

Cessnock Local Environmental Plan 2011 Amendment - Vintage Balance Lands & Beggars Bridge

Proposal Title :	Cessnock Local Environmental Plan 2011 Amendment - Vintage Balance Lands & Beggars Bridge		
Proposal Summary :	The Planning Proposal aims to rezone the subject land from RU4 Primary Production Small Lots to SP3 Tourist zone under the Cessnock Local Environmental Plan 2011. The site is part of a larger tourism/ housing development known as 'The Vintage'. The rezoning will permit the development of a 200 unit "village resort" (villas/ apartments), approximately 210 residential dwellings for permanent occupancy, 40 rural residential lots, and 9 hole extension to the existing 18 hole golf course. The other proposed uses such as cellar door, viticulture and restaurants are already permissible in the RU4 Primary Production Small Lots zone. Dwelling houses are permitted but there is a 40ha minimum lot size requirement. The Lower Hunter Regional Strategy identifies the Pokolbin vineyard and tourism precincts as a specialised centre, with the potential to provide an additional 1,600 jobs. It does not identify the subject lands as an residential release area.		
PP Number :	PP_2013_CESSN_002_00	Dop File No :	13/05663

Proposal Details

Date Planning Proposal Received :	22-Mar-2013	LGA covered :	Cessnock
Region :	Hunter	RPA :	Cessnock City Council
State Electorate :	CESSNOCK	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Pt Lot 1102 DP 1101455		
Suburb :	Wine Country Drive	City :	Pokolbin
Land Parcel :		Postcode :	2320
Street :	Pt Lot 1301 & Pt Lot 1305 DP 1077114		
Suburb :	Wine Country Drive	City :	Pokolbin
Land Parcel :		Postcode :	2320
Street :	Lot 21 & Lot 23 DP 1044459		
Suburb :	Wine Country Drive	City :	Pokolbin
Land Parcel :		Postcode :	2320
Street :	Lot D DP182933		
Suburb :	Palmers Lane	City :	Pokolbin
Land Parcel :		Postcode :	2320

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Street : Lot 2411 DP1060722
Suburb : McDonalds Road City : Pokolbin Postcode : 2320
Land Parcel :

DoP Planning Officer Contact Details

Contact Name : Michael Leavey
Contact Number : 0438662941
Contact Email : michael.leaveey@planning.nsw.gov.au

RPA Contact Details

Contact Name : Peter Mann
Contact Number : 0249934229
Contact Email : Peter.Mann@cessnock.nsw.gov.au

DoP Project Manager Contact Details

Contact Name : Michael Leavey
Contact Number : 0438662941
Contact Email : michael.leaveey@planning.nsw.gov.au

Land Release Data

Growth Centre :	Other	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :	185.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	450	No. of Dwellings (where relevant) :	450
Gross Floor Area :	0	No of Jobs Created :	0

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

If No, comment :

Have there been meetings or communications with registered lobbyists? : No

If Yes, comment :

Supporting notes

Internal Supporting Notes : Existing Development - The Vintage (as partially constructed and operating) was originally approved in 1996, as an integrated tourism and residential development to be undertaken in three stages and comprising, through various amended consents:
. 522 residential lots,
. 445 tourist accommodation units,

- . 300 tourist "keys" (keys refers to the number of separate lettings the accommodation is capable of),
- . 18-hole a golf course, and
- . A clubhouse, spa and recreation facilities.

The planning controls at the time permitted the residential development only where it was integrated with the tourist development.

The existing approval was translated into the standard instrument as an additional permitted use (schedule 1) under the Cessnock LEP 2011.

The golf course, club house and recreation facilities have been constructed and are currently operating. It is understood that only part of the tourist accommodation and most of the residential development has been built.

A nearby 'integrated' tourism and residential proposal, known as the Golden Bear, was supported in 2012. A Gateway Determination was issued to proceed with the Golden Bear Development, on the basis that the tourism component was consistent with the LHRS, and additional studies were required to justify the permanent residential component and provide certainty regarding the integration.

External Supporting
Notes :

The rezoning proposal is similar to that previously considered by Council, the Department and the Planning Assessment Commission in the period 2005-2009.

A number of reports have been commissioned by Council and the Department to investigate the appropriateness of permitting permanent residential development within the Vineyards District. These are known as the 2005 Warne Report, 2008 Croft Report and 2009 Charles Hill Report.

The 2005 Warne Report was commissioned by Council and concluded that permanent residential development in the Vineyards District should not be considered "until an overall settlement hierarchy has been established and the implications for future demand for tourism accommodation in the Vineyards District are more fully understood." Council adopted the Warne Report and its recommendations on 5 July 2006.

The 2008 Croft Report was commissioned by Council and reviewed the strategic context of permanent residential development, focusing on the Golden Bear and Vintage Balance Lands. The review recommended that "Council not agree to additional residential development for permanent residents at the Golden Bear, the Vintage Balance Land, or in the Vineyards District generally". Council did not adopt this report.

