part of the primary purpose of integrated tourist facility/development indicates that there will be ongoing risks in terms of the Planning Proposal, if supported by Council, not being supported by DPE's if it is asked to review the Proposal again.

There is certainly a risk that the volatility of the tourist market means that the applications and actual development of permanent residential lots/units greatly exceeds the tourist units/development component and the basic development description of integrated tourist development is undermined.

There is also a risk that the deadline for LEP finalisation set in the Gateway Determination of 14 November 2014 will not be met given the current timing and the complexity and implications of the Planning Proposal unless the Department of Planning and Environment grant a further extension (which is most likely).

e. Other Implications

Nil.

CONCLUSION

The primary purpose and strategic justification underpinning the Planning Proposal to re-zone the subject site from RU4 Primary Production – Small Lots to SP3 Tourist under the Cessnock Local Environmental Plan 2011 is to enable the Vintage development to become an economically viable and sustainable major integrated tourist development. The primary objective of the proposed SP3 Tourism zone is to provide for integrated tourism development. Appropriate levels of residential development are concluded to be crucial to support that viability and sustainability.

It is a matter of judgment to reach conclusions about the appropriate quantum and sequencing of residential development and what legal provisions should be established to respond to this key issue. It is considered that the expansion of this facility onto the VBL is effectively building upon a relatively unique integrated tourist development that will ensure short, medium and longer term benefits to the local and regional economies. Given the analyses conclusions in the Golf Tourism and Economic Impact Report by JBRS, and the Social and Economic Impact Assessment by Lantz Consulting, the Planning Proposal is, on

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balance, concluded to be worthy of recommended support for progression on the basis of the economic and social benefits to the local and regional economies and employment diversification needs. However, it is anticipated that the residential and tourist dwelling quantum's will be subject of further discussions with the Department of Environment and Planning.

ENCLOSURES

- 1** Final Submissions & Staging Plan - Insite Planning 24/11/14
- 2** Report to Council Meeting of 20 August 2014 and enclosure documents
- 3** Summary of Public Submissions & State Agency comments
- 4** Proponent's Final Submission - Supplementary Letter 3 December 2014



Our Ref.: 13047

24 November 2014

General Manager
Cessnock City Council
PO Box 154
CESSNOCK NSW 2325

ATTENTION: David Broyd

Dear David,

RE: The Vintage Planning Proposal – Final Submissions and Staging Plan

Reference is made to Councils letter dated 12 November in response to our previous correspondence on this matter dated 29 October 2014, our meetings over the last two Thursdays and your email dated 20 November. In response to the issues and request for information we would like to respond by making the following submissions.

SUBMISSION 1 – PROVIDING A CONTROLLED RECREATION & TOURIST/ RESIDENTIAL MIX VIA A STAGING PLAN

Our submission on this issue, which we see as the primary issue for consideration at this stage in the rezoning process, is as follows:

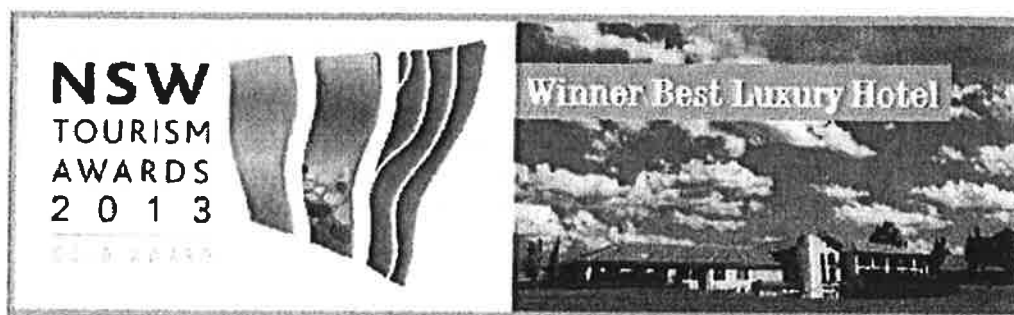
- 1.1. This rezoning process will effectively create a new phase in the development of The Vintage drawing 'a line in the sand' between the original planning provisions and what will be the new planning provisions including the new SP3 Tourism zone and the inclusion of the YBL. However existing approvals will still remain in place and The Vintage can still be developed under the provisions of those approvals.
- 1.2. The planning outcome of the current rezoning process should be consistent with the aims and objectives of the original amendments to the Cessnock LEP 1989 which enabled The Vintage to be established. In this respect the outcomes of the 'tourist recreation facilities' provisions under the CLEP 1989 should be the same as the proposed 'Integrated tourist facilities' and SP3 Tourism zone provisions into the CLEP 2011.
- 1.3. The existing approvals and zoning provisions are important in providing context, and it should be accepted that what has been approved to date satisfied the relevant statutory provisions when each element of the development was approved by Council.

1

- 1.4. Council's recent correspondence that there has been more residential based development on site to date than tourist accommodation development with the inference being drawn that under the development approved to date there is *"a significant domination of residential development relative to tourist development"*. Specifically Council has requested that we justify that the existing approvals and development satisfy the original planning provisions.
- 1.5. Please find attached a memo from the proponents Planning Manager, Lin Armstrong (Attachment 1), which provides important explanation on the history of the staging of the development of The Vintage. Significantly Lin points out that the development was approved as a **'tourist recreation facility'** that did not have as a trigger for residential allotments the provision of tourist accommodation -
- Tourist recreation facility is an *"establishment primarily providing or intending to provide temporary accommodation for holiday purposes, entertainment or recreation..."*
- It then goes on to list a number of uses which don't all involve tourist accommodation, but can involve recreational type facilities - *"may include such things as **art and craft industries**, camping grounds, caravan parks, **equestrian centres**, holiday cabins, motels, **playgrounds**, **refreshment rooms**, **water sport facilities**, premises specified and any licence (including a hotelier's licence) under the Liquor Act 1982, a club (whether or not registered under the Registered Clubs Act 1976) used in conjunction with any such activities, tourist accommodation buildings, tourist accommodation units, or **other services primarily intended to serve the needs or interest of tourist or holiday makers.**"*
- 1.6. This is then reflected in the original Masterplan approvals for The Vintage (see Attachment 2)) where stage 1 required the provision of the golf course and phase 1 of the clubhouse, and stage 2 phase 2 of the clubhouse and stage 3 the tennis and fitness centre. Originally no tourist accommodation was required in stages 1, 2 or 3.
- 1.7. We submit that clearly to date there has been more recreational and tourist based development approved than residential based development, and that if anything The Vintage would enjoy a credit of recreational and tourist based development moving forward.
- 1.8. In order to apply a test to ensure that tourist development on site is the predominant use, the Council's letter seeks to draw a direct comparison between residential lots approved and tourist accommodation units constructed to date.
- 1.9. We have consistently made submissions to Council against this methodology because it fails to take account for the other forms of recreation and tourist development that has been provided on site (golf course, conferencing facilities, wedding facilities, restaurant etc) in line with the statutory definition of a tourist recreation facility, or that a significant proportion of the dwellings

constructed on site are in fact used for tourist accommodation purposes (32%).

- 1.10. Moving forward we submit that tourist accommodation should not in itself satisfy the underlying strategic planning considerations as outlined in the Planning Proposal or the objectives of the SP3 Tourism zone which are to **grow the visitor economy in the local area and region**. Tourist and recreation facilities, such as the golf course and the wedding and conference facilities etc are what attracts and grows the visitor economy. Tourist accommodation does little to grow this economy; it simply meets an accommodation demand for tourist visiting the area.
- 1.11. Consequently **we oppose a direct comparison of tourist accommodation against residential/permanent title lots for existing development because it is not reflective of the statutory provisions that have applied to The Vintage to date, and we also oppose it moving forward because it is not an accurate measure of tourist and recreational development.**
- 1.12. Council's reference to the Golden Bear LEP is also noted; however our submission is that it is of little relevance. The Vintage is an established integrated tourist recreational facility that has complied with the relevant statutory provisions; it is multi-award winning and has a track record of 'delivery'. The Golden Bear is a completely new, and as far as we are aware, an unfinanced project, so **it is a speculative development.**
- 1.13. We also note that the Gateway Determination for The Vintage does not mention the need to address the mix of residential and tourist development or that any provisions need to be added to the LEP as has been done with the Golden Bear project. Furthermore it has not been mentioned in the last eight (8) years of Council's consideration of the proposal. It has also not been raised during the public exhibition process or as a result of submissions from public authorities.
- 1.14. **Notwithstanding the above submissions, the proponent is prepared to submit a staging plan as has been suggested by Council officers.**



SUBMISSION 2 – CURRENT CHARACTER OF THE VINTAGE

In the Council letter dated 11 November it states in part:

"To date 465 residential lots and 144 tourist units have been subject of development consents. This represents a ratio of approximately 3 to 1 residential to tourist development and leads to the conclusion that 89% of the originally planned residential development has been subject of development consents, but only 18.3% of tourist developments approved in the original master plan and hilltop precincts have been subject to development consents. This, therefore in these direct terms, represents a significant domination of residential development relative to tourist development".

In response our submission is as follows:

- 2.1. The Vintage is consistent with its original Masterplan approval as a tourist recreation facility as outlined under Submission 1 above. The above synopsis completely ignores the fact that the relevant statutory definition allowed for recreation facilities and consequently the staging of the Masterplan approval and as now reflected in the DCP, required provision of the golf course and clubhouse in stage 1 and 2 and the tennis courts and fitness centre in stage 3. Tourist accommodation was not a trigger until stage 3 and this was following an amendment sought by the developer. Notwithstanding, The Vintage has provided additional tourist accommodation and facilities such as the conferencing and wedding facilities beyond what is required by the DCP.
- 2.2. It is confirmed that 475 lots have development consent, however only 452 of these are residential lots. This is significant because the remaining 23 lots are rural residential lots that do not have any trigger under the Masterplan approvals.
- 2.3. Of these development approvals for 475 lots, 375 lots have been constructed and individual titles registered.
- 2.4. As of the 29 July 2014 there were 238 dwellings constructed on the 375 lots.
- 2.5. As of the same date, of the 238 dwellings constructed, 76 were being used for tourist accommodation purposes.
- 2.6. In terms of 'on the ground construction' Table 1 provides a summary.

Table 1 – Current Situation

Tourist/ Recreational Uses	Residential Uses
18 hole championship golf course, Greg Normal Designed, International Standard	238 Dwellings of which 162 are used for residential purposes
Driving Range and Golf Academy (Richard Mercer) facility	375 Residential lots (137 vacant) – based 68% being used for residential purposes and 32% for tourist purposes would equate to a potential of 255 residential dwellings and 120 holiday houses
Clubhouse incorporating two bars, 150 seat restaurant, golf shop, administration and change room facilities	Parklands – Ironbark Hill, Jacaranda's, Bluegums, Peppertrees, Olive Grove, The Maples and Tallowwoods and approx. 22km of walking and cycling trails
Conferencing facilities – Barrington Room (200 people), Founders Room (330), Carriage House (Chapel) (120), Clubhouse (80) and Marquee area in front of Barrington room can add another 300 – total capacity 800 Same facilities also available as community facilities	
Carriage House – for weddings and special events with reception facilities available in the Barrington and Founders Rooms and the clubhouse - 90 per year Facility also available as a community facility	
Fitness Centre - Tennis Courts x 2, Swimming pool and spa, Gymnasium (also used by residents)	
Chateau Élan Spa Facility – 18 spa treatment rooms	
44 unit (77 room) Grand Mercure Hotel	
100 unit Chateau Élan Hotel	
76 Holiday Houses (potential 120 out of 375 lots approved)	
Board Rooms and business centre for board meetings of major corporations and community meetings	

- 2.7. In summary from table 1 there are:
- 100 Chateau Élan tourist accommodation units (TAU's)+ 44 Grand Mercure TAU's + 76 Holiday houses = **220 TAU**
 - **162 residential dwellings**
 - 220 Tourist Accommodation Units (TAU) and 162 residential dwellings
- 2.8. **Note:** - The capacity of the tourist accommodation within the Chateau Élan and Grand Mercure developments is 1– 4 people per unit while the accommodation capacity of the residential dwellings is 6 – 12 people.
- 2.9. Without taking into account the various tourist land uses such as the golf and conferencing facilities etc and just examining tourist accommodation against residential dwellings, at present **approximately 58% of all accommodation on site is for tourists and 42% for permanent residents.**
- 2.10. **There is currently significantly more tourist accommodation use on-site than there is residential use and this accurately reflects the character of the development on-site today.**
- 2.11. **It should be noted as per submission 1, the aim of The Vintage is to be a major integrated tourist and recreation facility and therefore recreation components should be the DRIVER hence the 9 golf holes, wine and cooking school etc proposed on the VBL.**

SUBMISSION 3 - LAND STILL TO BE DEVELOPED

- 3.1. Based on the two Masterplan approvals for The Vintage there is still to be developed as outlined in table 2 below:

Table 2 – Future Approved Development – The Vintage

Tourist/ Recreational Uses	Residential Uses
90 Holiday Houses*	176 residential dwellings (147 lots of which 100 have been approved)*
200 room Hill Top Hotel	
106 Hotel Rooms	
335 TAU's	
Amphitheatre	
Commercial facilities including possible ➤ 6 specialty retail shops @ 120m²; ➤ 120 seat family restaurant; ➤ 300m² sports bar; ➤ 200m² small bar; ➤ 300m² general store; ➤ 3 practitioner Doctors surgery ➤ Pub/hotel	

***Note** – this is based on a current split of 68% permanent residential and 32% holiday home split in respect to the 238 dwellings built on site to date. This number is predicated by the market

3.2. So in summary there will be within the context of the existing Masterplan approvals at The Vintage (ie excluding the VBL):

- 100 Chateau Élan + 44 Grand Mercure + 167 Holiday houses + 200 room Hill Top Hotel + 106 hotel rooms + 335 TAU = **952 TAU**
- **355 residential dwellings**
- **952 TAU v 355 residential dwellings**

3.3. Consequently there is a combined total under the two existing Masterplan approvals at The Vintage 1,287 TAU's and residential dwellings. When these approvals are built out the split will then be **approximately 72% of all accommodation on site is for tourists and 28% for permanent residents.**

SUBMISSION 4 - VINATGE BALANCE LANDS

4.1. The Planning Proposal for The Vintage entails the following components:

Table 3 – Vintage Balance Lands Proposal

Tourist/ Recreational Uses	Residential Uses
Another 160 Holiday Houses*	340 residential dwellings (500 perm. lots)*
50 unit lodge development	
40 tourist units around vineyard facility on Beggars Bridge	
60 unit 3.5/4 star motel on SG7	
20 Tourist apartments within the Commercial Tourism precinct (SG2)	
40 unit Medi-Spa (Palmers Lane)	
9/12 hole golf extension	
Cellar door & café (cnr Palmers Lane & WCD)	
Vineyards (Palmers Lane and BB)	
Conference facility, residence & restaurant (to host a wine and cooking school on BB)	

***Note** – this is based on a current split of 68% permanent residential and 32% holiday home split in respect to the 238 dwellings built on site to date. This number is predicated by the market.

4.2. So in summary there will be within the context of the total Vintage development (existing The Vintage Masterplan approvals + VBL proposal):

- 100 Chateau Élan + 44 Grand Mercure + 327 Holiday houses + 200 room Hill Top Hotel + 106 hotel rooms + 545 TAU + = **1,322 TAU**
- **695 residential dwellings**
- **1,322 TAU v 695 residential dwellings**

4.3. Consequently there will be a combined total development potential at The Vintage of **2,017 TAU's and residential dwellings**.

4.4. When all approvals are built out the split will then be **approximately 65% of all accommodation on site is for tourists and 35% for permanent residents**.

SUBMISSION 5 - METHODOLOGY FOR FUTURE STAGING

5.1. As outlined in our correspondence dated 29 October 2014, we support an **evidence based approach** to assisting in the process of determining future staging to ensure the overall character of The Vintage is always tourist recreation in nature. There are certainly statutory based 'test' which Council has to rely upon including the zone objectives and the definition of 'integrated tourist facility', and we submit that an evidence based approach should be used to assist this process. Our submission in respect to how tourist, recreation and residential components should be calculated is as follows':

5.2. In order to satisfy the SP3 Tourism zone objectives, the majority of land uses within The Vintage must have a tourist and recreational orientation and residential land use must never be the dominant land use. 'Legally' this would mean that the minimum tourist and recreation land use must be notionally 51% and the maximum residential use must not exceed 49%. We submit that this is a 'threshold' test that must be applied at all stages of the development. The other threshold tests are applied via the zone objectives and relevant land use definitions.

5.3. An evidence based methodology needs to be determined in respect to the tourist development that has occurred on site such as the golf course, conference facilities, day spa and the like. There are, we submit, two options in this regard:

- Analyse tourist usage of the tourist and recreational facilities against the residential population capacity of the residential subdivision elements;
- Assign values to the various tourist and recreation elements approved under the first stage as outlined in the DCP and measure these against an assigned value for the residential elements of the development also enabled in the first stage.

Option 1 – Residential Capacity v's Tourist Capacity

5.4. The first option would examine tourist usage of tourist and recreational facilities (ie the number of tourists using facilities and accommodation at The Vintage each year) against the residential population capacity of the residential subdivision elements of The Vintage.

Residential Population:

5.5. From the Social and Economic Impact Assessment report the potential residential population of The Vintage under the current Masterplan approval (522 lots) is 923. This is calculated as follows:

- 522 permanent lots x 68% (representing the percentage of dwellings used for residential purposes) = 355 x 2.6 (being the Occupancy Rate) = 923

Tourist Usage

5.6. The tourist usage at The Vintage can be summarised in table 4 below:

Table 4 – Tourist Usage of Tourist Facilities at The Vintage 2013/2014

TOURIST RECREATION FACILITY &	2013/2014 USE	GROSS USE WITH OTHER ON-SITE FACILITY	ACTUAL TOURISTS (Column 2 – 3)
Golf Course (2012/13)	17,810	8,550	9,260
Chateau Élan Accommodation	39,340	NA	39,340
Chateau Élan Spa Facility	15,403	10,228	5,175
Grand Mercure	29,771	NA	29,771
Holiday Homes (As per Vintage Realty Advice – refer to Attachment 3)	38,880	NA	38,880
Weddings - Ceremonies - Receptions - Combined Total (C + R – Comb)	67 and 5,166 44 and 3,496 42 and 3,279 5,383	960	4,423
Conferences Number People	156 4,138	3,500	638
Corporate Events	690	230	460
Restaurant	63,970	51,176 (approx. 45k guests and 6k residents)	12,794
TOTAL	215,385	74,644	140,741

5.7. Refer to Attachment 8 - in summary:

- The Vintage generates 215,385 tourist 'uses' in 2013/14.
- The Vintage generated 140,741 actual visitors.

Option 2 – Residential value v's Tourist Recreation value

5.8. The second option, and the one we suggest be used, analyses the recreation and residential Stage 1 elements of The Vintage as outlined in the original Masterplan approval and also reflected in the DCP. It is submitted that under the original approval, where The Vintage was approved as a "tourist recreational facility", it was a statutory requirement that the residential components of development at The Vintage be subservient to the recreational elements of the project.

5.9. Therefore to pass the 'primarily' test outlined in the definition, the residential component of the approved stage 1 development could not exceed 49% of the development and the recreational elements would not be less than 51% of the development. **Stage 1 as outlined in the DCP** included the following elements of development:

"Stage 1:

18 hole golf course including Informal Play Areas 1 and 2; Country Club and associated parking; a maximum of 223 residential lots; a maximum of 21 rural residential lots and associated residue lots" (pg E.2-10)

{The informal play areas 1 and 2 are the practice facilities including the driving range}

5.10. To enable a comparison of the residential elements against the tourist/recreation elements, it is then necessary to allocate the tourist & recreational components of the development a "Recreation Tourist Unit Value", or RTU value, where a RTU represents any form of tourist and recreational development.

5.11. **On this basis if the 244 residential units represented 49% of all development occurring under stage 1, the whole unit representation for development under stage 1 would be 498 (because 244 is 49% of 498). Consequently the total RTU value of the tourist development would be 254 (being 51% of 498).**

5.12. **This then gives a comparison of RTU v residential development within Stage 1 of 254:244.**

5.13. It is also important to note that within the permanent residential precincts of The Vintage, the housing is used for both residential and tourist purposes. This split is currently:

- 32% as holiday home use, and
- 68% permanent residential use.

5.14. This data was obtained via a census undertaken by Vintage Realty on 29 July 2014 (refer to Attachment 3).

5.15. Consequently housing used for tourist accommodation purposes should be accounted for as a Tourist Unit.

5.16. This means that we then have the following units of measure:

- RTU – tourist units which includes tourist and recreational facilities, tourist accommodation and holiday homes.
- RU – residential unit value which equals one (1) unit per residential dwelling.
- DU (total Development) = RU + RTU.

Table 6 – Staging Plan - Stage 1

TOURIST & RECREATION USES	TOURIST ACCOMODATION	RESIDENTIAL
Golf Course, driving Range, practice green, chipping green		223 Permanent 'The Vintage (Residential)' style lots 21 Rural Residential lots
Clubhouse in, restaurant, golf shop, administration, change room facilities and carparking	(78 holiday homes)	(166 residential dwellings)
RTU/RU Split 332:166 (498)	67% tourist	33% Residential

5.17. In terms of accounting for the tourist and recreational value of development for future stages, this would then be done by measuring the estimated cost of the future tourist and recreational development against the cost of tourist and recreational development in stage 1 as a percentage (%).

5.18. In this respect the value of RTU development in stage 1 of the DCP in today's construction dollar value has been estimated at \$31.5M as detailed in table 7 below.

Table 7 –Stage 1 DCP Development Value

TOURIST & RECREATION FACILITIES	2014 Construction Value
Golf Course including Greg Norman Design fee	\$22m
Driving Range, practice green, chipping green and teaching facility	\$1.5m
Clubhouse including restaurant, golf shop, administration, change room facilities and carparking	\$8m
TOTAL	\$31.5M

Note: The above estimates have been provided by the Finance and Administration Manager of the Stevens Group – see letter Attachment 4.

5.19. Summary:

- The tourist and recreational facilities as required in stage 1 by the DCP would have a RTU value of 254.
- The permanent residential lots used as holiday homes would have a RTU value of 78 (based on the current 32% holiday home use).
- This would give a total RTU value of 332.
- In terms of residential units – 68% of all permanent residential lots would be used for residential purposes giving a 'RU' value of 166.

5.20. Consequently there is 498 development units (ie 332 RTU + 166 RU) within stage 1 of which the split is 67% tourist use and 33% residential use.

5.21. Table 7 below then illustrates the implications of stages 2 and 3 of the development which have included additional tourist elements of development not specified in the DCP or original Masterplan approval:

Table 8 – Stages 2 & 3

Stage 2 – The Vintage#			
Tennis Courts and Fitness Centre including swimming pool - \$2m			147 Permanent 'Vintage (Residential) style' lots
Conferencing facilities – Founders Room and Barrington Room - \$3m			(100 residential dwellings)
(Est. value \$5m which is 16% of \$31.5m – 13% of 254 = 40; Equivalent - 40 RTU's)			
Parklands –Olive Grove, The Maples and Tallowwoods and approx. 22km of walking and cycling trails (as this was part of the residential precincts, this hasn't been assigned a RTU value)			
Tourist/Residential Split 419:266 (685)	61% tourist	39% Residential	
Stage 3 – The Vintage*			
Carriage House (Chapel) – weddings, special events and conference facility - \$1.5m	100 Chateau Élan TAU's		65 Permanent 'Vintage (Residential) style' lots 19 Rural Residential Lots
Chateau Élan Spa Facility – 18 spa treatment rooms - \$5m	44 unit (77 room) Grand Mercure Hotel		(57 residential dwellings)
(Est. value \$6.5m which is 21% of \$31.5m; 21% of 254 = 53; Equivalent - 53 RTU's)	(27 holiday homes + 100CE = 44 GM = 171 RTU's)		
Tourist/Residential Split 643:323 (966)	67% tourist	33% Residential	

Note:

1. Development up to stage 3 includes all development that has occurred on-site to date.
2. Values have changed since previous submission due to changes to tourist and recreational facilities values as now submitted in the attached letter from Mr O'Brien (Attachment 4).

5.22.Summary Stage 2:

- The tourist and recreational facilities provided in stage 2 would have a RTU value of 40.
- The permanent residential lots used as holiday homes would have a RTU value of 47 (based on the current 32% holiday home use).
- In terms of residential units – 68% of all permanent residential lots (147) would be used for residential purposes giving a 'RU' value of 100.
- Consequently the running total following stage 2 is 685 DU.
- The tourist/residential split is then 419:266 or 61% and 39%.

5.23.Summary for Stage 3:

- The tourist and recreational facilities provided in stage 3 would have a RTU value of 53.
- The permanent residential lots used as holiday homes would have a RTU value of 27 (based on the current 32% holiday home use).
- When the Chateau Élan (100 RTU's) and Grand Mercure (44 RTU's) is taken into account this would give a total RTU value of 222.
- In terms of residential units – 68% of all permanent residential lots (84) would be used for residential purposes giving a 'RU' value of 57.
- Consequently the running total following stage 3 is 966 development units.
- The tourist/residential split is then 643:323 or 67% and 33%.

Summary

5.24. When The Vintage was conceived it was a statutory requirement under the Cessnock LEP 1989 at the time that overall development would be primarily intended for tourist and recreational use and the residential elements were intended to support those components as an integrated facility. Since embarking on this current Planning Proposal process, and where this issue has been considered, it has been our submission that overall The Vintage is primarily a tourist and recreational facility therefore satisfying these requirements. **It is also noted that Council would agree with this position given it has consented to the development.**

5.25. In order to provide a staging plan for the future elements of The Vintage, including those approved under the original Masterplan and those components that form part of the VBL Planning Proposal, it is submitted that an 'evidence based' methodology needs to be established on how to measure the various components of development. This should then be used to assist the decision making process when Council considers various elements of the project at the DA stage against the zone objectives and the relevant development definition of an 'integrated tourist facility'. We would submit that provided there is more capacity within approved tourist and

recreational facilities on site than residential capacity, then the development would satisfy this test.

5.26. However we have taken a more conservative approach. Our submission noted above goes back to the original stage 1 requirement in the DCP and original Masterplan approval providing overall recreation tourist unit (RTU) and residential unit (RU) values to come up with a total development unit (DU) value. This is then used to determine the ratio of tourist/recreational development against residential development on the site. It also includes all of the rural residential lots notwithstanding the fact that there was no legal trigger for other recreational or tourist uses to be provided before they could be released.

SUBMISSION 6 – DEVELOPMENT & INFRASTRUCTURE INVESTMENT

6.1. Council has requested that the proponent provide best estimates available of capital values for tourist and recreational facilities. This has been provided by the Finance and Administration Manager for the proponent who has been involved in The Vintage since its inception and is responsible for all project budgeting – see Attachment 4. The following table provides a summary in respect to what has been provided on site to date:

Table 9 – Development Values of Existing facilities

TOURIST & RECREATION FACILITIES	2014 CONSTRUCTION VALUE
Golf Course including Greg Norman Design fee	\$22m
Driving Range, practice green, chipping green and teaching facility	\$2m
Clubhouse including restaurant, golf shop, administration, change room facilities and carparking	\$9m
Barrington Room	\$1m
Founders Room	\$2m
Carriage House	\$1.5m
Board Rooms and business centre	\$.8m
Fitness Centre - Tennis Courts x 2, Swimming pool and spa, Gymnasium	\$2m
Walking and bicycle tracks – 22km	\$2m
Grand Mercure	\$20m
Chateau Élan Hotel	\$30m
TOTAL	\$92.3M

6.2. In terms of funds spent in today's AUD value on infrastructure to service the site, table 10 above provides a summary. It should be noted that a number of these items, in particular the external roadwork's, have a benefit to the broader community. These values have also been confirmed by the Finance and Administration Manager for the proponent (see Attachment 4).

Table 10 – Infrastructure Investment

Infrastructure	2014 CONSTRUCTION VALUE
Construction of McDonalds Rd – Gillards Lane to Wine Country Drive	\$6m
Wine Country Drive/ McDonalds Rd Intersection	\$1.2m
Sewer connection to Cessnock	\$3m
Treated water from Branxton	\$2m
Electricity, gas and telecommunications Connections	\$1.5m
Parklands – Ironbark Hill, Jacaranda's, Bluegums, Peppertrees, Olive Grove, The Maples and Tallowwoods	\$4m
Internal Roads	\$15m
Stormwater Management	\$2m
TOTAL	\$34.7M

6.3. Telstra have also installed a telecommunications tower at a cost of some \$300k that services the community and surrounding area.

SUBMISSION 7 – RESPONSES TO COUNCILS LETTER DATED 12 NOVEMBER

In response to some of the issues and statements made in the above letter from Council we would submit as follows:

- 7.1. Page 1 point 3; of particular strategic relevance is the **Vineyards Vision** document that post-dates the City-Wide Settlement Strategy. The Vintage and the VBL proposals are consistent with this document which specifically provides a vision for the vineyards district which includes an expansion of The Vintage onto the VBL. The Planning Proposal for The Vintage was partly delayed waiting completion of this visioning document that was drafted by the community and adopted by Council. It must take preeminence over these other strategic planning documents.
- 7.2. Page 2 paragraph 3 - Reference is made to the statement "*Vintage Balance Land and Beggars Bridge Planning Proposal*"; it is important that terminology is consistent so as to avoid confusion. The VBL contains two precincts, the Wine Country Drive and Beggars Bridge precincts. Beggars Bridge is part of The Vintage Planning Proposal.
- 7.3. Page 2 point 2 – the population capacity of The Vintage is explained at paragraph 4.4.
- 7.4. Page 2 point 3 – refer to table 4.
- 7.5. Page 2 point 5 – refer to table 9 and attached letter from the proponents Financial controller.
- 7.6. Page 2 point 5 – if 254 RTU is questionable, another evidence based method has not been proffered by Council to account for recreational and non-tourist accommodation facilities provided on site to date or proposed to be provided under the VBL. Paragraph 4.11 of this submission has provided the basis and rationale.
- 7.7. The issue raised at the first dot point on page 3 is addressed under Submission 2.
- 7.8. Page 3 last paragraph - How does the JBAS report provide an evidence based approach to providing the sustainability of the golf course as this is critical to support the legal and policy provisions of the LEP and DCP respectively?

RESPONSE – Page 6 within the Executive Summary of the JBAS Golf Tourism Report that accompanied the Planning Proposal submission post Gateway Determination provides two tables and a summary response to this issue whereby the ultimate residential and tourist unit yield will allow for a 2% profit margin noting that this will not allow for any capital re-investment program.

SUBMISSION 8 – PROPOSED STAGING PLAN – COUNCIL PROPOSAL

8.1. Council has requested that we provide:

- A proposed Staging Plan which provides for a maximum of 300 residential lots over multiple stages - the completion of which will represent a threshold at which a minimum of 200 tourist units must be built before any further residential lots will be approved by Council;
- Confirmation that the 9-hole golf course, cellar door and commercial/tourist precinct - with specified component developments - will be completed before any of the 300 residential lots referenced above are completed/subject of subdivision certificate releases. This should be integrated into the proposed Staging Plan;
- The best estimates available of capital values of all of the tourism assets being created before any of the 300 residential lots referenced above are completed/subject of subdivision certificate releases. This should be integrated into the proposed Staging Plan;

8.2. The next stages of development at The Vintage under the existing Masterplan approvals and within the VBL are set out in table 11 - 13 below and illustrated via Attachment 5:

Table 11 – Stage 4

Stage 4 – The Vintage + VBL		
Recreation and Tourist Facilities	Tourist Accommodation	Residential
Commercial tourist precinct (SG2) including possible ➤ Pizza Bar (113m²) ➤ Vintage Realty 196m² ➤ Specialty Retail 326m² ➤ Restaurant 112.5sqm ➤ Café 222m² ➤ Commercial 816m² ➤ 20 unit tourist & visitor accommodation Estimated CV \$5.7m	200 Unit Hotel Estimated Value \$50m	100 Permanent 'Vintage (Residential) style' lots - 2 small areas on spine road – 20 lots, adjacent to Casuarina precinct 15 lots, 30 lots adjacent to resort and 35 lots adjacent to Precinct L It is estimated that the release of these lots will be done over 2 stages with approximately 50 lots in each stage
VBL Golf course Estimated CV - \$12m		200 Resort units and associated facilities This development is likely to be built over 6 – 7 stages

Development of agricultural lot and upgrade of vineyard Palmers Lane Cellar Door Facility Estimated CV - \$1m		Palmers Lane Vineyard Lot (existing residence and approval for 3 tourist accommodation units)
		Existing The Vintage Masterplan Approval: ➤ 47 Permanent 'Vintage (Residential) style' lots to be developed within Precinct L and Precinct G ➤ SG4-40 residential lots ➤ Precinct L - 50 residential lots ➤ 10 golf front homes on the first hole
150 RTU value	140 Holiday Homes	297 residential homes
Tourist/Residential 1,133:620 (1,753)	Split 65% tourist	35% Residential

CV – Estimated Construction Value

8.3. Using the methodology set out in submission 4 option 2, the residential/ tourist recreational mix would be 35/65 as noted above.