The Department sought independent advice from Charles Hill Planning, on the implications of permitting additional permanent residential development at the Golden Bear and the Vintage Balance Land.

The 2009 Charles Hill Report report concluded:

- . There would be negligible impact on potential loss of agricultural land or value. With proper planning and management, it is not anticipated there will be any significant adverse impacts on the rural character of the locality.
- . Any potential land use conflicts are capable of being managed through the establishment of adequate buffers.
- . Unlikely to set a precedent given the statutory and non statutory framework and any future proposal would need to be considered on its merits.
- . Given the socio-economic status of the residents, the limitation on permanent residential accommodation, the expected permanent population within both developments, the need for any services is not anticipated.

2009 NSW Planning and Assessment Commission (PAC)

The Hon Kristina Keneally, MP, previous Minister for Planning requested advice from the PAC about the Department's recommendation. The PAC advised that approval of permanent residential dwellings would be inconsistent with the Lower Hunter Regional Strategy, which maintains a policy that land for urban release should be in close proximity

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to existing centres, transport, employment and services. The PAC concluded that "the Department's recommendation that the LEPs proceed is contrary to sub-regional strategies and to good planning practice and may prejudice the future viability of the vineyards area as a tourist area." The draft LEPs did not proceed at that time.

A Planning Proposal was submitted by Council in July 2012, for the development of land adjacent to the existing Vintage site, known as Golden Bear. This comprised 50 room hotel, 250 tourist villas and 300 permanent dwellings. A Gateway Determination, with a number of conditions, was issued in August 2012. The Director General advised Council that the outcomes of the Planning Assessment Commission assessment needed to be addressed and included within the exhibition material.

Adequacy Assessment

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

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

Comment : The statement of objectives refers to Council's resolution of 20 February 2013 to support the rezoning proposal, based on it being consistent with the Vineyard District Community vision, in that it proposes the expansion of an existing residential/tourism estate.

The specific rezoning details are provided within the Council report. The rezoning will permit the development of approximately 410 residential dwellings for permanent occupancy, 40 rural residential lots, and 9 hole extension to the existing 18 hole golf course. No additional tourist accommodation is proposed, and there are tourist elements forming part of the proposal.

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

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

Comment : The planning proposal is necessary to permit permanent residential accommodation and the extension of the golf course. Council is considering rezoning the land from RU4 Primary Production Small Lots to SP3 Tourist zone.

Tourist and visitor accommodation, cellar door premises, restaurants or cafes and intensive plant agriculture (viticulture) are already permissible land uses in the RU4 Primary Production Small Lots zone. Dwelling houses are permitted but there is a 40ha minimum lot size requirement.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA : **1.5 Rural Lands**

* May need the Director General's agreement

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008**

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

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

If No, explain :

Council's preliminary assessment identifies that the following studies need to be updated and/or provided as new:

- . Contaminated lands;
- . Aboriginal archeology;
- . Agricultural land suitability and capability assessment;
- . Social impact assessment;
- . Economic impact assessment;
- . Bushfire risk assessment;
- . Traffic impact assessment;
- . Public utilities - including a sewage treatment and effluent re-use investigation and design, and water servicing adequate for residential supply, golf course maintenance and fire fighting;
- . Geo technical assessment.

These studies will provide additional information to determine whether or not any potential inconsistencies with the relevant SEPPs and s117 directions are adequately justified.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

A locality map is provided.

Council will need to exhibit the draft SP3 land use table, zoning, minimum lot size and urban release area maps if a Gateway Determination is issued.

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment :

Council advises that a community consultation strategy will be prepared if a gateway determination is issued.

If a Gateway Determination is issued the PP should be publicly exhibited for a minimum of 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

The proposal is adequate for consideration by the Gateway. The Proposal outlines the intended objectives and explanation of provisions. Insufficient information is available to assess against s117 directions until studies have been completed.

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP :

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

Assessment Criteria

Need for planning
proposal :

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

No. The planning proposal does not reflect the outcomes of any strategic study or report, however the Council has submitted the proposal on the basis it is consistent with the Vineyard District Community Vision, in that "it proposes the expansion of an existing residential/ tourism estate".

The consistency, or otherwise, of the proposal with the strategic planning framework is outlined further in the assessment. Previous assessment of this proposal and others similar has highlighted the need for a strategic approach to ongoing development within the Vineyards District.

No assessment of supply and demand has been undertaken in support of the permanent residential dwellings.

Council supported the rezoning proposal on the basis of the Vineyard District Community vision prepared by the Hunter Valley Wine Industry Association and Hunter Valley Wine Country Tourism. The vision was adopted by Council on 15 August 2012 and supports "some expansion of existing residential estates that incorporate leisure, tourism and residential facilities as part of lifestyle niches in keeping with character and amenity of the vineyards district provided they are built to a high standard".

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

The amendment to the LEP is necessary to permit permanent residential accommodation and the extension of the golf course. Council is considering rezoning the land from RU4 Primary Production Small Lots to SP3 Tourist zone. This zone is currently being considered for the Golden Bear integrated tourist development to facilitate the integration of the two uses. It is unclear whether the intention is to zone the larger site (including the existing tourism development) or just the additional residential portion. This should be raised with Council as part of any Gateway Determination.

3. Is there a net community benefit?

It is not possible to determine whether or not there is a net community benefit based on the information provided. A social and economic assessment is required to determine the net community benefit taking into consideration the complexity of the socio-economic interactions in the Vineyards District. It will also be necessary to provide an assessment of the additional infrastructure required for the proposal and the funding mechanisms to provide this infrastructure.

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Consistency with strategic planning framework :

1. Lower Hunter Regional Strategy (LHRS)

The LHRS identifies the Pokolbin vineyard and tourism precincts as a specialised centre, with the potential to provide an additional 1,600 jobs over the life of the Strategy (Table 2, Page 18). The Strategy does not identify this locality as an urban release investigation area, however the current Vintage development predates the Regional Strategy.

The PAC report 2009 also notes that the approval of permanent residential dwellings would be inconsistent with the Lower Hunter Regional Strategy, which maintains a policy that land for urban release should be in close proximity to existing centres, transport, employment and services.

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

In recognition of the proposal's inconsistency with the LHRS, the proponent and Council have undertaken an assessment against the Strategy's sustainability criteria. The LHRS indicates that a proposal outside of the Regional Strategy process can only be considered if it is consistent with the sustainability criteria. A review of the proposal against the criteria has indicated that there are areas of inconsistency, including the site's accessibility. There is insufficient information to assess the proposal in terms of infrastructure provision and the availability of services because of the lack of detailed assessment and costings.

The Department has recently released the Lower Hunter Regional Strategy Discussion Paper, which is on exhibition until 3 May 2013. It aims to facilitate and manage growth in a sustainable manner by building on Lower Hunter strengths and opportunities. The Department's review of the LHRS will need to concurrently consider the issue of permanent residential dwellings in this locality. The Vintage already has approval for 522 dwellings, the Golden Bear proposes up to 300 dwellings and this PP proposes an additional 410 dwellings and 40 rural residential allotments. This potentially provides a total of 1272 dwellings (up to 3300 residents) in a location removed from existing centres, transport, employment and services, however forming part of integrated tourist developments.

2. Upper Hunter Strategic Regional Land Use Plan

The subject site is identified as strategic agricultural land and located within the Viticulture Critical Industry Cluster under the Upper Hunter Strategic Land Use Plan (UHSRLUP). This land is identified for protection from non-agricultural activities due to its significance and councils are to protect this land through their Local Environmental Plans (Action 3.4). Therefore the proposal may be considered inconsistent with the strategic direction. The Planning Proposal does not address the UHSRLUP.

3. Cessnock City-Wide Settlement Strategy (CWSS)

The Cessnock City-Wide Settlement Strategy was initially prepared in 2003 and has been updated most recently in 2010 to support the new comprehensive LEP. The CWSS aims to redirect dwelling demand into a more sustainable settlement pattern. It also states that "the sites identified for potential urban release areas in the LHRS are currently more than sufficient to accommodate Council's needs for population growth within the next 25 years" and "will provide a range of housing choice and locality and public transport options." (p.55)

The Cessnock City-Wide Settlement Strategy 2010 highlights the tourism significance of the Vineyards District and specifically discusses the issue of permanent residential development. The Strategy (Section 11.3.3) identifies that such development is 'inconsistent with local and state policy and has the potential to detract from the character

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of this area that is primarily dedicated to wine making'.

4. Ministers S117 Directions

The Planning Proposal needs to address its inconsistency with the Minister's S117 Directions, in particular Direction 1.2 Rural Lands, Direction 1.5 Rural Lands and Direction 5.1 Implementation of Regional Strategies, and this will be assisted by the further studies Council has identified.

Environmental social
economic impacts :

When the required studies have been completed, it will be possible to determine the potential environmental, social and environmental impacts.

Assessment Process

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

Timeframe to make LEP : **24 Month** Delegation : **Minister**

Public Authority Consultation - 56(2)(d) :
NSW Aboriginal Land Council
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
Mine Subsidence Board
Transport for NSW
NSW Police Force
NSW Rural Fire Service
Transport for NSW

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

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **The LHRS review should determine whether this locality should be investigated as an urban release area after taking into consideration its proximity to existing centres, transport, employment and services.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Heritage

Bushfire

Economic

Social

If Other, provide reasons :

Council also requests a contamination assessment, traffic assessment, public utilities and geo-technical assessment.