8.4. Holiday homes use is based on the assumption that this will continue to be 32% of all dwellings. There is a strong incentive for investors to let dwellings out within The Vintage as holiday homes and if visitor numbers continue to grow as predicted in the NSW Tourism's Destination Management Plan for the region, there is no reason why this rate should not hold firm.

8.5. Stage 4 would see 360 tourist accommodation units' v 297 residential dwellings.

Triggers for Residential lot release – Stage 4

8.6. Before any of the 300 residential units on the VBL can have titles released, **the Commercial Tourist Precinct and the 9 hole golf course would be built**. Design work has commenced on the Commercial Tourism precinct (SG2) with preliminary concept plans attached for your information.

Triggers for Residential lot release – Stage 5

8.7. The **200 unit hotel would be completed** prior to any of the final 200 residential titles are released in stage 5 detailed in table 12 below as per Council requirement.

Table 12 – Stage 5

Stage 5 – The Vintage + VBL			
Recreation and Tourist Facilities	Tourist Accommodation	Residential	
Cnr Wine Country Dr & McDonalds Rd (SG7) including: • Pub • Ancillary commercial facilities	60 unit tourist accommodation facility	160 Permanent 'Vintage (Residential) style' lots	
		40 rural lifestyle lots	
RTU value unknown as value unknown	(64 holiday homes + 60 TAU's = 124 RTU's)	(136 residential dwellings)	
Tourist/Residential 1,257:756 (2,013)	Split 62% tourist	38% Residential	

8.8. Using the methodology set out in submission 4 option 2, the tourist recreational/ residential mix would be 62/38 as noted above.

Table 13 – Stage 6

Stage 6 – VBL			
Recreation and Tourist Facilities	Tourist Accommodation	Residential	
Amphitheatre (Est. value \$1.5m which is 5% of \$31.5m; 5% of 254 = 13; Equivalent - 13 RTU's)	551 tourist accommodation units	Nil	
Tourist/Residential 1,821:756 (2,577)	Split 71% tourist	29% Residential	

8.9. Using the methodology set out in submission 4 option 2, the final residential/ tourist recreational mix would potentially be 29/71 as noted above.

SUBMISSION 9 – RESPONSE TO SUBMISSIONS

STATE AGENCIES/ RELEVANT REPRESENTATIVE ORGANISATIONS

9.1. Office of Environment and Heritage

- Main concern is removal of the squirrel glider habitat given vegetation and hollow bearing trees removal. Impacts could be avoided if development takes place in accordance with structure plan and EAR – this needs to be committed;
- Potential for SIS if critical habitat potentially affected;

RESPONSE – This will be confirmed during the further environmental constraints analysis as part of the Masterplanning process and prior to any DA.

9.2. DPI – NSW Office of Water

- Supports the general approach in the Stormwater Management Report for the management of riparian corridors. Figure 8 inconsistent in showing 20 metres buffer;
- Any development within 40 m of waterfront land may require a controlled activity approval;
- Location of detention basins and water quality treatment structures should be consistent with the Guidelines (2012);
- Stormwater discharge points and onsite detention designs will need to be detailed for CA applications;
- Need to determine if any licences required for detention and retention basins – may be implications for existing dams and existing licences;
- Harvestable rights for future development should be calculated for post-subdivision lots rather than the lots prior to subdivision of the area. further information is needed on water storage options;
- Volume of dams on the Beggars Bridge site appears well in excess of the harvestable rights and there are no valid licences – this needs to be resolve prior to development;

RESPONSE – Noted; no implications for rezoning.

9.3. DPI – Minerals and Petroleum

- Response received – no comments;

NO RESPONSE

9.4. DPI – Agriculture

- No response received

NO RESPONSE

9.5. Mindaribba Local Aboriginal Land Council

- Support PP subject to:
 - AC&HM planned, developed and implemented prior to any ground disturbances;
 - The Management Plan including:
 - I. Area surveyed;
 - II. Methodology for sub-surface testing;
 - III. Mitigation measures and comprehensive trigger points developed in conjunction with MLALC;
 - IV. Care and control of recovered artefacts
- The MLALC developed an alliance with LH Wonnarua Cultural Services and the LHWCS recommendations are also supported.

RESPONSE – The Vintage has a long association with the MLALC and is committed to working with them through the development of the site as detailed in the Aboriginal Archaeological report submitted with the Planning Proposal.

9.6. Rural Fire Service

- No further comments in addition to letter of 16 July 2014

NO RESPONSE

9.7. Roads and Maritime Services (RMS)

(The RMS advice was contained in a letter of 27 October 2014 with reference to previous correspondence of February 2014 and November 2013 and explained below).

Letter of 27 October 2014

- In accordance with the Roads Act 1993 the RMS has powers in relation to road works, traffic control facilities, connections to roads, and other works on the classified road network. Wine Country Drive is a classified (State) road and RMS concurrence is required for connections to the road with Council consent under Section 138 of the Act. Council is the road's authority for Wine Country Drive and all other roads in the area, except the Hunter Expressway;
- The preferred access arrangement is a four way one lane circulating roundabout on Wine Country Drive to service both The Vintage and Jack Nicklaus Resort (Golden Bear) and to provide a gateway entrance. It is understood that Council has given its support to this arrangement
- RMS considers that prior to the rezoning of the subject land, the location of the proposed roundabout on Wine Country Drive must be determined to the satisfaction to RMS, Council and the developers of both The Vintage and the Jack Nicklaus Resort
- Council should establish an appropriate funding mechanism such as a Voluntary Planning Agreement to ensure that the developers of both the resort developments on either side of Wine Country Drive provide an equitable monetary contribution towards this proposed roundabout treatment;
- RMS will provide further comments and respond to the Planning Proposal upon determination of the roundabout location.

Letter of 11 February 2014 - Re: Jack Nicklaus Resort (Golden Bear) Planning Proposal

- A review of the rezoning proposal indicates the proposed new location of the access on Wine Country Drive to the Jack Nicklaus Resort is approximately 175 metres north of the proposed Vintage development access. However, the schematic concept site plan for the Jack Nicklaus development indicates that relocation of the proposed new access on Wine Country Drive to join the proposed Vintage access would not significantly impact on the overall layout of the development;
- Prior to the rezoning of the subject site (Jack Nicklaus Resort) Council should ensure that the developers of both The Vintage and the Jack Nicklaus Resort agree with the location of the proposed roundabout on Wine Country Drive;
- RMS will provide further advice and / or requirements on submission of a concept design plan at the DA stage;
- A revised Traffic Assessment shall consider the roundabout option and take into account the traffic generated by both the developments;
- Council should establish an appropriate funding mechanism, such as a VPA;
- All works associated with the proposed rezoning shall be carried out at full cost to the developer to Council's requirements.

Letter of 1 November 2013 (to Intersect Traffic)

- RMS reviewed the request for information and commented as follows:-
 - The preferred access arrangement with both developments is a four way one lane circulating roundabout on Wine Country Drive which services both developments. Concept plans previously provided to RMS for the Golden Bear development are based upon this arrangement;
 - Should the Jack Nicklaus Resort not proceed concurrently with The Vintage development, at the time the new Vintage intersection on Wine Country Drive is required, The Vintage is required to construct a new Austroads CHR / CHL intersection in accordance with the current conditions of development consent / Cessnock DCP. RMS would be prepared to review this in consultation with Council. A focus on the Wine Country Drive / McDonald's Road intersection may be feasible for The Vintage / Beggars Bridge development. Should the Jack Nicklaus Resort development proceed a new T intersection would need to be constructed at the location of the proposed roundabout in this instance.

RESPONSE – The Vintage already has approval via the RMS for the location and design of the intersection onto WCD and this is clearly illustrated in the Councils DCP with the approved subdivision for the Hilltop precinct incorporating the entry features (see attachment 6 and 7) on WCD. However, the further development of The Vintage does not require separate access onto WCD; development of The Vintage (including the VBL) can be serviced adequately via the McDonalds Road and Palmers Lane intersections onto WCD – see Traffic Impact Assessment report prepared by Intersect Traffic that accompanied the Planning Proposal.

The Golden Bear development requires a new intersection to be constructed onto Wine Country Drive whereas it is not a requirement for The Vintage, it is an option. If the Golden Bear development proceeds, and at this stage it is only considered a speculative development, The Vintage will consider connecting into the

roundabout. In this respect The Vintage would only pay for the connection costs not the costs associated with the construction of the roundabout. It should also be noted that The Vintage has already constructed over 4km of McDonalds Rd from its intersection with WCD to Gillard's Lane at a cost of some \$6m, and constructed the intersection of WCD and McDonalds Rd at a cost of some \$1.2m. They have also paid a significant cash contribution towards rural roads within the Rothbury area as part of Councils S.94 Plan.

9.8. NSW Police

- **Submission received** – no further comment needed.

NO RESPONSE

9.9. Hunter Water Corporation

- No response received;

NO RESPONSE

9.10. Mine Subsidence Board

- No response received

NO RESPONSE

STAKEHOLDER AND PUBLIC SUBMISSIONS

9.11. HDB Town Planning and Design on behalf of the Jack Nicklaus Integrated Tourist Development

- Strongly supports the Vintage PP – particularly the "more workable and relaxed relationship between the requirement to provide integrated tourism components and residential roll out";
- Suggests changes to coincide with Amendment 10 (the Golden Bear);

RESPONSE – Disagree

- Amendment 10 has very blunt approach to mix and timing of tourist and residential development which did not achieve the overall objectives of the zone. Support is expressed for the "Vintage approach" and seeks Council's consideration of this for the Jack Nicklaus site. There are many components to tourist activities which should be taken into account for both sites. Wording in the Vintage PP strongly supported;
- Vintage PP written before gazettal of Amendment 10 so there are various inconsistencies:
 - Objectives – the existing simple objectives should be used;

COMMENT – Agreed, see proponents submission.

- Clause 11 should be amended in accordance with Amendment 10;

COMMENT – Disagree; The Vintage is an established development with the rezoning changing the zoning provisions and enabling an extension. The provisions should be consistent with the current provisions applying to The Vintage.

- "Public utility undertakings" and "telecommunications facility" should be permitted with consent in land use table not in Clause 7.11(7);

- "Dual occupancies" should be removed or made permitted with consent in land use table

COMMENT – Disagree

- Clause 2.7 should be revised to reflect Section 93C of the Act which enables the provision of a staged development application in lieu of the need to prepare a Development Control Plan;

COMMENT – This provision of the CLEP 2011 relates to demolition works requiring consent?

- Mapping needs to be updated for zoning and minimum lot sizes for the Jack Nicklaus site;

9.12. Hunter Valley Wine and Tourism Association

- No objection providing that complies with LEP, DCP and "Vineyards Vision"

RESPONSE – Planning Proposal is consistent with Vineyards Vision; other comments irrelevant.

9.13. Bimbadgen

- Generally supportive - the Vintage is an anchor tourist development, supporting Bimbadgen and other businesses;
- For the Vintage to be able to operate, PP needs to be supported to achieve "critical; mass" and financial viability;
- There is good relationship between the Vintage and Bimbadgen and good spin off benefits are received by Bimbadgen from the Vintage.

RESPONSE – Support noted.

9.14. Peter Kindred

- As owner of vineyards to west of the Vintage and in particular the Beggars Bridge site – strongly concerned about complaints and constraints emanating for the Vintage development on noise and odour creating spraying on his property;

RESPONSE – Councils Vineyard DCP requires a setback of 100m from commercial vineyards on adjoining properties; the nearest land to Peter Kindreds site at Lot 12 DP 246514 is the Beggars Bridge precinct. The boundary of the BB site closest to vineyards on this property is some 250m from the BB site. When front setbacks of 75m is added would mean that these vineyards on Mr Kindred's property would then be at least 320m from his vineyards.

9.15. Jeannette Birchley

- Owner of property off Palmers Lane and concerned about density and design of "future acreage development on adjacent land and implications for access on road from Palmers Lane;

RESPONSE – We have previously responded to this issue.

9.16. Yarrum Designer Homes

- Generally supportive - the Vintage is a quality development and supports track record of Stevens Group;
- The Vintage needs the critical mass and assured financial viability;
- Supports 7 jobs in the Yarrum Company and 30 related sub-contractors.

RESPONSE – Support noted.

9.17. Pokolbin Rugby Club – (Letter received 24 September 2014)

- The Pokolbin Rugby (PRC) supports the rezoning proposal for The Vintage and The Vintage Balance Lands and has ongoing liaison with the Stevens Group in relation to the construction of a sporting facility to service the Club;
- It is understood that the Stevens Group would implement this through a VPA or as part of a Section 94 contribution if the rezoning proposal proceeds. The PRC understands that this commitment has now been confirmed in the Planning Proposal itself and that is why in part the PRC supports the proposal;
- Currently there are no sporting grounds within the vineyards district to provide a base for the PRC and consequently the PRC consider that there is a significant net community benefit to the proposal;
- The PRC is also very important as a social organisation facilitating social interaction which is very important to the community;
- The PRC letter then outlines 14 key objectives for the design features of the proposed rugby club and stadium;
- The PRC states that The Vintage and the Planning Proposal provide a potential financial source for the provision of a major sporting facility to service the vineyards community, but also comment that The Vintage is a quality development bringing success to a lot of other people and businesses within the broader community and the PRC appreciates that The Vintage needs to obtain a critical mass to enable it to succeed on a sustainable footing in the longer term as its ongoing quality reflects positively on our local wine tourist industries which are the corner stone of our club.

RESPONSE – Support noted.

SUBMISSION 10 – RESPONSE TO COUNCIL E-MAIL DATED 20 NOVEMBER 2014

Issues raised were as follows:

- 10.1. A proposed Staging Plan which provides for a maximum of 300 residential lots over multiple stages - the completion of which will represent a threshold at which a minimum of 200 tourist units must be built before any further residential lots will be approved by Council;

RESPONSE – Refer to submission 8.

- 10.2. Confirmation that the 9-hole golf course, cellar door and commercial/tourist precinct - with specified component developments - will be completed before any of the 300 residential lots referenced above are completed/subject of subdivision certificate releases. This should be integrated into the proposed Staging Plan;

RESPONSE – Refer to submission 8.

- 10.3. The best estimates available of capital values of all of the tourism assets being created before any of the 300 residential lots referenced above are completed/subject of subdivision certificate releases. This should be integrated into the proposed Staging Plan;

RESPONSE – Refer to submission 8.

- 10.4. Substantiation of the submission that 32% of residential dwellings have consistently been dedicated for short term tourist rentals – those substantiation being from records from the Real Estate agency located on-site and relevant clauses in the Community Management statement;

RESPONSE – See attached letter from Robert Brooks, Manager of The Vintage Realty (Attachment 3).

- 10.5. Submissions as to how the developments in Stages 1 to 3 have fulfilled the Master Plan and the DCP Part E, Chapter 2 provisions regarding the "tourist recreation facility" and staging.

RESPONSE – Refer to submission 1.

- 10.6. Documentation to substantiate that the 200 room hotel has been subject of substantial analysis and "concept" approval on the basis of the Master Plan;

RESPONSE – Refer to attached consent (Attachment 2) DA 8/2007/781/1 which approved in part "...Concept Plan incorporating Resort Hotel...". This consent gave approval for stage 1 works being the earthworks and demolition of the dwelling; concept approved works have been subject to further separate DA's which have been forwarded to you as email by Ms Armstrong.

- 10.7. Any other relevant data that in your company's/client's views will support the case that the progressive development of the site in accordance with the Planning Proposal represents "an integrated tourist development".

RESPONSE – Refer to submission 8 of this submission.

CHATEAU ELAN AT THE VINTAGE WINS GOLD AT
THE 2013 NSW TOURISM AWARDS

10 DEC



Chateau Elan at The Vintage won gold at the highly acclaimed 2013 NSW Tourism Awards Dinner and Ceremony at Royal Randwick on the 28 November 2013.

Spanning 32 categories, the NSW Tourism Awards celebrate the diverse and significant achievements of tourism operators, who collectively contribute billions of dollars to the state's economy.

With the calibre of entrants taking the 2013 Awards program to new heights, winning gold is no mean feat. Joseph Spagnolo General Manager of Chateau Elan was thrilled with this years result and winning gold in the Luxury Accommodation category. The resort also was successful in winning Gold for best Luxury Accommodation at the Central Coast Tourism Awards earlier this

Yours Sincerely

Stephen Leathley
PLANNING DIRECTOR

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SUBJECT: *PLANNING PROPOSAL - VINTAGE BALANCE LANDS AND
BEGGARS BRIDGE*

RESPONSIBLE OFFICER: *Strategic Landuse Planning Manager - Martin Johnson*

APPLICATION NUMBER:	18/2012/11
PROPOSAL:	PLANNING PROPOSAL – THE VINTAGE AND VINTAGE BALANCE LANDS
PROPERTY DESCRIPTION:	Lot 106, DP 1038043, Lots 1–48 and 50–103, DP 270293, Lots 1–23 and 25–30, DP 270292, Lots 1–38 and 40–48, DP 270295, Lots 1–44 and 46–60, DP 270343, Lots 1–39, 42–67 and 69–86, DP 270372, Lots 1–10, DP 270384, Lots 1–3, DP 270340, Lots 1–11, DP 270479, Lots 1–45, SP 76654, Lots 1–24, DP 270459, Lots 1–4, DP 270636, Lots 1–17 DP 270688, Lots 1–10 DP 270721, Lots 1601, 1603 and 1605, DP 1142579, Lots 1503–1506, DP 1110274, Lots 2150–2151, DP 1185744, Lot 12, DP 1187663, Lots 1305 and 1307, DP 1077114, Lot 2202, DP 1167247, Lot 21–23 DP 1044459, Wine Country Drive, Rothbury; and Lot D, DP 182933, Palmers Lane; and Lot 2411, DP 1060722, McDonalds Road, Rothbury.
PROPERTY ADDRESS:	WINE COUNTRY DRIVE, PALMERS LANE AND MCDONALDS ROAD ROTHBURY
CURRENT ZONE:	RU4 PRIMARY PRODUCTION – SMALL LOTS
PROPOSED ZONE:	SP3 TOURIST
OWNERS:	SHELLHARBOUR UNIT TRUST
APPLICANT:	THE STEVENS GROUP

SUMMARY

Purposes

The purposes of this report are to:

- Provide Council with an update of the status of The Vintage and Vintage Balance Lands (The Vintage Site) Planning Proposal,
- Advise of amendments made to the Planning Proposal since Council resolved 20 February 2013 to forward the Planning Proposal for Gateway Determination
- Clearly explain the key issues raised by the Planning Proposal;
- Recommend that the Planning Proposal be placed on public exhibition in accordance with section 57 of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION

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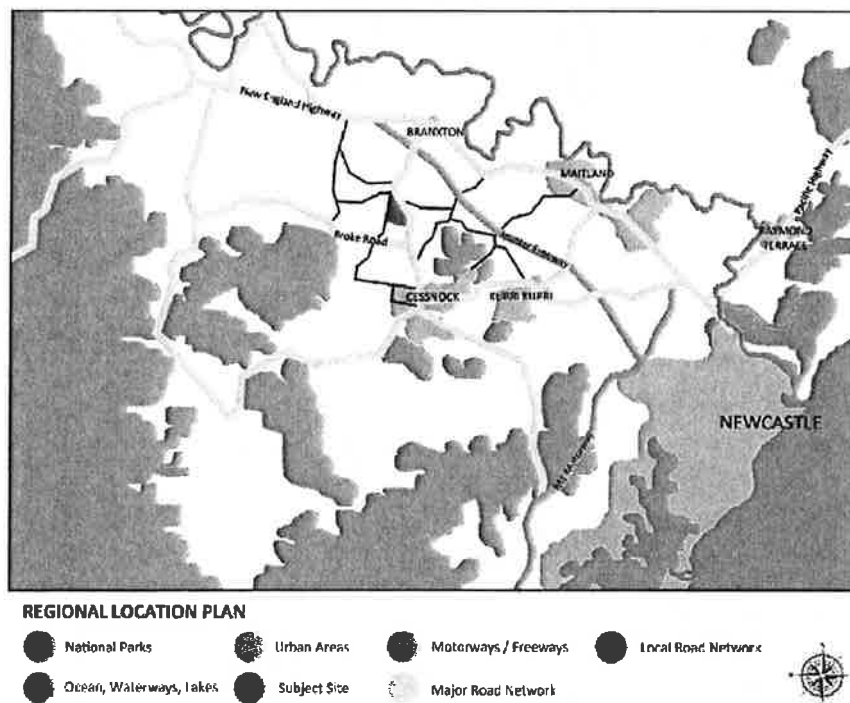
That the Planning Proposal to rezone The Vintage Site from RU4 Primary Production – Small Lots to SP3 Tourist and to make related amendments to the Zoning, Minimum Lot Size and Urban Release Area maps, Schedule One and the introduction of a new Clause 7.11 in the Cessnock Local Environmental Plan 2011 be placed on public exhibition for 28 days.

BACKGROUND

Location and Site

The Vintage is a major integrated tourist development located within Hunter Valley Wine Country approximately 15 minutes driving time from Cessnock, 35 minutes' driving time west of Newcastle, and 12 minutes from Branxton via Wine Country Drive. (See **Figure 1: Regional Location Plan**).

Figure 1: Regional Location Plan



The Vintage development represents a significant level of investment and is an important contributor to the Hunter tourism industry. The Vintage golf course is rated the best in the Hunter Valley, the third best in regional NSW and the twentieth best public access golf course in Australia.

The subject land can be separated into two precincts;

- The existing Vintage development – which is the subject of an approved Masterplan in two stages which is partly constructed; and

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- The Vintage Balance Lands (VBL) encompassing the Wine Country Drive and Beggars Bridge precincts – the proposed development of which was the original purpose of this Planning Proposal.

These precincts are illustrated on the Location and the Aerial Maps immediately below.

Figure 2 Location Map

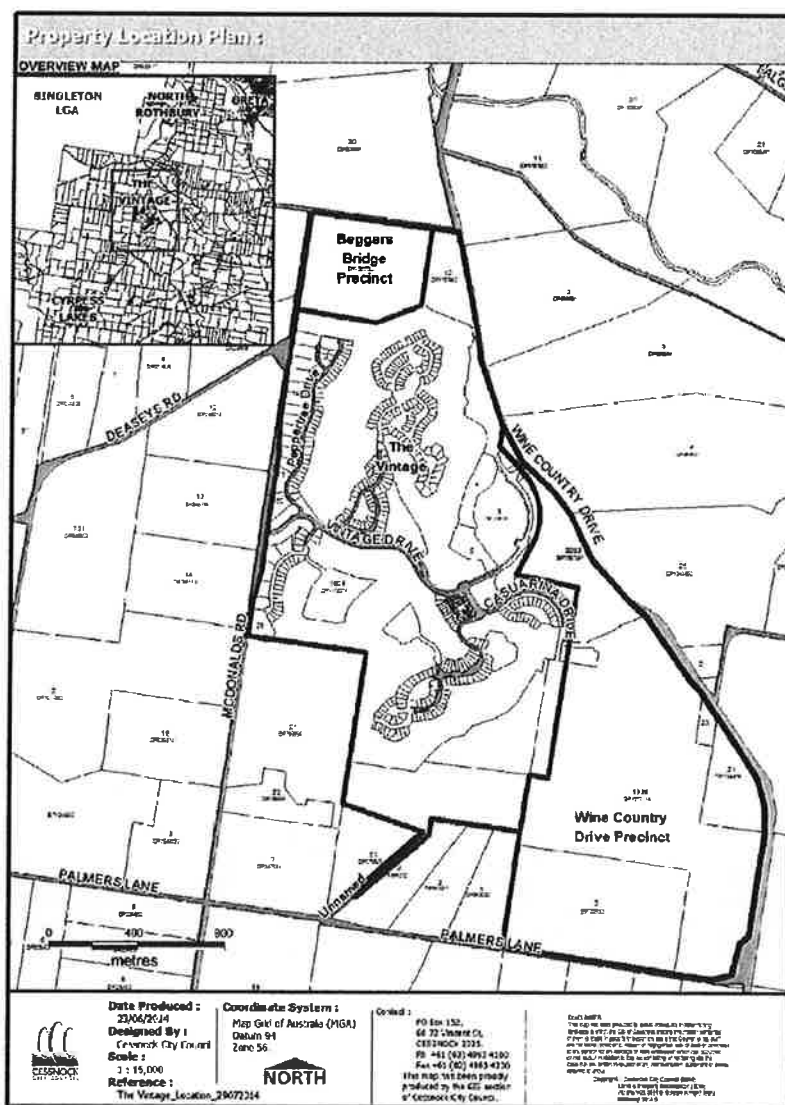


Figure 3 Aerial View

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The Vintage site is currently zoned RU4 Primary Production – Small Lots under Cessnock Local Environmental Plan 2011 (CLEP 2011). One of the objectives of the RU4 zone is to

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facilitate low scale tourist activity to support vineyard oriented tourism that does not detract from the rural character or viticultural production in the Vineyards District.

Residential subdivision down to 450m² is not generally permitted in the RU4 zone, by way of a general restriction of one (1) dwelling house per forty (40) hectares (ha) and all other forms of permanent residential accommodation are prohibited. Most of the proposed uses in the current Planning Proposal, including *Residential Accommodation, Hotel or motel accommodation, recreation facility (indoor), recreation facility (major), recreation facility (outdoor)* and *retail premises* are generally prohibited in the RU4 Primary Production – Small Lots zone. However, Item 7 of Schedule 1 of CLEP 2011 enables the currently approved forms of the developments and uses on the existing Vintage site to be approved and to proceed.

Chronology of Master Planning and Planning proposal

The summarised chronology is as follows:

Date	Brief Description
1986	Vineyards District Review
December 1996	Vintage Masterplan approved via 5/1995/80147 (amendment to CLEP 1989, introducing a Clause 17, precede the Masterplan approval).
2001-2006	Subsequent section 96 applications were approved in 2001, 2005 and 2006.
2005	Synergy (Warne) Report
2007	Rezoning Submission for the Vintage Balance Lands (VBL)
2004 – 2006	First Stage rezoning of VBL
2008	Cessnock LEP 1989 Amendment approved and Development Consent issued for the Vintage "Hilltop Precinct" Master Plan- a staged consent for the 100 room Chateau Elan and a 200 room hotel .i.e. consent for 300 tourist accommodation units.
June 2008	The Report by Strategy Hunter was presented to Council - however the recommendations were not accepted.
July 2008	Council resolved to exhibit an amendment to Cessnock LEP 1989 to apply clause 17 over the Vintage Balance Land.
September 2008	Council resolved to proceed with a Planning Proposal for Vintage Balance Lands.
2009	Charles Hill Report provided independent advice from the Department of Planning.
2009	Planning and Assessment Commission (PAC) produced a report which did not support the Planning Proposal.
26 May 2010	Council resolved to progress the Vintage to the Gateway Process via report EE26/2010.
2010	City Wide Settlement Strategy Adopted.
August 2012	Council adopted the Vineyards District Community Vision.
20 Feb 2013	Council resolved to prepare a draft LEP over the subject land at Pokolbin.
7 May 2013	NSW Department of Planning and Infrastructure issues Gateway

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	determination subject to conditions and timeframe of 18 months.
April 2013 to June 2014	Proponent prepares reports required by Gateway Determination, in liaison with Council staff.
8 July 2014	Matters resolved to satisfaction of staff to recommend exhibition with exception of updated land contamination report to be provided before exhibition. Matter reported to Council

Since the inception of The Vintage in the late 1980's the current proposal to expand onto the VBL has been identified and the concept presented to Council, Hunter Water Corporation, the Roads and Maritime Services as well as the local and broader community.

Vineyards District Review 1986

The VBL was identified as a potential development site in 1986 when the first planning strategy was developed for the Vineyards district. The initial approval for "The Vintage" was granted in the same year. This approval included "the Vintage Balance Land".

The Vintage Rezoning and 1996 Masterplan Approval

The Vintage in its current form was approved via amendment to the Cessnock Local Environmental Plan 1989, by inclusion of clause 17 into the LEP. The Masterplan consent was issued in 1996.

The LEP Amendment and Development Consent for the "Hilltop" Precinct 2008

The "Hilltop" Precinct was originally identified as part of the VBL in the 1996 Master Plan and is a significant component of the tourist development including the Chateau Elan development. This LEP Amendment and development consent encompassed

- 100 Unit Spa facility – Chateau Elan
- 200 room Hotel
- Amphitheatre for concerts

Planning Assessment Commission Report November 2009

In October 2009, the then Minister for Planning Kristina Keneally, requested the Planning Assessment Commission (PAC) to advise on the reasonableness of a report of the Department of Planning recommending amendments to Cessnock Local Environmental Plan (CLEP) 1989. The PAC concluded as follows:

"The Commission has concluded that the recommendations in the Department of Planning's report that the LEPs proceed is contrary to sub regional planning strategies and to good planning practice and may prejudice the future viability of the vineyards area as a tourist area."

The PAC consideration of the matter did not include any presentation from the proponents.

The PAC consideration of the matter is relevant to the current Planning Proposal as it is referenced in the recommended conditions attached to the May 2013 Gateway Determination.

Vineyards District Community Vision August 2012

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Following an extensive community consultation process, Cessnock Council adopted the Vineyards District Community Vision. This strategy document had been referenced by both the Department of Planning and PAC before this Planning Proposal could be progressed. This Vineyards District Community Vision specifically supports the expansion of The Vintage onto the VBL.

REPORT/PROPOSAL

The Planning Proposal

In summary, the Planning Proposal is to rezone the existing Vintage lands as well as the VBL to SP3 Tourism to facilitate additional development at the site. This is proposed to be achieved by:

- Introducing the SP3 Tourism zone in Part 2 of the CLEP 2011; and
- Rezoning the Vintage site - (comprising the existing Vintage and the VBL) from RU4 Primary Production Small Lots to SP3 Tourism; and
- Including additional Local Provisions into CLEP 2011 via a new Clause 7.11; and
- Amending the zoning, minimum lot size and urban release maps; and
- Retain the existing Schedule 1 over the existing Vintage site and amend land use provisions contained within.

The objective of the Planning Proposal is to facilitate the expansion of an existing major integrated tourist development of appropriate quality and scale as an "anchor golf course in the Hunter" contributing strongly to the tourism industry, employment growth and diversification, locally and regionally. The intended outcome is to enable The Vintage development to become a sustainable and economically viable tourist facility in the long term to ensure short, medium and longer term benefits to the local and regional economies. The proposal includes:

- An additional 9 holes of golf;
- Cellar door & café on the corner Palmers Lane & Wine Country Drive;
- Expansion of vineyards on Palmers Lane;
- 260 residential lifestyle lots;
- 40 rural lifestyle lots;
- 200 residential resort lifestyle units;
- 210 tourist accommodation units consisting:
 - 50 unit lodge development at site entrance on Wine Country Drive
 - 40 tourist units around vineyard facility on Beggars Bridge
 - 60 unit 3.5/4 star motel on the SG7 precinct of the masterplan.
 - 20 Tourist apartments within the Commercial Tourism precinct
 - 40 unit Medi-Spa
- Conference facility, residence and restaurant to host a wine and cooking school within the Beggars Bridge precinct; and
- Retention of vineyards within the Beggars Bridge precinct of the Masterplan.

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This existing development site contains an international standard 18 hole golf course, two hotels (Grand Mercure Apartments and the Chateau Élan Spa and Resort), conferencing, wedding and function facilities, recreation facilities and an extensive open space network along with a 522 lot residential lifestyle estate. Total investment to date is estimated at over \$500m. The value of this extension is approximately \$400m bringing total investment at The Vintage to over \$900m.

The key objective of this Planning Proposal is to enable the Vintage development to become an economically viable and sustainable major integrated tourist development. The expansion of this facility onto the VBL is effectively building upon a relatively unique integrated tourist development that will ensure short, medium and longer term benefits to the local and regional economies. The Planning Proposal is recommended for support (with some variations from the Proposal as submitted by the proponent) primarily on the basis of the economic and social benefits that will flow to the Hunter Valley and Cessnock city.

The provisions for this Planning Proposal are to be consistent with the adjacent Golden Bear Proposal. Council would recall that it considered the Golden Bear Planning Proposal under report EE6/2014 at its meeting of 22 January 2014 and resolved to forward the Planning Proposal to the Department of Planning and Environment for the Plan to be made.

The proponent has advised that this Planning Proposal will enable the development for the following commercial facilities which are currently within the Masterplan:

- 6 specialty/tourist retail shops;;
- 120 seat family restaurant;
- 300m2 Sports bar;
- 200m2 Wine bar;
- 300m2 General store/mini supermarket;
- 3 practitioner doctor's surgery; and
- Pub / Hotel.

Item 7 of Schedule 1 of the Cessnock LEP 2011 provides for additional permissible uses on the existing Vintage site. This Schedule will remain in the CLEP 2011 and is recommended for adaptation to facilitate additionally proposed uses.

Key Issues

The Key Issues arising from the Planning Proposal are:

1. How should the financial viability and sustainability (in particular the golf course and clubhouse) of The Vintage be ensured so that the development fulfils the role as a vital driver of economic development and employment diversification in the Hunter?
2. What are the valid quantum's and proportions of residential and tourism development that should comprise the integrated tourist development to support that financial viability and sustainability of the development?
3. Whether the 500 residential lots/units and 210 tourist units proposed by the proponent in the Planning Proposal - and the staged development thereof - represent valid quantum's and proportions to be considered as an integrated *tourist* development.

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4. Whether the strategic justification in terms of positive contributions to local and regional economies, employment levels and diversification is sufficient to warrant such a substantial residential development component in the vineyards district.
5. The acceptability of certain uses on the site - shops and health consulting rooms – in terms of ensuring that these uses will not detract from service levels in more appropriate and centralised locations.

Regional Context – Viticultural, Golf and Tourism Industries.

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 industry also benefits the broader economy through the manufacturing, wholesale and retail sectors. According to the City Wide Settlement Strategy, the total value of viticulture in Cessnock was estimated as \$1.6 Billion per annum in 2010.

The Lower Hunter Regional Strategy 2006 (LHRS) identifies the "Pokolbin Vineyard and Tourism Precincts" as a "Specialised Centre" of regionally significant economic activity and employment. The LHRS also identifies the Pokolbin district as regionally significant agricultural land and essentially directs Council to rezone that land to rural and safeguard that agricultural significance/value. Council accordingly rezoned the vineyards district to RU4 Primary Production – Small Lots in the Cessnock LEP 2011.

Outcomes and actions in the LHRS aim to manage conflicting land uses - including rural-residential encroachment - to avoid detracting from viticultural productivity and rural character and to provide increased opportunities for employment. An additional 1,600 jobs are nominated in the LHRS for the precinct over the next 25 years and this has been carried through into the Cessnock City Wide Settlement Strategy (2010).

Golf Tourism is also a significant and growing form of tourism that will create additional visitation, investment and employment in the Hunter Valley and Cessnock City. The Proposal is designed to complement existing golfing anchor attractions within the region and is expected to have a cumulative, beneficial economic impact throughout the region. Data from Tourism Research Australia's International Visitor Survey indicates the Hunter region has outperformed the national average in respect of attracting international golf tourists.

The Golf Tourism and Economic Impact Assessment (JBAS, 2014) submitted by the proponent states that:

- The value of the golf visitor economy to New South Wales is estimated to be approximately \$1.2 billion per annum.
- Since the year 2000, 58 golf courses in Australia have either been built or programed to be completed by early 2014, with 72 percent of developments supported by residential development, averaging 768 lots.
- Approximately 25 percent of these developments have been greater than 1,000 lots, noting that The Vintage is currently one of the smaller developments brought to the market.
- Operating results across a number of facilities have been varied, though many have faced similar operating challenges as they seek a sustainable business model.

Initial Proposal

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It is important to clarify the comparison of the current Planning Proposal with that supported by Council in February 2013.

On 20 February 2013, Council resolved as follows:

To determine to approve the Planning Proposal to incorporate the Vintage Balance Land and Beggars Bridge, for the following reason:

- 1. It is consistent with the Vineyard District Community Vision, in that it proposes the expansion of an existing residential / tourism estate. and*
- 2. 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:*

The Planning Proposal as reported to Council in February 2013 was based upon the following:

- 200 unit village resort;
- 210 residential lots min 450m²;
- 40 rural residential lots;
- 9 hole golf course;
- 7 ha residual agricultural lot;
- Small cellar door at corner of Wine Country Drive and Palmers Lane;
- Tourist related uses – restaurant and cooking school; and
- Landscaping and vineyard.

The Planning Proposal as sent to Gateway in March 2013 was based upon the foregoing component proposed developments.

At this stage, there was no direct reference to the SP3 Tourist zoning.

It should be noted that:

- No tourist accommodation was directly proposed but such accommodation was planned at the time in the form of 50 tourist accommodation units within a lodge situated at the main entrance to The Vintage from Wine Country Drive. This was not included in the Planning Proposal as it was a permitted use in the RU4 zone.
- The residential component was predominantly for permanent occupation but part of the tourist accommodation offer was anticipated as being provided by such residential accommodation – (currently, 76 of the 238 dwellings occupied on-site (32%) that have been built are used for tourist accommodation purposes).

Gateway Determination

In March 2013, Council forwarded this Planning Proposal to the then Department of Planning and Infrastructure for a Gateway Determination.

The consequent Gateway Determination – Enclosure 2 - (issued by the Director General of the Department of Environment and Planning on 7 May 2013) required Council to evaluate the application of the SP3 Tourism zone to the whole of the subject site and required certain

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studies be undertaken to form the basis of assessing the Planning Proposal. (At the time of reporting to Council in February 2013, the extent of the SP3 zone had not been identified and the clauses and Land Use Table were not developed.)

The Agricultural Land Suitability Assessment Report submitted by the proponent (Peak Land Management 2014) recommends that consideration be given to expand the area under vines on Lot D, DP 182933, fronting Palmers Lane, so that a viable (or subsidised) commercial vineyard operation and accompanying cellar door working in tandem with grapes sourced from the Beggars Bridge Precinct vineyard might operate. This is consistent with the recommendation from the Hunter Valley Wine Industry Association which says there should be no development along the Palmers Lane frontage other than vineyards or wine tourism based development .e.g. a cellar door facility). This will reinforce the rural vineyard character of Palmers Lane. The Hunter Valley Wine Industry Association has advised that they will advise Council of their position with relation to the Beggars Bridge Precinct aspect of the development after exhibition.

In 2009, the Department of Planning circulated LEP Practice Note PN09-006 titled "Planning for Tourism in Standard Instrument Local Environmental Plans". The purpose of the Practice Note was to guide Councils on providing tourism opportunities such as precincts as the Vintage and Golden Bear in their principal local environmental plans prepared in accordance with the Standard Instrument. Councils are encouraged to develop an integrated tourism strategy as part of their local planning. The Circular covered major tourism sites, business tourism and emphasised planning for *Towards 2020: New South Wales Tourism Masterplan* (NSW Tourism 2002), regional tourism plans (Tourism NSW) and the *NSW Tourism Strategy* (NSW Government 2008). The practice note refers to the SP3 zone, including mandatory uses, land use objectives and other suggested land uses for Councils' discretion for inclusion. Council facilitated the objectives of this practice note by adopting The Cessnock Economic Development Strategy and the Vineyards Visioning Strategy. Each of these strategies is aligned with the Practice Note and include important aspects for the strategic justification underpinning this Planning Proposal.

On 7 May, 2013 a Gateway Determination was issued by the Director General of the (then) Department of Planning and Infrastructure (DPI). The Determination included the following matters to be addressed to prior to public exhibition:

- Consideration of the extension of the proposed SP3 Tourism zone to incorporate the entire Vintage site to reinforce the integrated nature of developments and uses on the land;
- Prepare a project timeline to ensure gazettal before 14 November , 2014;
- Identifying the VBL as an Urban Release Area;
- Ensuring that the Planning Proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land;
- Preparing additional information regarding various planning and environmental considerations;
- Updating the Planning Proposal regarding certain s117 Directions, State Environmental Planning Policies (SEPP's) and other relevant policies and strategic documents;
- Demonstration of the consistencies, or justification for inconsistencies, with the Upper Hunter Strategic Regional Land Use Plan, the Lower Hunter Regional Strategy and 'matters raised by the Planning Assessment Commission (PAC) in its assessment of the Golden Bear and VBL proposals'.

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The Gateway Determination was based therefore upon the Planning Proposal explained in the Council report of February 2013 which is different from the Planning Proposal now presented to Council. This report below outlines some of the more significant changes, notably in terms of the number of tourist accommodation units compared to residential components.

SP3 Tourism Zone

While the original VBL proposal that Council considered in February 2013 was to extend existing Schedule 1 of CLEP 2011 enabling provisions that currently applied to The Vintage also apply to the VBL, the consequent Gateway Determination requires Council to evaluate the potential rezoning of The Vintage and the VBL to the SP3 Tourism zone and incorporate specific local provisions within the CLEP 2011 that would apply to The Vintage. The SP3 zone, if supported by Council, will be a new zone in the CLEP 2011 and would apply to both the entire Vintage site and to the Golden Bear site. The SP3 zone provisions have been drafted so that it can be potentially applied to other tourist developments in Cessnock. Zone objectives, definitions and provisions are essentially for 'integrated tourist developments' – which is the foundation description of the site development in this Planning Proposal. Comments on the draft SP3 zone and the additional clause received from the Department's legal branch for the Golden Bear Proposal have been incorporated into the Planning Proposal to reflect the requirements of the NSW State Government's Standard Instrument Order.

Council included 'Respite Day Care Centre' as an additional use because this use is mandated as a permissible use in the SP3 Tourism Zone.

Originally, the Department requested for Council to provide a copy of the revised planning proposal to the Department's Regional Office, however have since provided supplementary letter advising that this is no longer necessary.

Vintage Balance Lands Project Management Meetings

Following the Gateway Determination, the (then) Strategy and Sustainability Group of Council established a series of Project Management meetings inclusive of senior Council staff, an independent consultant to Council, a (then) Department of Planning and Infrastructure representative and a consultant to the Stevens Group. The purposes of these meetings were to finalise the detail of the Planning Proposal and to comprehensively respond to the Gateway Determination. A total of six (6) meetings were held over eight months from July 2013 till February 2014. Discussions were undertaken with regard to the scope of supporting studies, the extent of the SP3 zone, the strategic justification, additional permissible land uses, subdivision provisions and infrastructure capacity.

The Department of Planning advised that the Vintage Planning Proposal was to be considered in conjunction with the Golden Bear Planning Proposal and land use planning mechanisms needed to be consistent with the approach to the Golden Bear site. On 22 January 2014, Council resolved to progress the Golden Bear Planning Proposal to the Department of Planning and Environment for consideration and with a request that the Plan be made. The Golden Bear proposes to introduce a new SP3 Tourist zone into Part 2 of the CLEP 2011 and to change the zone applying to the subject land from RU4 Primary Production Small Lots to SP3 Tourism. As far as practicable, the Vintage Planning Proposal needs to incorporate the same land use table, objectives, as have been included for the Golden Bear site.

It was emphasized to the proponent in the initial meetings that the Proposal should contain

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more tourist based uses.

Amended Updated Planning Proposal as submitted by the Proponent

Following a review by Council in April 2014 of a re-draft of the Planning Proposal, the proponent submitted the current draft of the Planning Proposal in June 2014. The proponent advised that the Planning Proposal now responded to all the issues of the Gateway Determination and requested that it immediately be placed on public exhibition.

The original Planning Proposal submitted for a Gateway Determination in March 2013 has been changed significantly. The amended Planning Proposal applies to the entire Vintage site with particular focus on enabling development and uses on the VBL and incorporating the following elements:

- Introduction of the SP3 Tourism zone in Part 2 of the CLEP 2011;
- Amendment of the CLEP 2011 Land Zoning Map so that the existing Vintage site and the VBL are rezoned from RU4 Primary Production Small Lots to SP3 Tourist.
- Amendment of the CLEP 2011 Minimum Lot Size Map so that no minimum lot size provisions apply to The Vintage or VBL.
- Inclusion of the VBL as an Urban Release Area by amendment to the Urban Release area map as part of CLEP 2011;
- Inclusion of additional Local Provisions in a new Clause 7.11.

The Planning Proposal as amended and put forward by the proponent includes the following:

- 260 residential lots;
- 40 rural residential lots;
- 200 residential resort lifestyle units;
- 9 hole golf course
- 210 tourist accommodation units consisting:
 - 50 unit lodge development at site entrance on Wine Country Drive.
 - 40 units around vineyard facility on Beggars Bridge.
 - 60 unit 3.5/4 star motel in SG7 precinct.
 - 20 units within the Commercial Tourism precinct.
 - 40 unit Medi-Spa.

More specifically, the proposal as amended by the proponent seeks to include the enabling of:

- A total of 500 residential dwellings and 210 tourist accommodation units;
- The additional nine (9) holes of golf to increase the capacity of the golf course especially during peak tourist demand times on weekends - thereby enabling, in the proponent's submission, more corporate based golf and recreation activities that will add to the other conferencing facilities available on the site;
- A 60 unit motel aimed specifically at the golf market.
- Conference facility, residence and restaurant to host a wine and cooking school within the Beggars Bridge precinct;
- Cellar door & café on the corner Palmers Lane & Wine Country Drive;

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- Expansion of vineyards on Palmers Lane; and
- Retention of vineyards within the Beggars Bridge precinct.

The current proposal - which includes 500 residential dwellings - represents an increase of 50 residential lots compared to the Planning Proposal initially supported by Council. (This original proposal included a 200 unit village resort, 210 residential lots and 40 rural residential lots – total of 450 residential dwellings). The Council report dated February 2013 stated that no tourist accommodation was directly proposed. This amended Proposal includes 210 tourist accommodation units – a net increase of 160 tourist accommodation units given the preceding proposal for a 50 unit lodge development.

It is the proponent's further submission that the development of the VBL will provide the critical mass that will also enable other elements of the existing Vintage Masterplan to be constructed including the commercial precincts which will enable a variety of food and retail experiences for tourists visiting the area. It will also include a wine brand for The Vintage along with a cellar door facility that has always been part of the VBL proposal.

Following negotiations, the agreed land use table for the SP3 zone site includes *dwelling houses* but does not include *dual occupancies* and *multi-unit dwellings with dual occupancies* and *multi-unit dwellings* – these uses/developments being made permissible specifically for the VBL only through the local provisions in Clause 7.11.

The Proposed Residential and Tourism Development Mix

The Vintage is not a conventional residential development and is primarily, in legal and planning terms, an integrated tourist development. The public interest relating to this development is that it provides for substantial benefits in terms of economic and employment growth and diversification at local and regional levels.

In addition to mainstream tourist development components, about 32% of dwellings are registered with the estate agents on-site for regular use as tourist accommodation and the overall development is a mix of residential, tourist and recreational developments and uses.

Caution needs to be exercised in interpreting the comparative data in Table 1 below as it represents one simplistic measure of the role of residential development supporting the economics and the tourism economic value of the overall development..

There are four relevant key issues for Council to address in its decision-making as the relevant Planning Authority for this Planning Proposal; namely:

1. How should the financial viability and sustainability of the Vintage be ensured so that the development fulfils the role as a vital driver of economic development and employment diversification in the Hunter?
2. What are the valid quantum and proportions of residential and tourism development that should comprise the integrated tourist development to support that financial viability and sustainability of the development?
3. Whether the 500 residential lots/units and 210 tourist units proposed by the proponent in the Planning Proposal - and the staged development thereof - represent valid quantum and proportions to be considered as an integrated *tourist* development.
4. Whether the strategic justification in terms of positive contributions to local and regional economies, employment levels and diversification is sufficient to warrant such a substantial residential development component in the vineyards district.

The Department of Environment and Planning and Environment through the NSW Parliamentary Counsel has recently responded to council's request for the making of the

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Proposal for the Golden Bear site by including the following clause in the draft LEP:

Note: the wording of the clause is still the subject of discussions between Council, DPE and representative for the Golden Bear Planning Proposal.

"Integrated Tourist Development - Wine Country Drive, Pokolbin

- (1) This clause applies to land at Wine Country Drive, Pokolbin, being Lots 2-4, DP 869651 and Lot 11, DP 1187663.
- (2) Development consent must not be granted to any development on the land to which this clause applies unless:
 - (a) the consent authority is satisfied that the development is integrated tourist development, and
 - (b) the total number of dwellings on that land does not exceed 300, and
 - (c) the total number of rooms used for the purpose of tourist and visitor accommodation on that land does not exceed 300, and
 - (d) the total number of permanent residential dwellings must not exceed the total number of serviced apartments and / or hotel and motel accommodation units used or tourist and visitor accommodation at any time.
- (3) In this clause:

Integrated tourist development means development carried out on a single parcel of land for the purposes of major tourist facilities that include an 18-hole golf course.

The consequent understanding is that the DPE will require a similar clause for this Planning Proposal as a means of ensuring that the development maintains its' "tourist-orientation" and does not become dominated by mainstream residential development.

The Original Masterplan (1996) comprised of:

- 482 residential lifestyle lots; and
- 40 rural lifestyle lots

Total 522 residential entitlements.

- 150 room hotel; and
- 335 tourist accommodation units:

Total 485 tourist accommodation entitlements;

- 18 hole golf course, driving range and tuition facility; club house with Legends
- Bar and Grill;
- Conferencing facility for 300 people;
- Wedding facilities (Chapel and function rooms); restaurants, pubs and tourist related shops; tennis courts, gymnasium, children's playground and swimming pool; network of parks and cycleway/walking paths.

Hilltop Precinct Masterplan (2008) - and consequent LEP amendment and development consents - comprised of:

- 100 Unit Spa facility – Chateau Elan
- 200 room Hotel

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Total of 300 tourist accommodation entitlements

- Amphitheatre for concerts

This Planning Proposal (2014)

- 260 residential lifestyle lots,
- 200 medium density town homes in a "Vintage Resort" theme; and
- 40 rural lifestyle lots;
- **Total 500 residential entitlements.**
- Tourist and recreation elements –
 - 40 units around vineyard facility on Beggars Bridge as part of a wine and cooking school and conference facility,
 - 50 unit lodge,
 - 60 unit 3.5/4 star motel for the golf tourist market,
 - 20 units within the Commercial Tourism precinct and
 - a 40 unit Medi-Spa
 - **(total 210 tourist accommodation entitlements);**
- 9 hole golf course making The Vintage a 27 hole 3 course facility;
- Wine branding and wine production through vineyards on Palmers Lane and Beggars Bridge and cellar door facility.

Table 1 – Summary Comparison of numbers of residential and tourist lots/units: Masterplan Stages One and Two, the Hilltop Precinct and the Current Planning Proposal

Original Master Plan plus "Hilltop Precinct" LEP Amendment and Consents	
Residential	Tourist
482 residential lifestyle lots	150 room motel
40 rural lifestyle lots	335 tourism accommodation units
	100 villas (100 keys)
	200 "key" hotel
Total: 522	Total: 785

Planning Proposal submitted by Proponent	
260 residential lifestyle lots	210 tourist accommodation units
40 rural residential lots	
200 residential resort units	
Total: 500	Total: 210

Master Plans Stages 1 and 2, "Hilltop Precinct" LEP Amendment. plus Planning Proposal (as submitted by the proponent).	
Total: 1022	Total: 995

Evaluation of the Current Planning Proposal

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Upon review of the draft studies and the draft Planning Proposal, Council staff and Council's independent consultant raised a number of issues with the consultant representing the owner of the site. Through a series of meetings and negotiations - the last being in July 2014 - matters relating to studies accompanying the planning proposal, the permissible uses, correct legal description of parcels which define the site, issues with Clause 7.11 and other matters were discussed. One matter to be resolved is the explanation of assumptions which underpin some of the significant conclusions stated in the Social and Economic Impact Assessment and the Golf Tourism and Economic Impact Studies.

In relation to the key issue with this development of the proportion of residential and tourist uses on the site, the primary objective of the SP3 Tourist zone is to provide for integrated tourism development. A crucial function of the quantum of residential development is to support viability and sustainability of the tourism development.

Analysis of development consents issued shows that 465 residential lots and 144 tourist units have actually been approved. This represents a ratio of approximately 3:1 residential to tourist development and 89% of the residential development and 18.3% of tourist development approved in the Master Plan and Hilltop precinct. It needs to be acknowledged here that such a comparison does not recognise all of the other tourist oriented components of the development (i.e. golf course, spa, conference facility, chapel etc.)

The amended version of the planning proposal, as submitted by the proponent includes 500 residential lots/units and 210 tourist units – a ratio of 2.4:1 and an ultimate outcome of 1022 residential dwellings and 995 tourist units. This is submitted by the proponent as being essentially equivalent to the 1:1 ratio which is consistent with the original Master Plan – which is valid in terms of the nominated development mix in the totality of the Master Plan, Hilltop Precinct and this Planning Proposal. Planning for the site must have regard however to the actual mix of approvals and constructed developments at various stages of overall development.

Again, there needs to be caution not to over-simplify by making such comparisons and to detract from the value of the development as a whole i.e. recognising the interrelationships between all developments, uses and facilities comprising the whole development.

Three factors are crucial here:

1. The financial and business planning and commitments by the proponent following approvals of the Master Plan Stages One and Two, and the Hilltop precinct and Council's decision-making on this Planning Proposal must be cognisant of this;
2. The clearly significant role, profile and economic benefits from the Vintage providing a golf course and related facilities ranked first, third and twentieth in the Hunter, regional NSW and Australia respectively (with relatively convenient access from the Sydney metropolitan area); and
3. The need for the Vintage development and this Planning Proposal to legally demonstrate its "bona fides" as an integrated tourist development (by actual construction and provision not just by approvals) - and not represent a de facto residential development in the vineyards.

The conferencing facilities and the clubhouse require use by not only conference delegates, people using the Vintage for weddings and golf, but also the community who use these facilities for a variety of community events that are significant in providing social interaction and cohesion within the community. The community contributes financially to these facilities and therefore underpins the financial sustainability of these facilities.

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The Golf Tourism report prepared by JBRS also clearly points out the significance of the residential community to the financial sustainability of the golf course and clubhouse facilities.

One of the key issues therefore is whether this mix is an acceptable outcome for a major integrated tourist development – which is, obviously, predicated on being primarily a tourist development. Again, it does need to be acknowledged that there is a significant market for the short term accommodation of tourists in the residential dwellings identified above as being 32 percent of the “permanently” occupied residential dwellings.

The position taken by the DPE and NSW Parliamentary Counsel of “1:1 ratio of dwellings and rooms for tourist and visitor accommodation at all times” for the Golden Bear Planning Proposal may be considered for this Planning Proposal. However, it is not considered workable or realistic for this Planning Proposal given the historical development of the site and the factors of ensuring sustainability and viability. Further negotiation with DPE and the proponent will be required to resolve this issue.

Additional Uses

Upon submitting the amended Vintage Planning Proposal back to Council in June 2014, the proponent included a number of additional uses for the site as follows:

- *Business premises;*
- *Community facility;*
- *Dual occupancies;*
- *Exhibition village;*
- *Health Services facility;*
- *Multi dwelling housing;*
- *Place of public worship;*
- *Public utility undertaking;*
- *Shops that are primarily intended to service tourists; and*
- *Telecommunications facility.*

At a meeting held on 2 July 2014 with consultants representing the owner, an agreement was reached on which land uses should be included in Clause 7.11. These included:

- *Dual Occupancies;*
- *Exhibition Village;*
- *Place of Public Worship;*
- *Public Utility Undertaking;*
- *Multi Dwelling Housing; and*
- *Telecommunications Facility.*

Additional Local Provision - Clause 7.11

Additional permissible uses on the VBL are proposed to be regulated through draft Clause 7.11 to CLEP 2011. This clause has been drafted to provide for the essential components of

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the Planning Proposal including an 18-hole golf course and the ratio of permanent dwellings to tourist and visitor accommodation units. The clause also defines the term *integrated tourist development*, enables development consent for subdivision to create lots of any size and restricts development at the Vintage site to *integrated tourist development*.

Schedule 1 Cessnock Local Environmental Plan 2011

Additional permissible uses at the existing Vintage are currently regulated through Schedule 1 of the Cessnock LEP 2011. Development is allowed for the following uses with *consent*:

- a) *an entertainment facility for the purpose of an amphitheatre,*
- b) *exhibition homes,*
- c) *a place of public worship,*
- d) *a pub,*
- e) *attached dwellings,*
- f) *dual occupancies,*
- g) *dwelling houses,*
- h) *residential flat buildings,*
- i) *multi dwelling housing,*
- j) *recreation facilities (outdoor) for the purpose of a golf course,*
- k) *a registered club.*

It has been concluded that: *shops* primarily intended to service tourists may be permissible subject to a maximum gross floor space provision of 350m² and that *health consulting rooms* be included into schedule 1. (Under the CLEP 2011,

The Stevens Group is seeking the ability to accommodate a General Practitioner's surgery and locate a medi-spa and within the development. The most appropriate definition is a **health services facility** which means (from the Dictionary of the Cessnock LEP 2011):

"a building or place used to provide medical or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes any of the following:

- (a) *a medical centre,*
- (b) *community health service facilities,*
- (c) *health consulting rooms,*
- (d) *patient transport facilities, including helipads and ambulance facilities,*
- (e) *hospital".*

The alternative definition is health consulting rooms which it is defined as "a premises comprising one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals at any one time". This does not provide for the General Practitioner's Surgery or medi-spa to be located in a commercial building. The scale of these outlets is the issue and provisions to respond to this issue will be considered for the Development Control Plan (DCP).

By including these uses in Schedule 1 (and not Clause 7.11), this restricts these commercial uses to the footprint of the existing Vintage site. Thus, the Planning Proposal has been

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amended compared to the initial Gateway Determination to include the following uses into Schedule 1 of the CLEP 2011:

- a) *retail shops that is primarily intended to service tourists with floor space up to 350m2; and*
- b) *health services facility (as defined above).*
- c) *Community facility*

Supporting Studies to the Planning Proposal

During the period of February to 20 June 2014 the proponent submitted the following completed studies to Council to respond to the additional information required by the Gateway Determination:

- Aboriginal Heritage Report;
- Agricultural Land Suitability and Assessment;
- Bushfire Assessment Report;
- Concept Servicing Strategy;
- Ecological Assessment Report;
- Flood Assessment Report;
- Golf Tourism and Social and Economic Impact Assessment;
- On-Site Detention Assessment Report;
- Social and Economic Impact Assessment;
- Stormwater Management Report;
- Traffic Impact Assessment; and
- Visual Impact Assessment.

There were numerous drafts of some of these studies responding to comments by Council.

Social and Economic Impact Assessment. Report (Lantz Consulting, 2014)

Some of the most important conclusions in this report are that:

- *Construction value \$391.7 million will generate 2,448 jobs plus an additional 3917 "job years and 260 throughout the economy";*
- *A total 397 full-time direct and indirect jobs, \$31.87 million additional retail expenditure, the contribution to the tourism industry of \$22.07 million and the \$3.58 million benefit across the golf business; will be created; and*

More detailed explanation of the assumptions underpinning these conclusions has been sought.

Golf Tourism and Economic Impact Report (JBAS, 2014)

This is a critical report for the strategic justification responding to the sustainability criteria in the LHRs and establishing the "points of difference" which seek to substantiate support for an integrated tourist resort including the proposed scale of permanent residential development (to support financial sustainability) and to mitigate the precedent factor.

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The key elements of the policy framework in terms of NSW 2021, the "Vineyards Vision" and other related economic documents are identified in terms of how the existing Vintage development needs to be expanded for a sustained and unique contribution to regional tourism.

More specifically, JBAS state that:

- *"Overall, we project the economic impact of the VBL will generate \$3.52 million in direct additional annual revenue and \$2.85 million in new expenditure across the golf business / strata association. Over \$1.9m annually is projected to be spent on employment and with businesses locally.*
- *The profitability of the golf business has the potential to improve by \$678,000 annually assuming revenue yields and cost ratios remain constant" (bottom of page 5)*
- *Using a multiplier of 1.8 times, the forecast annual wider secondary benefit to the Hunter region approximates \$6.44 million";*
- *"Whilst forecast to generate an operating profit, the outcome is not one that could be considered to be commercial. If this was the desire, for such an outcome to be achieved, it is projected that the development would need to be nearer 1,700 residential lots in size upon completion with a further increase in accommodation facilities" (one the Key Conclusions on page 6);*
- *We estimate there will be 430 resident golf members once the current approved 522 residential lot development is complete. Inclusion of the VBL and its 500 lots sees this estimate increase to 842 members, delivering an extra 510 members over current numbers and 16,000 member rounds per annum.(Second paragraph page 33);*
- *"Overall, we project the economic impact of the VBL will:*
 - *Generate \$3.52 million in additional revenues across golf and the strata association*
 - *Lead to additional associated expenditure of \$2.85 million, of which: \$0.51 million will be spent direct with local supplies on business inputs*
 - *\$1.43 million will be spent directly on labour.*
 - *The profitability of the golf business has the potential to improve by \$678,000 annually assuming revenue yields and cost ratios remain constant" (bottom of page 38).*

The descriptions of the minimum thresholds of residential lots to support viable golf courses elsewhere in Australia, and the other economic analysis, are significant under-pinning justifications for why this Planning Proposal should be supported. These should be subject of explicitly stated assumptions to understand the bases upon which the analyses and statements are made which purport to underpin sustainability and viability. Such explicit statements of assumptions have been further sought. Such explicit assumptions would also improve the understanding of the connection between this viability / economic analysis, the short, medium and long term economic benefits to the local and regional economies needs to be enhanced for the Planning Proposal.

Servicing

The proposal may require some upgrading of the capacity of existing infrastructure such as pump stations. The population forecast for the site when fully developed is 2750 people. This translates to equivalent tenements of approximately 1058 dwellings. This is beyond the existing sewer system capacity of 998 ET. If the development is progressed, the developer will be required to submit a Wastewater Servicing Strategy. This Strategy will investigate the optimal means of providing water service to the development area and include lot layout and staging. There is capacity at Cessnock Waste Water Treatment Works to service the

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proposed development, however, capacity availability and system performance change over time. Hunter Water indicates that it is possible to service the site with reticulated water and sewage disposal. The developer will finance the services, after finalising the design with the Hunter Water Corporation. Council will be involved if the services are located within the road reservation.

Detail will be included in the DCP required to be prepared for the Vintage Balance Lands.

OPTIONS

Council has the following options:

1. Adopt the recommendation and resolve to place the Planning Proposal on public exhibition as provided at Enclosure 1; or
2. Decline to proceed with the Planning Proposal, and advise the proponent accordingly; or
3. Decline to proceed with the Planning Proposal, advise the proponent accordingly and direct the General Manager to enter into negotiations with the proponent for amendments to the current Planning Proposal in line with Councils' expressed directions; or
4. Resolve to endorse the Planning Proposal for public exhibition but with added conditioning such as requiring the quantum of tourist developments approved and subject to construction certificates are to exceed residential lots/units at all times - therefore aligning the draft LEP with that for the Golden Bear development; or
5. Resolve to endorse the Planning Proposal for public exhibition but with added conditioning such as requiring the quantum of tourist units approved and subject to construction certificates are to ultimately - when the total development is finalised - exceed or be equivalent to the number of residential dwellings.

CONSULTATION

The Gateway Determination requires that Council consult with the following Government agencies.

- NSW Aboriginal Land Council;
- NSW Trade and Investment – Resources & Energy;
- Office of Environment and Heritage;
- Department of Primary Industries – Agriculture;
- Department of Primary Industries – Minerals and Petroleum;
- Hunter Water Corporation;
- Transport for NSW – Roads and Maritime Services;
- NSW Police;
- Hunter Valley Wine and Tourism Association;
- Mine Subsidence Board; and
- NSW Rural Fire Service.

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Consultation with these authorities will be undertaken in conjunction with the public exhibition of the Planning Proposal. In addition, Council will be consulting with the following organisations:

- Telstra; and
- Ausgrid.

The Section 117 Ministerial Directions require Council to receive a response from the Mine Subsidence Board and Rural Fire Service prior to exhibiting. A referral has been sent out to the Rural Fire Service and discussions have been held with the Mine Subsidence Board. The Rural Fire Service has advised (letter of 16 July 2014) that it has no objection to the proposed amendment to the CLEP 2011. The Mine Subsidence Board have verbally advised that the area is not within a Mine Subsidence District proclaimed pursuant to section 15 of the Mine Subsidence Compensation Act 1961, nor has the area been identified as unstable land. A letter is forthcoming.

STRATEGIC LINKS

a. Delivery Program

A Sustainable and Healthy Environment: Objective 3.1 Protecting and Enhancing the Natural Environment and the Rural Character of the Area.

b. Other Plans

The Planning Proposal has been updated to be consistent with relevant State Environmental Planning Policies and Section 117 Ministerial Directions. Where there are inconsistencies, these have been justified. The Vintage proposal was considered in conjunction with the Golden Bear proposal by The Department of Planning. Therefore, this Planning Proposal for The Vintage needs to propose, as far as is practicable, the same land use objectives, clauses, and the same permissible, prohibited and consent uses which have been resolved for the Golden Bear site.

Cessnock DCP 2010

Clause 6.3 of the Cessnock Local Environmental Plan 2011 requires that all Urban Release Areas are covered by a site specific DCP. Hence, a specific DCP chapter will be prepared for the Vintage Balance Lands and when adopted, it will become a chapter in Part F "Specific Areas" of the Cessnock DCP. The draft DCP chapter will be in addition to those in the other City wide chapters of the Cessnock DCP, and will need to be considered in conjunction with the general provisions of that Plan. The purpose of the DCP is to achieve as consistent an approach as possible to development in the Vintage as is contained in the city-wide DCP for other release areas.

IMPLICATIONS

a. Policy and Procedural Implications

The consequences, if the Planning Proposal leads to Ministerial approval, is that the Lower Hunter Regional Strategy will need to reflect the policy variation which this Proposal represents compared to the LHRS and the Cessnock City Wide Settlement Strategy will need to be amended to reflect this development relative to settlement and vineyard protection policies.

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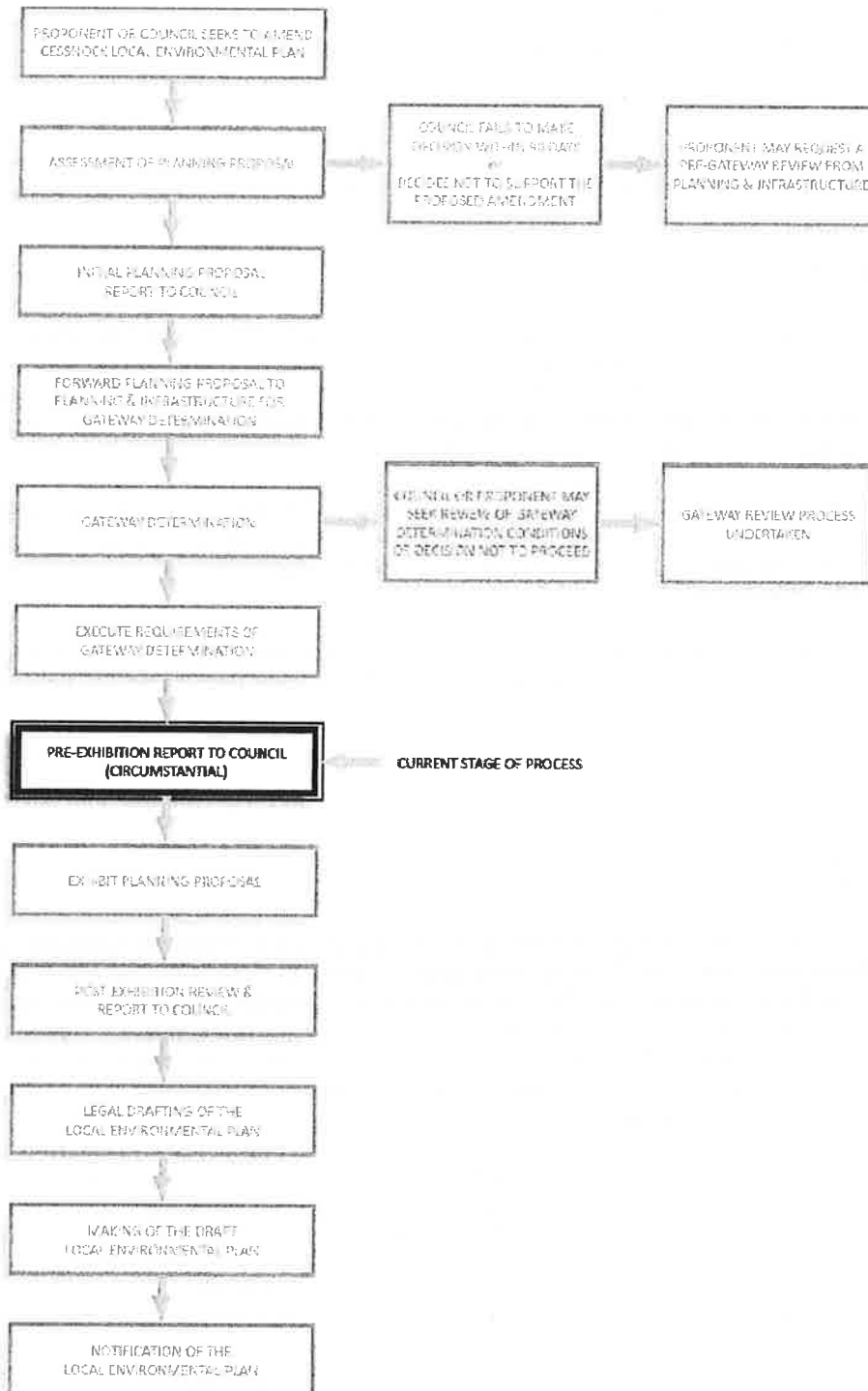
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The Planning proposal's current status is identified in the following flow chart.

PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

The project management of the Planning Proposal will be met through rezoning fees. This Planning Proposal is considered to be a Category C rezoning application and attracts a Phase 3 fee of \$18,750 based upon Council's Fees and Charges for 2014/2015.

c. Legislative Implications

The process underway to develop and finalise the Planning Proposal is consistent with Council's statutory responsibilities under the Environmental Planning and Assessment Act 1979.

d. Risk Implications

The longstanding and sometimes controversial history and a series of recommendations not to proceed with such a strong component/proportion of residential development as a part of the primary purpose of integrated tourist facility/development indicates that there will be ongoing risks in terms of the Planning Proposal, if supported by Council, not being supported by DPE if it is asked to review the Proposal again.

There is certainly a risk that the volatility of the tourist market means that the applications and actual development of permanent residential lots/units greatly exceeds the tourist units/development component and the basic development description of integrated tourist development is undermined.

There is also a risk that the deadline for LEP finalisation set in the Gateway Determination of 14 November 2014 may not be able to be met given the current timing and the complexity and implications of the Planning Proposal.

e. Other Implications

Nil.

CONCLUSION

The primary purpose and strategic justification underpinning the Planning Proposal to re-zone the subject site from RU4 Primary Production – Small Lots to SP3 Tourist under the Cessnock Local Environmental Plan 2011 is to enable the Vintage development to become an economically viable and sustainable major integrated tourist development. The primary objective of the proposed SP3 Tourism zone is to provide for integrated tourism development. Appropriate levels of residential development are concluded to be crucial to support that viability and sustainability.

It is a matter of judgment to reach conclusions about the appropriate quantum and sequencing of residential development and what legal provisions should be established to respond to this key issue. It is considered that the expansion of this facility onto the VBL is effectively building upon a relatively unique integrated tourist development that will ensure short, medium and longer term benefits to the local and regional economies. Given the analyses conclusions in the Golf Tourism and Economic Impact Report by JBRS, and the Social and Economic Impact Assessment by Lantz Consulting, the Planning Proposal is, on balance, concluded to be worthy of recommended support for progression on the basis of the economic and social benefits to the local and regional economies and employment diversification needs. However, it is anticipated that the residential and tourist dwelling

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quantum's will be subject of further discussions with the Department of Environment and Planning.

Once the Planning Proposal has been exhibited for public comment, submissions will be evaluated and it will be reported back to Council for determine whether to request that the Minister make the Plan - as exhibited or modified – or decline to make such a request.

ENCLOSURES

1 Gateway Determination 4 Pages



Contact: Michael Leavey
Phone: (02) 4904 2700
Fax: (02) 4904 2701
Email: Michael.Leavey@planning.nsw.gov.au
Postal: PO Box 1226, Newcastle NSW 2300

Our ref: PP_2013_CESSN_002_00 (13/05663)

Mr Wade Crocket
Acting General Manager
Cessnock City Council
PO Box 152
CESSNOCK NSW 2325

Dear Mr Crocket,

Planning proposal to amend Cessnock Local Environmental Plan 2011

I am writing in response to your Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at Wine Country Drive, Palmers Lane and McDonalds Road, Pokolbin from RU4 Primary Production Small Lots to SP3 Tourist.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

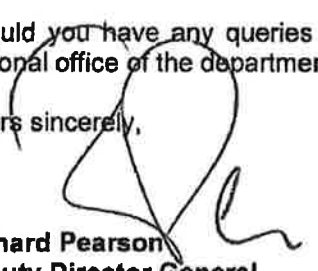
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan because various strategic and environmental matters are to be addressed by Council before the planning proposal can proceed to public exhibition.

The amending Local Environmental Plan (LEP) is to be finalised within 18 months of the week following the date of the Gateway determination. Council's request for the department to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Michael Leavey of the regional office of the department on 02 4904 2700.

Yours sincerely,

 7/5/13
Richard Pearson
Deputy Director General
Planning Operations and Regional Delivery



Gateway Determination

Planning proposal (Department Ref: PP_2013_CESSN_002_00): to rezone land at Pokolbin from RU4 Primary Production Small Lots to SP3 Tourist.

I, the Deputy Director General, Planning Operations and Regional Delivery at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Cessnock Local Environmental Plan (LEP) 2011 to rezone land at Wine Country Drive, Palmers Lane and McDonalds Road, Pokolbin from RU4 Primary Production Small Lots to SP3 Tourist should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the 'explanation of provisions' within the planning proposal to identify how the intended outcomes of the proposal are to be achieved by an amendment to Cessnock LEP 2011, including advising whether the proposal intends to amend the minimum lot size of the subject land and advise of the maximum development potential of the land.
2. Council is to consider extending the proposed SP3 zone to include the entire Vintage site to reinforce the integrated nature of uses on the land. If this approach is supported, Council is to amend the planning proposal and accompanying maps accordingly, prior to undertaking public exhibition.
3. Council is to place on public exhibition the draft land use table for the SP3 zone and current (and where applicable, proposed) land zoning, lot size and urban release area maps, which are at an appropriate scale and clearly identify the subject site.
4. Prior to undertaking public exhibition, Council is to update the planning proposal to include a project timeline, consistent with Section 2.6 Part 6 of the *A Guide to Preparing Planning Proposals*. The project timeline is to provide a mechanism to monitor the progress of the planning proposal.
5. Prior to undertaking public exhibition, Council is to update the planning proposal to identify the subject site as an Urban Release Area and include the department's model clauses 6.1 Arrangements for designated State public infrastructure, 6.2 Public utility infrastructure, 6.3 Development control plan and 6.4 Relationship between part and remainder of plan to require the development to contribute towards the provision of infrastructure.
6. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
7. Additional information regarding the below matters is to be placed on public exhibition with the planning proposal:
 - flora and fauna
 - bushfire risk
 - Aboriginal archaeology
 - traffic
 - infrastructure and services
 - water management

CESSNOCK PP 2013 CESSN 002 00 (13/05663)



Planning & Infrastructure

- social and economic impacts of the proposal
- agricultural land suitability and capability
- flooding
- visual impact
- public utility feasibility

8. Council is to update the planning proposal to include sufficient additional information to adequately demonstrate consistency or justify any inconsistency with the below S117 Directions and other relevant documents:

- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- Upper Hunter Strategic Regional Land Use Plan
- Lower Hunter Regional Strategy
- matters raised by the Planning Assessment Commission in its assessment of the Golden Bear and Vintage Balance Lands proposals.

Council is to update the planning proposal accordingly prior to undertaking public exhibition, and provide a copy of the revised planning proposal to the department's regional office.

9. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:

- (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).

10. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act, associations and/or to comply with the requirements of relevant S117 Directions:

- NSW Aboriginal Land Council
- Office of Environment and Heritage
- NSW Department of Primary Industries - Agriculture
- NSW Department of Primary Industries - Minerals and Petroleum
- Hunter Water Corporation
- Transport for NSW - Roads and Maritime Services
- NSW Police
- Hunter Valley Wine Industry Association
- Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land)
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)



Planning & Infrastructure

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

11. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
12. The timeframe for completing the LEP is to be **18 months** from the week following the date of the Gateway determination.

Dated

7

day of

May

2013.


Richard Pearson
Deputy Director General
Planning Operations and Regional Delivery
Department of Planning and Infrastructure

**Delegate of the Minister for Planning and
Infrastructure**

VINTAGE PLANNING PROPOSAL:

SUMMARY OF RESPONSES BY STATE AGENCIES AND RELEVANT REPRESENTATIVE ORGANISATIONS AND COMMENTS BY THE MANAGER STRATEGIC LAND USE PLANNING

STATE AGENCIES/ RELEVANT REPRESENTATIVE ORGANISATIONS

Office of Environment and Heritage

- Main concern is removal of the squirrel glider habitat given vegetation and hollow bearing trees removal. Impacts could be avoided if development takes place in accordance with structure plan and EAR – this needs to be committed;
- Potential for SIS if critical habitat potentially affected;

Comment by MSLUP: *The detailing of the Master Plan – incorporated into a revised DCP chapter - and flora and fauna assessment - are anticipated to ensure no habitat removal and therefore not require a species Impact Statement.*

DPI – NSW Office of Water

- Supports the general approach in the Stormwater Management Report for the management of riparian corridors. Figure 8 inconsistent in showing 20 metres buffer;
- Any development within 40 m of waterfront land may require a controlled activity approval;
- Location of detention basins and water quality treatment structures should be consistent with the Guidelines (2012);
- Stormwater discharge points and onsite detention designs will need to be detailed;
- Need to determine if any licences required for detention and retention basins – may be implications for existing dams and existing licences;
- Harvestable rights for future development should be calculated for post-subdivision lots rather than the lots prior to subdivision of the area. Further information is needed on water storage options;
- Volume of dams on the Beggars Bridge site appears well in excess of the harvestable rights and there are no valid licences – this needs to be resolve prior to development;

Comment by MSLUP: *There are detailed issues here to be resolved between the proponent and the NSW Office of Water but this can all occur subsequent to the Planning Proposal finalisation and through the revised chapter in the DCP.*

DPI – Minerals and Petroleum

- Response received – no comments;

DPI – Agriculture

- No response received

Mindarabba Local Aboriginal Land Council

- Support PP subject to:
 - Sound planning and preparation/Management Plan completed for potential items of aboriginal significance prior to any ground disturbances;
 - The Management Plan to include:
 - I. Area surveyed;
 - II. Methodology for sub-surface testing;
 - III. Mitigation measures and comprehensive trigger points developed in conjunction with MLALC;
 - IV. Care and control of recovered artefacts
- The MLALC developed an alliance with LH Wonnoarua Cultural Services and the LHWCS recommendations are also supported.

Comment by MSLUP: *It is understood that the proponent has a long working relationship with the MLALC and that there is strong commitment to work these issues through as detailed planning and development application progress.*

Rural Fire Service

- No further comments in addition to letter of 16 July 2014

Comment by MSLUP: All issues can be addressed at development application stage.

Roads and Maritime Services (RMS)

(The RMS advice was contained in a letter of 27 October 2014 with reference to previous correspondence of February 2014 and November 2013 and explained below).

Letter of 27 October 2014

- In accordance with the Roads Act 1993 the RMS has powers in relation to road works, traffic control facilities, connections to roads, and other works on the classified road network. Wine Country Drive is a classified (State) road and RMS concurrence is required for connections to the road with Council consent under Section 138 of the Act. Council is the road's authority for Wine Country Drive and all other roads in the area, except the Hunter Expressway;
- The preferred access arrangement is a four way one lane circulating roundabout on Wine Country Drive to service both The Vintage and Jack Nicklaus Resort (Golden Bear) and to provide a gateway entrance. It is understood that Council has given its support to this arrangement
- RMS considers that prior to the rezoning of the subject land, the location of the proposed roundabout on Wine Country Drive must be determined to the satisfaction to RMS, Council and the developers of both The Vintage and the Jack Nicklaus Resort

- Council should establish an appropriate funding mechanism such as a Voluntary Planning Agreement to ensure that the developers of both the resort developments on either side of Wine Country Drive provide an equitable monetary contribution towards this proposed roundabout treatment;
- RMS will provide further comments and respond to the Planning Proposal upon determination of the roundabout location.

Letter of 11 February 2014 - Re: Jack Nicklaus Resort (Golden Bear) Planning Proposal

- A review of the rezoning proposal indicates the proposed new location of the access on Wine Country Drive to the Jack Nicklaus Resort is approximately 175 metres north of the proposed Vintage development access. However, the schematic concept site plan for the Jack Nicklaus development indicates that relocation of the proposed new access on Wine Country Drive to join the proposed Vintage access would not significantly impact on the overall layout of the development;
- Prior to the rezoning of the subject site (Jack Nicklaus Resort) Council should ensure that the developers of both The Vintage and the Jack Nicklaus Resort agree with the location of the proposed roundabout on Wine Country Drive;
- RMS will provide further advice and / or requirements on submission of a concept design plan at the DA stage;
- A revised Traffic Assessment shall consider the roundabout option and take into account the traffic generated by both the developments;
- Council should establish an appropriate funding mechanism, such as a VPA;
- All works associated with the proposed rezoning shall be carried out at full cost to the developer to Council's requirements.

Letter of 1 November 2013 (to Intersect Traffic)

- RMS reviewed the request for information and commented as follows:-
 - The preferred access arrangement with both developments is a four way one lane circulating roundabout on Wine Country Drive which services both developments. Concept plans previously provided to RMS for the Golden Bear development are based upon this arrangement;
 - Should the Jack Nicklaus Resort not proceed concurrently with The Vintage development, at the time the new Vintage intersection on Wine Country Drive is required, The Vintage is required to construct a new Austroads CHR / CHL intersection in accordance with the current conditions of development consent / Cessnock DCP. RMS would be prepared to review this in consultation with Council. A focus on the Wine Country Drive / McDonald's Road intersection may be feasible for The Vintage / Beggars Bridge development. Should the Jack Nicklaus Resort development proceed a new T intersection would need to be constructed at the location of the proposed roundabout in this instance.

Comment by MSLUP: RMS have already given approval for the location and design of the intersection onto Wine Country Drive. Further development of the Vintage does not require separate access onto wine country Drive whereas the Jack Nicklaus/golden Bear resort does. A meeting will be called to resolve the way forward but this issue does not impede the Planning Proposal going forward.

NSW Police

- **Submission received – no further comment needed.**

Hunter Water Corporation

- No response received;

Mine Subsidence Board

- No response received

STAKEHOLDER AND PUBLIC SUBMISSIONS

HDB Town Planning and Design on behalf of the Jack Nicklaus Integrated Tourist Development

- Strongly supports the Vintage PP – particularly the “more workable and relaxed relationship between the requirement to provide integrated tourism components and residential roll out”;
- Suggests changes to coincide with Amendment 10 (the Golden Bear);
- Amendment 10 has very blunt approach to mix and timing of tourist and residential development which did not achieve the overall objectives of the zone. Support is expressed for the “Vintage approach” and seeks Council’s consideration of this for the Jack Nicklaus site. There are many components to tourist activities which should be taken into account for both sites. Wording in the Vintage PP strongly supported;
- Vintage PP written before gazettal of Amendment 10 so there are various inconsistencies:
 - Objectives – the existing simple objectives should be used;
 - Clause 11 should be amended in accordance with Amendment 10;
 - “Public utility undertakings” and “telecommunications facility” should be permitted with consent in land use table not in Clause 7.11(7);
 - “Dual occupancies” should be removed or made permitted with consent in land use table
 - Clause 2.7 should be revised to reflect Section 93C of the Act which enables the provision of a staged development application in lieu of the need to prepare a Development Control Plan;
 - Mapping needs to be updated for zoning and minimum lot sizes for the Jack Nicklaus site;

Comment by MSLUP: *The Jack Nicklaus/Golden Bear proponent’s support is noted. The Jack Nicklaus/Golden Bear resort Planning Proposal is a “greenfield” development to which a different set of provisions are reasonable. The point regarding Public utility undertakings” and “telecommunications facility” being e permissible with consent in land use table not in Clause 7.11(7 is accepted but other submissions are not recommended to lead to changes.*

Hunter Valley Wine and Tourism Association

- No objection providing that complies with LEP, DCP and “Vineyards Vision”

- **Comment by MSLUP:** *Noted and legal and policy provisions will be adhered to.*

Bimbadgen

- Generally supportive - the Vintage is an anchor tourist development, supporting Bimbadgen and other businesses;
- For the Vintage to be able to operate, PP needs to be supported to achieve "critical; mass" and financial viability;
- There is good relationship between the Vintage and Bimbadgen and good spin off benefits are received by Bimbadgen from the Vintage.

Comment by MSLUP *support and wider economic benefit noted.*

Peter Kindred

- As owner of vineyards to west of the Vintage and in particular the Beggars Bridge precinct – strongly concerned about complaints and constraints emanating for the Vintage development on noise and odour creating spraying on his property;

Comment by MSLUP: *DCP and other provisions will address the issues of potential noise and odour nuisances – including the requirement for a 100 metre setback from commercial properties on adjoin properties.*

Jeannette Birchley

- Owner of property off Palmers Lane and concerned about density and design of "future acreage development on adjacent land and implications for access on road from Palmers Lane;

Comment by MSLUP: *The detailed subdivision design and density will be addressed at DCP and DA stages at which times further public consultation will take place.*

Yarrum Designer Homes

- Generally supportive - the Vintage is a quality development and supports track record of Stevens Group;
- The Vintage needs the critical mass and assured financial viability;
- Supports 7 jobs in the Yarrum Company and 30 related sub-contractors.

Comment by MSLUP: *Broader economic benefit noted*

Pokolbin Rugby Club – (Letter received 24 September 2014)

- The Pokolbin Rugby (PRC) supports the rezoning proposal for The Vintage and The Vintage Balance Lands and has ongoing liaison with the Stevens Group in relation to the construction of a sporting facility to service the Club;

- It is understood that the Stevens Group would implement this through a VPA or as part of a Section 94 contribution if the rezoning proposal proceeds. The PRC understands that this commitment has now been confirmed in the Planning Proposal itself and that is why in part the PRC supports the proposal;
- Currently there are no sporting grounds within the vineyards district to provide a base for the PRC and consequently the PRC consider that there is a significant net community benefit to the proposal;
- The PRC is also very important as a social organisation facilitating social interaction which is very important to the community;
- The PRC letter then outlines 14 key objectives for the design features of the proposed rugby club and stadium;
- The PRC states that The Vintage and the Planning Proposal provide a potential financial source for the provision of a major sporting facility to service the vineyards community, but also comment that The Vintage is a quality development bringing success to a lot of other people and businesses within the broader community and the PRC appreciates that The Vintage needs to obtain a critical mass to enable it to succeed on a sustainable footing in the longer term as its ongoing quality reflects positively on our local wine tourist industries which are the corner stone of our club.

Comment by MSLUP: *The Club's submissions regarding the Planning Proposal and the sporting fields are noted but such provision of sporting fields is not currently identified or prioritised in Council's Development Contributions Plans or for inclusion in any VPA.*



Our Ref.: 13047

3 December 2014

General Manager
Cessnock City Council
PO Box 154
CESSNOCK NSW 2325

ATTENTION: David Broyd

Dear David,

RE: The Vintage Planning Proposal – Further Final Submissions Regarding Staging Plan

Reference is made to our meeting this morning in respect to Submission 8 of our correspondence dated 25 November 2014 regarding the staging of the development, and the proposed planning controls in respect to shops.

It is understood that the staging plan we provided has created some confusion in respect to the overlap between existing The Vintage Masterplan approvals and Vintage Balance Land components outlined in the Planning Proposal. Since Council's enquiry we have also discovered a small accounting error where undeveloped lots in stage 3 were accounted for twice, in stages 3 and 4. This had the effect of exaggerating the amount of residential development. We therefore submit an amendment to our submission 8 as follows:

SUBMISSION 8 – PROPOSED STAGING PLAN – COUNCIL PROPOSAL

8.1. Council has requested that we provide:

- *A proposed Staging Plan which provides for a maximum of 300 residential lots over multiple stages - the completion of which will represent a threshold at which a minimum of 200 tourist units must be built before any further residential lots will be approved by Council;*
- *Confirmation that the 9-hole golf course, cellar door and commercial/tourist precinct - with specified component developments - will be completed before any of the 300 residential lots referenced above are completed/subject of subdivision certificate releases. This should be integrated into the proposed Staging Plan;*

- *The best estimates available of capital values of all of the tourism assets being created before any of the 300 residential lots referenced above are completed/subject of subdivision certificate releases. This should be integrated into the proposed Staging Plan;*
- 8.2. Attachment 2 of the Planning Proposal we submitted in May this year outlined the various elements approved, constructed and remaining to be approved within the existing two (2) Masterplan approvals for The Vintage as well as those elements proposed under the VBL.
- 8.3. In respect to the existing status of residential and rural residential lots within The Vintage (ie excluding the VBL proposal), followings is a summary of the current status:
- 8.3.1. **Current Masterplan Approvals** – allow for:
 - Vintage Style Lots (Residential sized) – 482
 - Rural Residential Lots – 40
 - 8.3.2. **Existing permanent lots with title** – 375 lots; of these 354 are Vintage Style lots (residential sized) and 21 are rural residential lots.
 - 8.3.3. **Approved lots either under construction or waiting construction** – 100 Vintage style lots in SG4 (40 lots), Precinct L (50 lots) and 10 Golf Front lots on between the 1st hole and the Grand Mercure.
 - 8.3.4. **Pending Approval** – 28 Vintage style lots in Precinct L and G and 19 Rural Residential lots.
- 8.4. The next stages of development **under the existing Masterplan approvals and within the VBL** are set out in table 11 - 13 below and illustrated via Attachment 5 of our 25 November submission.

Table 11 – Stage 4

Stage 4 – The Vintage + VBL			
Recreation and Tourist Facilities		Tourist Accommodation	Residential
The Vintage existing Masterplan Approval Elements			
Retail tourist precinct (SG2) including possible ➤ Pizza Bar (113m2) ➤ Vintage Realty 196m2 ➤ Specialty Retail 326m2 ➤ Restaurant 112.5sqm ➤ Café 222m2 ➤ Commercial 816m2 ➤ 20 unit tourist & visitor accommodation (STA – the above is currently in prelliminary design stages)		200 Unit Hotel	The remaining permanent lots to be developed within the existing Masterplan approval applying to The Vintage (ie excluding VBL's) being 47 Permanent 'Vintage (Residential) style' and rural residential lots
Estimated CV \$5.7m		Estimated Value \$50m	15 holiday homes + 32 residential dwellings = 47
Vintage Balance Lands Elements			
Development of agricultural lot and upgrade of vineyard Palmers Lane Cellar Door Facility Estimated CV - \$1m VBL Golf course Estimated CV - \$12m 150 RTU $(5.7+1+12=18.7 / 31.5 = 59\%; .59 \times 254 = 150)$		96 Holiday Homes	100 Permanent 'Vintage (Residential) style' lots - 2 small areas on spine road – 20 lots, adjacent to Casuarina precinct 15 lots, 30 lots adjacent to resort and 35 lots adjacent to Precinct L Release of lots is likely to occur over 2 stages with approx.50 lots per stage 200 Resort units and associated facilities This development is likely to be built over 6 – 7 stages 204 residential dwellings
Tourist/Residential 1,104:559 (1,663)	Split	66% tourist	34% Residential

Table 11 Notes:

CV – Estimated Construction Value

Total Tourist/ Residential split

- **Tourist** - 643 (stage 3 value) + 200 (200 unit hotel) + 15 (The Vintage balance residential land – holiday homes) + 150 RTU + 96 (VBL Holiday homes) = 1,104
- **Residential** – 323 (stage 3 value) + 32 (The Vintage balance residential land – dwellings) + 204 (VBL lots) = 559

Residential/ tourist recreational mix - Using the methodology set out in submission 4 option 2, the residential/ tourist recreational mix would be 34/66 as noted above.

Holiday homes use is based on the assumption that this will continue to be 32% of all dwellings. There is a strong incentive for investors to let dwellings out within The Vintage as holiday homes and if visitor numbers continue to grow as predicted in the NSW Tourism's Destination Management Plan for the region, there is no reason why this rate should not hold firm.

8.5. Stage 4 would see 311 tourist accommodation units v 236 residential dwellings.

Triggers for Residential lot release – Stage 4

8.6. Before any of the 300 residential units on the VBL can have titles released, the **Retail Tourist Precinct and the golf course would be built**. Design work has commenced on the Retail Tourism precinct (SG2) with preliminary concept plans attached for your information.

Triggers for Residential lot release – Stage 5

8.7. The **200 unit hotel would be completed** prior to any of the final 200 residential titles are released in stage 5 detailed in table 12 below as per Council requirement.

Table 12 – Stage 5

Stage 5 – The Vintage + VBL			
Recreation and Tourist Facilities		Tourist Accommodation	Residential
The Vintage existing Masterplan Approval Elements			
Commercial Precinct Cnr Wine Country Dr & McDonalds Rd (SG7) including possible: • Pub • Ancillary commercial facilities RTU value unknown as value unknown		60 unit tourist accommodation facility	
Vintage Balance Lands Elements			
		64 holiday homes	160 Permanent 'Vintage (Residential) style' lots 40 rural lifestyle lots 136 residential dwelling
Tourist/Residential 1,228:695 (1,923)	Split	64% tourist	36% Residential

Table 12 Notes – same as for table 11 including methodology for calculations.

8.8. Using the methodology set out in submission 4 option 2, the tourist recreational/ residential mix would be 64/36 as noted above.

Table 13 – Stage 6

Stage 6 – The Vintage + VBL			
Recreation and Tourist Facilities	Tourist Accommodation	Residential	
The Vintage existing Masterplan Approval Elements			
Amphitheatre (Est. value \$1.5m which is 5% of \$31.5m; 5% of 254 = 13; Equivalent - 13 RTU's)	106 Hotel Rooms 335 TAU's		
Vintage Balance Lands Elements			
	50 unit lodge development 40 tourist units around vineyard facility on Beggars Bridge 40 unit Medi-Spa (Palmers Lane)		
Tourist/Residential 1,799:695 (2,494)	Split	72% tourist	28% Residential

8.9. Using the methodology set out in submission 4 option 2, the tourist recreational/ residential mix would be 72/28 as noted above.

SUBMISSION 11 – RESTRICTION ON FLOOR AREA OF SHOPS

In our meeting this morning Clause 2.3 of the exhibited Planning Proposal was also discussed. This Clause proposes a provision via item 7 of Schedule 1 at (m) to control the combined gross floor area of shops on site to 350m². We oppose this provision for the following reasons:

- 11.1. Our Planning Proposal has **never included any proposal for retail shops or a commercial precinct as part of the Vintage Balance Lands**. The only commercial concept was a cellar door facility with the possibility of a combined café to be located on the corner of Palmer's Lane and Wine Country Drive.

- 11.2. Our client advises that **the Masterplan approval for The Vintage included approval for shops and that there is currently no restrictions applying to the development of shops within The Vintage.**
- 11.3. Consequently **Clause 2.3 of the exhibited Planning Proposal would introduce new restrictions to The Vintage that currently do not exist;** this is therefore contrary to the directive that existing planning provisions that The Vintage currently enjoys would not be removed as part of this LEP process. On this basis we object to the provision and request that it be removed from the LEP.
- 11.4. It should also be noted that **this was not an issue raised as requiring to be addressed in the Planning Proposal by the Gateway Determination.**
- 11.5. **This provision was introduced into the Planning Proposal to control the size of any one shop to service The Vintage.** What was being considered on The Vintage site was a general store or a mini supermarket **with a floor area up to 350m²;** we understood that **we had agreement on this issue.** Consequently the proponent was prepared to accept such a restriction however this has somehow become a restriction that limits total shop floor area across The Vintage to 350m².
- 11.6. **Council has expressed the concern that without any control a retail facility could be established at The Vintage and compete with Branxton, Huntlee or Cessnock.** It has never been the proponent's intention to develop a retail facility on the site, if they wanted to do that it could have been done at any time over the last 15 years. Furthermore the vision for The Vintage has never been to create such a facility, what is proposed is a tourist retail precinct that will provide an attraction and facilities for tourists and service local resident with daily needs who live at The Vintage.
- 11.7. Our submission is that if the maximum floor area of any one shop is limited to 350m², as we previously agreed to, **such an outcome would also defy basic retail economics.** For any sort of major retail facility to establish, even a neighbourhood scale facility, would require a major brand supermarket anchor tenant that is going to require a minimum of 900m² of retail floor area. Consequently it is submitted that if the total floor area of any one shop is limited, then this concern is not realistic.

Yours Sincerely



Stephen Leathley
PLANNING DIRECTOR

PLANNING AND ENVIRONMENT NO. PE153/2014

SUBJECT: PLANNING PROPOSAL - VINTAGE BALANCE LAND

Councillor Wrightson declared a Pecuniary Interest for the reason that she is a landholder at the Vintage. Councillor Wrightson left the Chamber and took no part in discussion and voting.

Councillor Suellen Wrightson left the meeting, the time being 8.11pm

MOTION **Moved:** Councillor Doherty **Seconded:** Councillor Hawkins
1191

RESOLVED

1. That Council support the Planning Proposal to rezone The Vintage Site from RU4 Primary Production –Small Lots to SP3 Tourist and to make related amendments to the Zoning, Minimum Lot Size and Urban Release Area maps, Schedule One and the introduction of a new Clause 7.11 in the Cessnock Local Environmental Plan 2011 subject to the following modifications:
 - a) The definition of integrated tourist development, being amended to:
a development that is undertaken on the subject land which is predominantly tourist and visitor accommodation and tourist facilities in combination with other uses permissible on the land.
 - b) Amendment to item 7 of Schedule 1 of the CLEP 2011 to include:
 - *health services facility; and*
 - *development for the purposes of shops, as identified in the Strategy Plan, that are primarily intended to service tourists being permitted with consent. The combined gross floor area of these shops must not exceed 1000m2.*
2. That Council endorse the Staging Plan (Enclosure 1) as submitted by the proponent and on the basis that no development consents will be issued for residential or rural residential lots or dwellings in State 5 until all 200 tourist accommodation units in Stage 4 have been subject of approved Construction Certificates.
3. That the Planning Proposal, as modified, be forwarded to the NSW Department of Planning and Environment with the request that the Amendments be made to Cessnock LEP 2011;
4. That those persons who made a submission be advised of Council's decision.

FOR	AGAINST
Councillor Gibson	Councillor Ryan
Councillor Doherty	
Councillor Olsen	
Councillor Stapleford	
Councillor Hawkins	
Councillor Smith	
Councillor Campbell	
Councillor Parsons	
Councillor Maybury	
Councillor Pynsent	
Total (10)	Total (1)

CARRIED

Councillor Suellen Wrightson returned to the meeting, the time being 8.14pm