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons : **The Infrastructure Planning & Coordination team advises that the Golden Bear and the Vintage Balance Lands should be mapped as an Urban Release Area based on accumulative impacts. If both rezoning proceed (Golden Bear & Vintage Balance Lands), it will provide an additional 750 dwellings, on top of the 522 already approved.**

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Documents

Document File Name	DocumentType Name	Is Public
PP Vintage Balance Land and Beggars Bridge.pdf	Proposal	Yes
Golden Bear Gateway Determination.pdf	Determination Document	No
Vintage Lands and Golden Bear Chronology.doc	Determination Document	No
PAC Report - Golden Bear & Vintage Balance.pdf	Determination Document	No

Planning Team Recommendation

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

S.117 directions: **1.5 Rural Lands**

Additional Information : **It is recommended that the Planning Proposal should proceed, subject to the following conditions:**

- 1. Council is encouraged to consider whether the proposed SP3 zone should also be extended to include the whole Vintage site, to reinforce the integrated nature of uses.**
 - 2. Council is to undertake a site investigation into potential contamination of the land in accordance with SEPP 55 – Remediation of Land to ensure the land is capable of supporting the proposed future land use. The planning proposal is to be amended to reflect the outcome of the investigation prior to the commencement of public exhibition.**
 - 3. The subject site be identified as an Urban Release Area and the Department's model clause adopted to require the development to contribute towards the provision of designated State Infrastructure, provide required public utility infrastructure and that a DCP is prepared before any development application is determined.**
 - 4. Council needs to ensure that the requirements of the following S117 Directions are addressed in the public exhibition material:**
 - S117 Direction 1.2 Rural Zones
 - S117 Direction 1.5 Rural Lands
 - S117 Direction 2.3 Heritage Conservation
 - S117 Direction 3.4 Integrating Land Use and Transport
 - S117 Direction 3.1 Residential Zones
 - S117 Direction 4.3 Flood Prone Land
 - S117 Direction 4.4 Planning for Bushfire Protection
 - S117 Direction 5.1 Implementation of Regional Strategies
 - 5 Council is to provide additional information within the public exhibition material regarding the following matters to suitable identify all impacts that may result from the proposed development:**
 - flora and fauna
 - bushfire risk
 - aboriginal archaeology
 - land contamination (SEPP 55)
 - traffic
 - infrastructure and services
 - agricultural land use
 - water management
 - the social and economic impacts of the proposal
- Additionally, Council is to provide additional information addressing consistency with the Upper Hunter Strategic Regional Land Use Plan, and also addressing the matters previously raised by the Planning Assessment Commission.**

6. 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 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- NSW Aboriginal Land Council
- Office of Environment and Heritage
- NSW Department of Primary Industries – Agriculture
- NSW Department of Primary Industries - Minerals and Petroleum
- Hunter Water Corporation
- NSW Rural Fire Service
- Transport for NSW - Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

8. Further to Condition 7 above, Council is to consult with the Commissioner of the NSW Rural Fire Service and, prior to undertaking community consultation, take into account any comments made and amend the planning proposal (if necessary) as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

9. Council should amend the planning proposal to reflect the requirements of the Gateway determination. Council needs to provide a copy of the revised proposal to the Department's Regional Team prior to the commencement of exhibition.

10. 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).

11. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway Determination.

Supporting Reasons :

This Planning Proposal seeks to facilitate residential development within an SP3 zone, as part of an approved larger tourist development, in the Hunter Valley Vineyards. Use of the SP3 zone will reinforce that the development is part of a larger integrated development, and it is recommended that Council consider applying the SP3 zone to the remainder of the site. It is also recommended that the site be mapped as an urban release area in relation to state infrastructure.

The proposal represents an opportunity for expansion of the existing Vintage development, and would provide economic stimulus in this area.

It is noted that a Gateway Determination has recently been issued for the nearby "Golden Bear" proposal, in August 2012. The Golden Bear proposal includes 300 residential dwellings, a hotel, golf course and 250 tourist villas. A determination was issued on the basis that the tourism component was consistent with the LHRs, and additional studies were required post Gateway to justify the permanent residential component.

It is acknowledged that further studies will be required, and these will need to address issues such as s.117 Direction and matters raised by the PAC, among other issues.

A strategic review of permanent residential dwellings in this locality would be beneficial

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in light of the current approved and proposed developments underway in the locality, and this is a matter to be considered as part of the review of the Lower Hunter Regional Strategy. The Vintage already has approval for 522 dwellings, the Golden Bear proposes up to 300 dwellings and this Planning Proposal proposes an additional 410 dwellings and 40 rural residential allotments. This potentially provides a total of 1272 dwellings (up to 3300 residents).

Signature:



Printed Name:



Date:

