



# **PLANNING PROPOSAL**

## ***Amendment to the Cessnock Local Environment Plan 2011***

### **Vintage Balance Land and Beggars Bridge**

#### **Rezoning of:**

**Part Lot 1102 DP 1101455, Part Lot 1301 DP 1077114,  
Part Lot 1305 DP 1077114, Lot 21 DP 1044459,  
Lot 23 DP 1044459, Wine Country Drive,  
Part Lot D DP 182933, Palmers Lane,  
Lot 2411 DP 1060722, McDonalds Road**

**Version 1.0  
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## PART 1: OBJECTIVES and BACKGROUND

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At the meeting held on 20 February 2013, Cessnock City Council resolved to prepare a draft Local Environmental Plan over land in Pokolbin being:

- Part of Lot 1102 DP 1101455, Part of Lot 1301 DP 1077114, Part of Lot 1305 DP 1077114, Lot 21 DP 1044459, Lot 23 DP 1044459, Wine Country Drive.
- Part of Lot D DP 182933 Palmers Lane.
- Lot 2411 DP 1060722 McDonalds Road.

The land is adjacent to the Vintage golf, spa and residential development, at the edge of the Vineyards District, and is referred to as the Vintage Balance Lands (VBL) and Beggars Bridge (BB) in this planning proposal.

The proponent is Vintage Developments Pty Ltd, and Stevens Group Pty Ltd owned the land. After considering an assessment report, Council approved the planning proposal for the following reason:

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

### Objectives

The planning proposal is required to permit a development concept for residential subdivision for medium density, low density and rural residential lots, a 9-hole golf course (extension to the existing golf course adjoining), a residue agricultural lot retaining the existing vineyard use, a small cellar door and tourist related use.

### Zoning

The Land is zoned RU4 Rural Small Holdings under Cessnock Local Environmental Plan 11 (CLEP11). Residential subdivision, and rural residential subdivision, are not permitted in the RU4 zone, by way of a general restriction of one (1) dwelling per 40ha or existing vacant holding. *Rural workers dwellings* and *secondary dwellings* are permissible, but all other forms of permanent residential accommodation (such as *attached dwellings*, *dual occupancies*, *multi unit housing* and *residential flat buildings*) are prohibited. *Recreation facility (indoor)*, *recreation facility (major)*, *recreation facility (outdoor)* and *retail premises* are also prohibited in the RU4 zone.

*Function centre*, *tourist and visitor accommodation* (excluding *hotel and motel accommodation*), *intensive plant agriculture*, including *viticulture*, and *cellar door premises* are permissible with consent in the RU4 zone.

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## **PART 2: EXPLANATION of PROVISIONS**

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### **Zoning Matters**

Under CLEP11 the proposed residential and rural residential subdivision, permanent residential accommodation, hotel and golf course are prohibited. The tourist elements and cellar door are permissible with consent. The RU4 - Primary Production Small Lots Zone is intended to allow for low scale tourist development that is complementary to the wine industry and that will support wine tourism in a way that does not detract from the rural character of the Vineyards District. The planning proposal is necessary to allow use of the land for permanent residential accommodation and extension of the golf course.

### **Provisions**

Application of a proposed SP3 Zone over the land is considered the best way of achieving the development concept that the aim of the planning proposal, providing environmental protection, and ensuring the aims of the proposal are met (see discussion under 'Justification').

### **Matters that Council considers should be addressed by environmental studies**

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

- Contaminated lands;
- Aboriginal archaeology;
- 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;
- Geotechnical assessment.

These studies will form the basis for assessing the planning proposal if a gateway determination is issued, and would be reviewed by council officers. Where required peer review or independent studies would be undertaken to validate information relating to the proposal.

### **Cessnock DCP 2010**

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

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## PART 3: JUSTIFICATION

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

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

### **Section A: Need for Proposal**

#### **1. Resulting from a Strategic Study or Report**

The Proponent stated in the submission to Council:

*"The proposal is preceded by a comprehensive, strategic study that was submitted to Council in 2006; and the Addendum submitted for the Beggars Bridge land submitted in 2007."*

The land is not identified as an urban release area in the Cessnock City Wide Settlement Strategy or in the Lower Hunter Regional Strategy (LHRS). Expansion of existing residential/tourism estates is referred to in the Vineyard District Community Vision that was adopted by Council at its meeting on 15 August 2012.

The Council resolved to approve the planning proposal as per the following resolution:

- "1. The Council determine to approve the Planning Proposal to incorporate the Vintage Balance Land and Beggars Bridge, for the following reason:
- It is consistent with the Vineyard District Community Vision, in that it proposes the expansion of an existing residential/tourism estate."

#### **2. Planning Proposal as best way to achieve objectives**

The original proponent requested an amendment to Schedule 1 of CLEP to list the currently prohibited uses as additional permissible uses on the land.

Retention of the RU4 Zone over the land is not considered appropriate given the significant issues with permissibility and inconsistency with the objectives of the zone. Council is proposing application of an SP3 Zone over the land.

Council is drafting the SP3 Zone, in consultation with the proponent for the Golden Bear site (opposite the VINTAGE BALANCE LANDS and BEGGARS BRIDGE), following a gateway determination over the Golden Bear site for golf course, associated tourist accommodation and residential subdivision. The gateway determination for the Golden Bear states, in part:

*"The use of Schedule 1 to achieve the proposed outcome in this case is not supported because it does not provide sufficient clarity, certainty and transparency regarding the*

*future of the land. The development of tourist facilities and residential accommodation is not consistent with the objectives and outcomes envisaged within the RU4 Primary Production Small Lots Zone. Council is encouraged to consider existing Standard Instrument zones, such as the SP3 Zone for the tourist component and R2 Low Density Residential for the residential component. In doing so, Council is to include information in the planning proposal explaining any local provisions relevant to supporting the selected zone/s."*

Council does not consider use of the R2 Zone appropriate in the midst of a rural zoning, and divorced from any urban area appropriate; use of the R2 Zone in this instance is inconsistent with Council's adopted Residential Settlement Strategy and the Lower Hunter Regional Strategy. For this reason Council is proposing application of an SP3 Zone over the whole of the land that incorporates a significant tourist facility in conjunction with permanent residential accommodation.

Application of a proposed SP3 Zone over the land is considered the best way of achieving the development concept that the planning proposal aims to permit, provides environmental protection, and ensures the aims of the proposal are met. The zone table will be tailored to the specific mix of uses that integrated tourist developments contain. A special clause for the zone will provide assurance that the mix of tourist and permanent residential accommodation is maintained, and that the tourist component is developed and operational prior to residential occupation.

### **3. Net Community Benefit**

While the proponent has not prepared a *Net Community Benefit Test* it is stated in the submission "There are a number of community benefits that would flow should this proposal proceed." Economic benefits mentioned in the Proponent's submission include expenditure of tourists and residents, and housing for residents and visitors who stand to benefit from the lifestyle and sporting facilities that are provided.

The lack of detail in the proponent's submission is identified in the Council Report that indicates a comprehensive economic and social impact assessment is required to demonstrate a *Net Community Benefit*.

## **Section B: Relationship to Strategic Planning Framework**

### **4. Consistency with Objectives and Actions within Regional Strategies**

#### **Lower Hunter Regional Strategy 2006**

The Proponent has included an assessment of the proposal against the Sustainability Criteria stipulated in Appendix 1 of the LHRS, necessary because the Land is not identified as an urban release area in any strategic document (refer to Appendix 3).

An alternative assessment included in the Council report indicates that sustainability has not yet been demonstrated. Sustainability needs to be demonstrated through a comprehensive economic and social impact assessment, and other studies required for the further assessment of the planning proposal.

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

#### **Community Strategic Plan - Our People, Our Place, Our Future**

The proponent does not refer to *Cessnock 2020 – Community Strategic Plan (CSP)* in the Proposal.

The Council report highlights a number of CSP objectives that are relevant that have not been addressed by the Proponent. Consistency with Council's Community Strategic Plan needs to be demonstrated through a comprehensive economic and social impact assessment.

#### **City Wide Settlement Strategy (2010)**

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

The Proposal is not consistent with the CWSS and justification for the inconsistency should be provided in the environmental studies that are required to further assess the Proposal should a gateway determination be made to proceed.

#### **Vineyard District Community Vision**

Council adopted a Vineyard District Community Visioning document at its meeting on 15 August 2012 as per Minute 2217 of Council meeting 15 August 2012:

*"Council adopt the Version of the Vineyards Visioning Statement put forward by Hunter Valley Wine Industry Association and Hunter Valley Wine Country Tourism with a review to occur in twelve (12) months."*

The adopted document bears the title *Hunter Valley Wine Industry Association and Hunter Valley Wine Country Tourism Submission to Cessnock City Council Vineyards*

District Community Vision Community Consultation Report. Edge Land Planning prepared the document in February 2012.

The adopted Vision is as follows:

*"The Vineyards District:*

- *Recognises and protects the primacy of the vineyards and maintains and enhances the existing vineyards, wineries and tourist uses*
- *Maintains and preserves the rural amenity, character and scenic vistas of the region for future generations to enjoy*
- *A place that reinforces the Hunter Valley Wine Brand as the key component of its tourism identity*
- *Allows and fosters a mix of diverse business, accommodation and employment options – creating a balance between working vineyards, tourist uses, residential and visitor amenity;*
- *Council, peak business groups and community work collaboratively*
- *Has high quality infrastructure and services which meet the community's and visitors' needs"*

The following Objective and Action under Vision 2 appear to be related to the Proposal:

*"Objective 3 – Ensure 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.*

*Action 8 – Allow some expansion of existing residential estates that provide leisure, tourism and residential facilities as part of a lifestyle niche provided they are built to a high standard."*

## 6. **Consistency with State Environmental Planning Policies**

An assessment of relevant SEPPs against the planning proposal is provided in the table below.

**Table 1: Relevant State Environmental Planning Policies**

| <b>SEPP</b>                                                                         | <b>Relevance</b>                                                                                                                                                                                                                             | <b>Consistency and Implications</b>                                             |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <b>SEPP 1 - Development Standards</b>                                               | The SEPP makes development standards more flexible. It allows councils to approve a development proposal that does not comply with a set standard where this can be shown to be unreasonable or unnecessary.                                 | Not applicable.                                                                 |
| <b>SEPP 4 - Development without Consent and Miscellaneous Complying Development</b> | The SEPP allows relatively simple or minor changes of land or building use and certain types of development without the need for formal development applications. The types of development covered in the policy are outlined in the policy. | Nothing in this planning proposal affects the aims and provisions of this SEPP. |
| <b>SEPP 6 - Number of Storeys in a Building</b>                                     | The SEPP clarifies the reference to storey, floors and levels.                                                                                                                                                                               | Nothing in this planning proposal affects the aims and provisions of this SEPP. |

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| <b>SEPP 15 - Rural Land Sharing Communities</b>                    | The SEPP provides for multiple occupancy development, with council consent, in rural and non-urban zones, subject to a list of criteria in the policy.                                                                                                                                                                       | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 21 -Caravan Parks</b>                                      | The SEPP provides for development for caravan parks.                                                                                                                                                                                                                                                                         | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 22 - Shops and commercial premises</b>                     | The SEPP provides for the change of use of commercial premises.                                                                                                                                                                                                                                                              | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 30 - Intensive Agriculture</b>                             | The SEPP provides considerations for consent for intensive agriculture.                                                                                                                                                                                                                                                      | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 32 - Urban Consolidation (Redevelopment of Urban Land)</b> | The SEPP makes provision for the re-development of urban land suitable for multi-unit housing and related development.                                                                                                                                                                                                       | Not applicable – an urban zone will not be applied to the land                                                                                                                                                                   |
| <b>SEPP 33 - Hazardous &amp; Offensive Development</b>             | The SEPP provides considerations for consent for hazardous & offensive development.                                                                                                                                                                                                                                          | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 36 - Manufactured Homes Estates</b>                        | The SEPP makes provision to encourage manufactured homes estates through permitting this use where caravan parks are permitted and allowing subdivision.                                                                                                                                                                     | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 44 - Koala Habitat Protection</b>                          | This SEPP applies to land across NSW that is greater than 1 hectare and is not a National Park or Forestry Reserve. The SEPP encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. | A flora and fauna study is required to demonstrate consistency with SEPP 44                                                                                                                                                      |
| <b>SEPP 50 - Canal Estates</b>                                     | The SEPP bans new canal estates from the date of gazettal, to ensure coastal and aquatic environments are not affected by these developments.                                                                                                                                                                                | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP 55 - Remediation of Land</b>                               | This SEPP applies to land across NSW and states that land must not be developed if it is unsuitable for a proposed use because of contamination                                                                                                                                                                              | Potential contamination of the land should be investigated in accordance with SEPP 55, and the information provided before any decision is made on rezoning to enable the responsible authority to be satisfied that the Land is |

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|                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | suitable for the proposed uses.                                                                                                                          |
| <b>SEPP 62 - Sustainable Aquaculture</b>                                | The SEPP relates to development for aquaculture and to development arising from the rezoning of land and is of relevance for site specific rezoning proposals.                                                                                                                                                                                                                                                                                                            | Not applicable.                                                                                                                                          |
| <b>SEPP 64 - Advertising and Signage</b>                                | The SEPP aims to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.                                                                                                                                                                                                                                                 | Nothing in this planning proposal affects the aims and provisions of this SEPP – it is proposed to include signage as a permissible use in the SP3 zone. |
| <b>SEPP 65 - Design Quality of Residential Development</b>              | The SEPP relates to residential flat development across the state through the application of a series of design principles. Provides for the establishment of Design Review Panels to provide independent expert advice to councils on the merit of residential flat development.                                                                                                                                                                                         | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                          |
| <b>SEPP Building Sustainability Index: BASIX 2004</b>                   | The SEPP provides for the implementation of BASIX throughout the State.                                                                                                                                                                                                                                                                                                                                                                                                   | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                          |
| <b>SEPP Housing for Seniors or People with a Disability 2004</b>        | The SEPP aims to encourage provision of housing for seniors, including residential care facilities. The SEPP provides development standards.                                                                                                                                                                                                                                                                                                                              | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                          |
| <b>SEPP Major Development 2005</b>                                      | The SEPP defines certain developments that are major projects to be assessed under Part 3A of the Environmental Planning and Assessment Act 1979 and determined by the Minister for Planning. It also provides planning provisions for State significant sites. In addition, the SEPP identifies the council consent authority functions that may be carried out by Joint Regional Planning Panels (JRPPs) and classes of regional development to be determined by JRPPs. | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                          |
| <b>SEPP Infrastructure 2007</b>                                         | The SEPP provides a consistent approach for infrastructure and the provision of services across NSW, and to support greater efficiency in the location of infrastructure and service facilities.                                                                                                                                                                                                                                                                          | Infrastructure requirements will be determined through the relevant environmental studies that are necessary for the further assessment of the proposal. |
| <b>SEPP Mining, Petroleum Production and Extractive Industries 2007</b> | The SEPP aims to provide proper management of mineral, petroleum and extractive material resources and ESD.                                                                                                                                                                                                                                                                                                                                                               | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                          |
| <b>SEPP Temporary Structures 2007</b>                                   | The SEPP provides for the erection of temporary structures and the use of                                                                                                                                                                                                                                                                                                                                                                                                 | Nothing in this planning proposal affects the aims and                                                                                                   |

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|                                                         | places of public entertainment while protecting public safety and local amenity.                                                                                                                                                                                                                                                                                                                                                 | provisions of this SEPP.                                                                                                                                                  |
| <b>SEPP Exempt and Complying Development Codes 2008</b> | The SEPP provides exempt and complying development codes that have State-wide application, identifying, in the General Exempt Development Code, types of development that are of minimal environmental impact that may be carried out without the need for development consent; and, in the General Housing Code, types of complying development that may be carried out in accordance with a complying development certificate. | Nothing in this planning proposal affects the aims and provisions of this SEPP.                                                                                           |
| <b>SEPP Rural Lands 2008</b>                            | The SEPP aims to facilitate economic use and development of rural lands, reduce land use conflicts and provides development principles.                                                                                                                                                                                                                                                                                          | Consistency with the SEPP needs to be assessed and demonstrated through the relevant environmental studies that are necessary for the further assessment of the Proposal. |
| <b>SEPP Affordable Rental Housing 2009</b>              | The SEPP provides for an increase in the supply and diversity of affordable rental and social housing in NSW.                                                                                                                                                                                                                                                                                                                    | The Proposal will not result in the provision of affordable rental housing.                                                                                               |
| <b>SEPP State and Regional Development 2011</b>         | The SEPP aims to identify development and infrastructure that is State significant and confer functions on the Joint Regional Planning Panels (JRPPs) to determine development applications.                                                                                                                                                                                                                                     | Not applicable                                                                                                                                                            |

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

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

**Table 2: Relevant s.117 Ministerial Directions**

| <b>Ministerial Direction</b>             | <b>Aim of Direction</b>                                                                                                                                                          | <b>Consistency and Implication</b>                                                                                                                                 |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. EMPLOYMENT AND RESOURCES</b>       |                                                                                                                                                                                  |                                                                                                                                                                    |
| <b>1.1 Business and Industrial Zones</b> | Encourage employment growth in suitable locations, protect employment land in business and industrial zones, and support the viability of identified strategic centres.          | Not applicable                                                                                                                                                     |
| <b>1.2 Rural Zones</b>                   | The objective of this direction is to protect the agricultural production value of rural land.                                                                                   | A comprehensive environmental study is required to justify inconsistencies with the two directions – the studies required are listed in part 1 of this submission. |
| <b>1.5 Rural lands</b>                   | The objective of this direction is to protect the agricultural production value of rural land and facilitate the economic development of rural lands for rural related purposes. |                                                                                                                                                                    |

|                                                                   |                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                  |
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| <b>1.3 Mining, Petroleum Production and Extractive Industries</b> | The objective of this direction is to ensure that the future extraction of State or regionally significant reserves coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.                                                                                                            | Not applicable                                                                                                                                                                   |
| <b>2. ENVIRONMENT AND HERITAGE</b>                                |                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                  |
| <b>2.1 Environmental Protection Zones</b>                         | The objective of this direction is to protect and conserve environmentally sensitive areas.                                                                                                                                                                                                                                               | A flora and fauna study is required to identify any environmentally sensitive areas and whether there is a need to protect them, and demonstrate consistency with the direction. |
| <b>2.3 Heritage Conservation</b>                                  | The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.                                                                                                                                                                              | A heritage study and aboriginal archaeology study are required to identify the need for conservation measures and demonstrate consistency with the direction.                    |
| <b>2.4 Recreation Vehicle Areas</b>                               | The draft LEP amendment does not enable land to be developed for the purpose of a recreation vehicle area (within the meaning of the <i>Recreation Vehicles Act 1983</i> ).                                                                                                                                                               | Not applicable                                                                                                                                                                   |
| <b>3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT</b>           |                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                  |
| <b>3.1 Residential Zones</b>                                      | Encourage a variety and choice of housing types to provide for existing and future housing needs, make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and minimise the impact of residential development on the environment and resource lands. | A comprehensive environmental study is required to justify any inconsistencies with the direction – the studies required are listed in part 1 of this submission.                |
| <b>3.2 Caravan parks and Manufactured Home Estates</b>            | The objective of this direction is to provide for a variety of housing types, and provide opportunities for caravan parks and manufactured home estates.                                                                                                                                                                                  | The economic and social impact assessment is required to demonstrate consistency with the direction                                                                              |
| <b>3.3 Home Occupations</b>                                       | The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.                                                                                                                                                                                                                       | Home occupation will be included in the use table for the proposed SP3 Zone                                                                                                      |
| <b>3.4 Integrating Land Use and Transport</b>                     | The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs subdivision and street layouts achieve the sustainable transport objectives.                                                                                                                                  | A comprehensive environmental study is required to justify inconsistencies with the two directions – the studies required are listed in part 1 of this submission                |
| <b>3.5 Development Near Licensed Aerodromes</b>                   | The objectives of this direction to ensure the efficient and safe operation of aerodromes, ensure their operation is not compromised by                                                                                                                                                                                                   | Not applicable                                                                                                                                                                   |

|                                                  |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                              |
|--------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                  | incompatible future adjoining land uses                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                              |
| <b>3.6 Shooting Ranges</b>                       | The objective of this direction is to maintain appropriate levels of public safety and amenity, reduce land use conflict and identify issues that must be addressed when rezoning land adjacent to an existing shooting range.                                                                                                                                                                                | Not applicable                                                                                                                                               |
| <b>4. HAZARD AND RISK</b>                        |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                              |
| <b>4.1 Acid Sulphate Soils</b>                   | The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils                                                                                                                                                                                                                                           | A geotechnical study is required to demonstrate consistency with the direction                                                                               |
| <b>4.2 Mine Subsidence and Unstable Land</b>     | The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.                                                                                                                                                                                                                                          | A geotechnical study is required to demonstrate consistency with the direction                                                                               |
| <b>4.3 Flood Prone Land</b>                      | The objectives of this direction are to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land. | A flood study is required to demonstrate consistency with the direction.                                                                                     |
| <b>4.4 Planning for Bushfire Protection</b>      | The objectives of this direction are to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, to encourage sound management of bush fire prone areas.                                                                                                                                                      | A bushfire risk assessment is required to demonstrate consistency with the direction                                                                         |
| <b>5. REGIONAL PLANNING</b>                      |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                              |
| <b>5.1 Implementation of Regional Strategies</b> | The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.                                                                                                                                                                                                                                                    | A comprehensive environmental study is required to justify inconsistencies with the direction – the studies required are listed in part 1 of this submission |
| <b>6. LOCAL PLAN MAKING</b>                      |                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                              |
| <b>6.1 Approval and Referral Requirements</b>    | The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.                                                                                                                                                                                                                                                                           | Consultation with relevant authorities is required to ensure consistency with the direction                                                                  |
| <b>6.2 Reserving Land for Public Purposes</b>    | The objectives of this direction are to facilitate the provision of public services and facilities by reserving land for public purposes, and facilitate                                                                                                                                                                                                                                                      | Not applicable                                                                                                                                               |

|                                     |                                                                                                               |                                                                                                                                                       |
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|                                     | the removal of reservations of land for public purposes where the land is no longer required for acquisition. |                                                                                                                                                       |
| <b>6.3 Site Specific Provisions</b> | The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.   | The proposed SP3 Zone is based on standard instrument definitions and is intended to be applicable to more than one site. The provisions are generic. |

## **Section C: Environmental, Social and Economic Impact**

### **8. Impact on Threatened Species**

An ecological study will need to be undertaken in accordance with current guidelines should the Proposal proceed. Threatened and endangered species have been recorded on an adjacent site, and there is a possibility they are present on the Land.

### **9. Environmental Impact**

Environmental issues were addressed in studies undertaken in 2006. Much of this information is out of date and is not in accordance with current guidelines. Studies in relation to the following environmental issues will need to be reviewed or undertaken afresh should the Proposal proceed.

- flooding
- bushfire risk
- water quality and management
- geotechnical
- contamination
- agricultural land suitability and capability
- Aboriginal cultural heritage
- non-Aboriginal cultural heritage
- Irrigation
- traffic and transport
- visual impact

### **10. Social and Economic Impacts**

A comprehensive social and economic impact assessment is required to identify and address impacts.

## **Section D: State and Commonwealth Interests**

### **11. Adequate Public Infrastructure**

Servicing and provision of other facilities needs to be addressed in the required studies and incorporated into the Proposal by way of a VPA, DCP and S94 contributions. All services are to be provided at the Proponent's expense.

### **12. Consultation with State and Commonwealth Authorities**

The Proponent has not suggested a community consultation strategy.

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## **PART 4: COMMUNITY CONSULTATION**

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The Proponent has not suggested or provided a community consultation strategy. A strategy can be prepared should a positive gateway determination be given.

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## **PART 5: PROJECT TIMELINE**

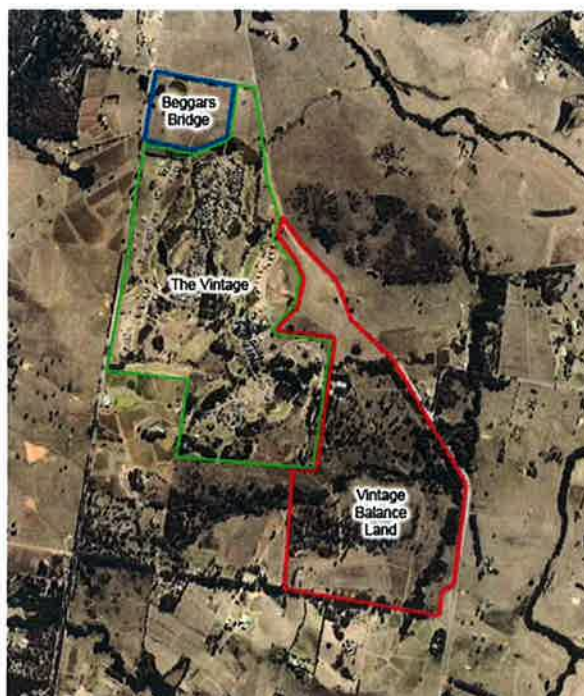
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The Proponent has not supplied a project timeline. A timeline can be prepared should a positive gateway determination be given. The timeline will be dependent on when the required environmental studies can be finalised to the satisfaction of Council and the Department.

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## Appendix 1: Location Plan

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## **Appendix 2: Council Report and Minutes**

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**SUBJECT:** *PLANNING PROPOSAL - VINTAGE BALANCE LAND*

**AUTHOR:** *Strategic Landuse Planning Manager - Peter Mann*

|                       |                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| APPLICATION NUMBER:   | 18/2012/11                                                                                                                                                                            |
| PROPOSAL:             | Rezoning proposal to allow residential and rural residential development and golf course                                                                                              |
| PROPERTY DESCRIPTION: | Part of Lot 2202 DP 1167247<br>Part of Lot 1305 DP 1077114<br>Part of Lot 2101 DP 1158698<br>Part of Lot 1601 DP 1142579<br>Lot D DP 182933<br>Lot 23 DP 1044459<br>Lot 21 DP 1044459 |
| PROPERTY ADDRESS:     | Wine Country Drive Pokolbin                                                                                                                                                           |
| ZONING:               | RU4 Rural Small Holdings                                                                                                                                                              |
| OWNER:                | Stevens Group Pty Ltd                                                                                                                                                                 |
| APPLICANT:            | Vintage Developments Pty Ltd                                                                                                                                                          |

### **SUMMARY**

This report presents an assessment of a planning proposal to amend the permissibility of land uses on land in Wine Country Drive, Pokolbin (the Land is referred to as the Vintage Balance Land and the Beggars Bridge site). The planning proposal is made in conjunction with a development concept for residential subdivision for medium density, low density and rural residential lots, a 9-hole golf course (extension to the existing golf course adjoining), a residue agricultural lot retaining the existing vineyard use, a small cellar door and tourist related use. A number of the proposed uses are prohibited under the Cessnock Local Environmental Plan 2011 that was gazetted on 23 December 2011. This report provides an assessment of the planning proposal in respect to the potential amendment of LEP 2011.

Numerous reports have been prepared, and Council decisions have been made, in relation to the Vintage Balance Land / Beggars Bridge and permanent residential accommodation in the Vineyards District. The main reports and Council resolutions are listed here in chronological order and discussed in the report under Point 1.4 Recent History.

- Synergy (Warne) Report 2005
- Crofts Report 2008, Council report and resolution 2008
- Planning Proposal for Vintage Balance Lands (similar to that currently proposed), Council report and resolution 2008
- PAC report to the then Minister for Planning 2008
- Cessnock City Wide Settlement Strategy 2010
- Vineyards District Community Vision 2012

## **RECOMMENDATION**

### **That Council:**

1. **Note the Planning Proposal is inconsistent with the strategic context set by the Lower Hunter Regional Strategy and the Cessnock City Wide Settlement Strategy.**
2. **Note the Planning Proposal is consistent with the Vineyard District Community Vision in relation to the expansion of existing residential estates that provide leisure, tourism and residential facilities as part of a lifestyle niche provided they are built to a high standard.**
3. **Determine whether to refuse the Planning Proposal or to request a Gateway Determination for the Planning Proposal pursuant to the options outlined at the end of this report.**

## **BACKGROUND**

### **References**

Throughout this report the planning proposal and the development concept are referred to collectively as **the Proposal**, given that the objective of the planning proposal is to allow for that specific development. Other abbreviations used in this report are shown in bold type and in brackets in the following lists. The Proposal is written in the following document, without any supporting information or studies:

- *Vintage Balance Land and Beggars Bridge*, INSITE Urban Design, Town Planning and Project Management (Prepared for the Stevens Group)

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

- *A Guide to Preparing Planning Proposals*, State of New South Wales through the NSW Department of Planning July 2012 (**the Guide**)
- *Lower Hunter Regional Strategy*, State of New South Wales through the NSW Department of Planning October 2006 (**LHRS**)
- *Draft Centres Policy – Planning for Retail and Commercial Development, Consultation Draft April 2009*, State of New South Wales through the NSW Department of Planning April 2009 (**Centre's Policy**)

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

- *Cessnock Local Environmental Plan 2011*, gazetted 23 December 2011 (**LEP 2011**),
- *Cessnock 2020 Community Strategic Plan*, adopted October 2010 (**CSP**),
- *Cessnock City Wide Settlement Strategy*, adopted September 2010 (**CWSS**),
- *Hunter Valley Wine Industry Association and Hunter Valley Wine Country Tourism Submission to Cessnock City Council Vineyards District Community Vision Community Consultation Report*, Edge Land Planning February 2012, adopted by Council August 2012 (**VDCN**)

The following diagrams and extracts from the proponent's submission are enclosed:

- Enclosure 1 Location plan and site details (including aerial photograph),
- Enclosure 2 Development concept,
- Enclosure 3 Proponent's Sustainability Criteria Assessment,
- Enclosure 4 Proponent's Compliance with s.117 Directions

## 1.1 Planning Proposal Summary

A planning proposal can be prepared by the responsible planning authority (RPA), in this case Council, or by a proponent for the proposed local environmental plan (LEP) amendment. In either event, the RPA is ultimately responsible for a planning proposal and must be satisfied with it such that it is prepared to forward it to the Minister for the next step in the process, being the gateway determination. [EP&A Act s 56(1)]

The Proposal suggests a draft amendment to Schedule 1 of LEP 2011 to incorporate the "Vintage Balance Land and Beggars Bridge" in the paragraph relating to the Vintage, Wine Country Drive, Pokolbin, and a map amendment to reflect the application of Schedule 1 to the two sites. [p.14]

Schedule 1 provides for additional permitted uses, with consent, on the land identified in the Schedule. In relation to the Vintage the following additional permitted uses are incorporated into Schedule 1:

- An entertainment facility for the purpose of an amphitheatre,
- Exhibition homes,
- A place of public worship,
- A pub,
- Attached dwellings,
- Dual occupancies,
- Dwelling houses,
- Residential flat buildings,
- Multi dwelling housing,
- Recreation facilities (outdoor) for the purpose of a golf course,
- A registered club.

The requested amendment is required to allow the permissibility of the same land uses on the VBL and BB, necessary to allow for a specific development concept that includes:

- 200 unit "Village Resort" (villas/apartments),
- 210 residential lots to a minimum of 450m<sup>2</sup>,
- 40 rural residential lots,
- 7 ha residual agricultural lot,
- 9 hole golf course (extension to the existing 18 hole golf course on the Vintage),
- Small cellar door at the corner of Wine Country Drive and Palmers Lane,
- Tourist related uses - such as restaurant and conference facility, wine and cooking school, and
- Landscaping and vineyard.

No tourist accommodation is proposed and the residential component (residential lots, rural residential lots and "Village Resort" is for permanent occupation. The appropriateness of the

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Proposal is discussed under **Point 2 Planning Proposal Justification** in the REPORT/PROPOSAL section of this report.

**1.2 Permissibility**

The Land is zoned RU4 Rural Small Holdings under LEP 2011. Residential subdivisions down to 450 m<sup>2</sup>, and rural residential subdivision, are not permitted in the RU4 zone, by way of a general restriction of 1 dwelling per 40ha or existing vacant holding. *Rural workers dwellings* and *secondary dwellings* are permissible, but all other forms of permanent residential accommodation (such as *attached dwellings*, *dual occupancies*, *multi unit housing* and *residential flat buildings*) are prohibited. *Recreation facility (indoor)*, *recreation facility (major)*, *recreation facility (outdoor)* and *retail premises* are also prohibited in the RU4 zone.

*Function centre, tourist and visitor accommodation, intensive plant agriculture, including viticulture, and cellar door premises* are permissible with consent in the RU4 zone.

Under LEP 2011 the proposed residential and rural residential subdivision, permanent residential accommodation and golf course are prohibited. The tourist elements and cellar door are permissible with consent. The intention of LEP 2011 is to allow for low scale tourist activity, in the RU4 zone, that is complementary to the wine industry, and that will support wine tourism in a way that does not detract from the rural character of the Vineyards District. For this reason most of the proposed uses in the Proposal are prohibited.

**1.3 The Land and Location**

The Land comprises two sites, one known as the Vintage Balance Land (VBL) and the other as the Beggars Bridge Winery (BB). The VBL site is approximately 161ha in area, and located on the north-western corner of Wine Country Drive and Palmers Lane, to the southeast of the existing Vintage development. The BB is approximately 24ha in area and is located on the south-western corner of Wine Country Drive and McDonalds Lane, to the north east of the Vintage. The locality is about 15km north of the town of Cessnock, and 8km south of the town of Branxton, on Wine Country Drive, in an area known as Pokolbin North. (See location plan Enclosure 1). Wine Country Drive is the main road between Cessnock and Branxton and gives access to Pokolbin and its many wineries and tourist accommodations. Pokolbin North, Pokolbin Central, Lovedale, Rothbury, Mount view, Wollombi and Broke are collectively known as the Vineyards District, most of which is zoned RU4. The Vineyards District is a specialised centre recognised in the LHRS for its economic importance in the region, and its contribution to tourism in NSW (the whole of the Vineyards District is referred to as Pokolbin in the LHRS).

The VBL is flat to gently sloping, and is rural in character - having been substantially cleared and used for agricultural activities, mainly grazing. A small watercourse runs through the middle of the VBL, in an east-west direction, and a similar watercourse runs through the northern section. Two high-tension power lines cross the middle of the site in the vicinity of the former creek. The VBL consists of improved pasture with areas of woodland and vegetation regrowth. The BB sits on a knoll and has been cultivated for vines, with the winery sitting in the middle of the vines on the high spot of the site. When combined with the Vintage (225ha) the three sites will have a total area of about 410ha.

Wine Country Drive runs along the eastern boundary of the Vintage, the VBL and the BB. Rural land with similar character to the VBL and BB adjoins on all sides, with wineries generally to the south and west, and grazing land generally to the north and east. Views are available from the roads, through the VBL and the BB, to the hills and ranges in the distance.

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The belltower building of the Bimbagen Estate, on a high hill to the west, is a prominent feature in the landscape.

#### **1.4 Recent History**

##### The Vintage

The *Vintage* (as partially constructed and occupied) was originally approved in 1996, as a 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)
- An 18-hole a golf course,
- A clubhouse, spa and recreation facilities.

The *Vintage* was approved under clause 17(2) of LEP89 that provides:

*"Council may grant consent to the subdivision of land and the erection of dwelling houses, villas, duplexes and the like on the allotments so created where the subdivision is, in the opinion of the Council, required as an integral part of a major tourist recreation facility."*

Clause 17(2) was a specific amendment to LEP 1989 originally to allow otherwise prohibited components of the *Cypress Lakes* development further to the west, and subsequently to allow the otherwise prohibited components of the *Vintage* (residential subdivision and permanent residential accommodation).

Clause 17 has been carried into Schedule 1 of LEP 2011 in that it identifies additional permissible uses on the Land as described under the previous heading.

##### Warne and Crofts Reports

Council commissioned two reports in relation to the 2005, 2006 and 2007 proposals on the VBL and *Golden Bear* and the associated requested rezonings – one known as the *2005 Warne Report* and the other known as the *2008 Croft Report*.

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

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

##### Council decisions concerning the Crofts report

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At its meeting on 16 July 2008 Council considered a report on the Crofts report that recommended that the report be noted. Council resolved (minute No. 931):

*"That Council not accept the Crofts Report and acknowledge that The Vintage and Golden Bear has significant strategic merit".*

Vintage Balance Land

An extension to the Vintage was proposed in 2006 that would have increased the residential component of the VBL by 250 private lots/dwellings and 200 seniors housing units. Clause 17 (2) of LEP 1989 did not apply to the VBL and an LEP amendment was required if the proposal was to proceed. A further proposal was lodged in 2007.

At its meeting on 16 July 2008 Council considered a report on the amended proposal, and an addendum to include Beggars Bridge, and resolved as follows:-

- A. *"Council support the preparation of a draft local environmental plan and its exhibition to extend Cessnock LEP 1989 clause 17 (or equivalent in Draft Cessnock LEP 2008 or Cessnock LEP 2008 as is relevant at the time) over land colloquially described as Vintage Balance Land, described spatially in this report.*
- B. *To maintain a high quality of visual appeal and design, Council examine the adoption and application of the existing 'Vintage' Architectural and Landscape Guidelines over the Vintage Balance Land.*
- C. *Council support the preparation of a draft local environmental plan to extend Cessnock LEP 1989 clause 17 (or equivalent in Draft Cessnock LEP 2008 or Cessnock LEP 2008 as is relevant at the time) over land described as Lot 2411 DP 1060722 McDonalds Road, Pokolbin.*
- D. *A Landscape and Urban Design Strategy be developed for Wine Country Drive from Branxton south to Cessnock which is consistent with a tourism area with a unique rural and viticultural character.*
- E. *Council develop a vision for the Vineyards District in conjunction with key stakeholders with such vision to provide a strategic anchor for the planning and development of the Vineyards district*
- F. *Council develop a Vineyard Tourism and Development Strategy in conjunction with the Hunter Valley Wine Industry Association, Wine Country Tourism and other relevant stakeholders.*
- G. *Council give consideration in the 2009/2010 financial year to providing funds as a priority for the development of a Vineyards Tourism and Development Strategy and a Vineyards District Vision outlined in this report.*
- H. *Council request the Minister for Planning to prohibit further rezoning applications for permanent residential development through the listing of the Vineyards District, as identified by the current 1(v) zoning, in Schedule 2 of State Environmental Planning Policy (Rural Lands) 2008."*

At the same meeting Council made a similar resolution for the Golden Bear site.

NSW Department determination 2009

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Following its 2008 resolution Council sought approval from the then NSW Department of Planning (the Department) to prepare amendments to LEP 1989 to enable permanent residential development as "integrated" parts of the two "tourist" proposals (*Golden Bear* and *VBL*). The Department sought independent advice from Charles Hill Planning, on the implications of extending the provisions of clause 17(2) to enable the additional permanent residential component on the two sites. This report concluded:

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

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

On 29 October 2009, the Hon Kristina Keneally, MP, Minister for Planning requested advice from the NSW Planning and Assessment Commission (PAC) on the Department's report. The PAC, consisting of Janet Thompson (chair), Donna Campbell and Garry Payne, investigated and prepared a report that concluded "that the recommendations in the Department of Planning's report that the LEPs proceed is contrary to sub regional strategies and to good planning practice and may prejudice the future viability of the vineyards area as a tourist area."

The LEP amendments did not proceed at that time. Subsequently the proponent for the Land has requested a formal opinion from Council on the rezoning via the Proposal that was submitted in March 2012.

**REPORT/PROPOSAL**

This report does not provide a comprehensive or detailed assessment of the development concept. Given the recommendation of this report and the significant lack of supporting documentation (and hence non-compliance with current State requirements) the report provides an assessment of the Proponent's justification for the Proposal, and focuses on strategic issues.

**2 Planning Proposal Justification**

The Director General has, under Section 55(3) of the EP&A Act, issued requirements regarding the specific matters that must be addressed in the *Justification*. The structure of the *Justification* is set out in the Guide and is provided in *Part 3 – Justification* of that

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document. This structure has been used by the applicant and is followed here to allow for a comparative response.

**2.1. Need for the planning proposal (Section A of the Guide)**

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

No strategic studies or reports encourage the type of development that is proposed. There are strategic documents that consistently express planning principles for development in the Vineyards District and lack support for the type of development that is proposed. The consistent principles that are espoused in the relevant strategic documents are discussed in more detail under **Point 2.1.3** and include:

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

While not a strategic study, the Vineyard District Community Visioning document adopted by Council 15 August 2012 – discussed under **Point 2.2.2**) incorporates Objectives and Actions that have a different focus to the strategic plans applying to the Land.

It is stated in the Proposal “The proposal is preceded by a comprehensive, strategic study that was submitted to Council in 2006; and the Addendum submitted for the Beggars Bridge land submitted in 2007 (sic).” [Proposal p.15]

Given the age of this previous information and its non-compliance and relevance to current strategies applying to the Land it has not been referred to in this report. No reference is made in the Proposal to any of the relevant strategic documents that apply to the Land such as the LHRS or CWSS.

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

It is stated in the Proposal “The planning proposal is the only means of achieving the project’s objectives” and “facilitating development of the three sites combined as it has always been intended since the 1980’s”. [Proposal p.15]

It is agreed that amending LEP 2011 is the only way to achieve permissibility of the proposed uses that are currently prohibited on the Land. However, the proposed drafting of the amendment to Schedule 1 of LEP 2011 is inconsistent with the Local Plan Making Directions, made under s 117(2) of the EP&A Act, and the Standard Instrument format. (Explained at **Point 2.2.4**). The preferred methods are to either apply a zone in which the desired uses are permissible, or allow an additional land use or land uses that are defined in the standard instrument.

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Following recent advice from the NSW Department of Planning & Infrastructure the use of Schedule 1 is not supported because it does not provide sufficient clarity and certainty regarding future land use. The development of major tourist facilities and residential accommodation is not consistent with the objectives of the RU4 Zone, and some of the terms referred to in the proposed amendment to Schedule 1 are not consistent with the Standard Instrument definitions. Council has been advised that land intended for other than what is permitted under the current zone should, therefore, be zoned to reflect the particular purpose and to consider using Standard Instrument zones.

**2.1.3. Is there a net community benefit?**

The *Net Community Benefit Test* is from the draft Centres Policy and is for use in conjunction with rezoning proposals related to centres, but can be adapted for use with other rezoning proposals.

While the proponent has not prepared a *Net Community Benefit Test* it is stated in the Proposal "There are a number of community benefits that would flow should this proposal proceed". [Proposal p.17] It is not explicitly stated what the net community benefit will be.

Economic and social benefits mentioned in the Proposal include expenditure from tourists and residents, and housing for residents and visitors who stand to benefit from the lifestyle and sporting facilities that are provided.

It is considered that the Proponent has not demonstrated a 'Net Community Benefit'. The Proponent has not provided a full economic and social impact analysis so it is not possible to determine, at this stage, what net community benefit there will be from the Proposal.

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

| Evaluation Criteria                                                                                                                                             | Comment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Will the LEP be compatible with agreed State and regional strategic direction for development in the area?                                                      | <p>No – the proposal is not consistent with the LHRs or state policies on residential and rural development that generally require:</p> <ul style="list-style-type: none"> <li>• Protection of the wine industry and the rural and viticulture character of the Vineyards District,</li> <li>• Residential development to be focused in and adjacent to existing towns and villages,</li> <li>• No increase in rural residential development until existing zoned land has been fully developed,</li> <li>• No reduction in rural lot size or increase in dwelling entitlement on rural land</li> <li>• No outdoor recreation facilities in the RU4 zone.</li> </ul> |
| Is the LEP located in a global/regional city, strategic centre or corridor nominated within the Metropolitan Strategy or other regional/sub- regional strategy? | <p>Yes - The Land is within the Pokolbin vineyard and tourism precinct that is identified within the LHRs as a specialised centre. The key function of this specialised centre is the concentration of regionally significant economic activity and employment focused on the wine and wine tourism industry. The LHRs indicates the centre will accommodate 1600 additional jobs but does not require any additional housing.</p>                                                                                                                                                                                                                                   |
| Is the LEP likely to create a precedent or create or change the expectations of the                                                                             | <p>Yes – the circumstances that have been used to justify the Proposal are not unique to the Land. Given the financial benefit of rezoning</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| landowner or other landholders?                                                                                                                                                                                                                                     | rural land for residential use it is possible that other rural landowners will seek such a rezoning on the basis of incorporating a tourism component.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Have the cumulative effects of other spot rezoning proposals in the locality been considered? What was the outcome of these considerations?                                                                                                                         | Yes – the previous iteration of this Proposal and another on the adjacent Golden Bear site have been considered in the past in two Council commissioned studies that addressed the residential component. Both studies concluded that the rezoning proposals not be supported, and that residential use of the lands could have negative impacts on the area's rural/viticulture character, and on the viability of its wine and wine tourism industry. The NSW Planning Assessment Commission supported these conclusions in a report to the then Minister for Planning in November 2009 and the proposed rezoning was not progressed.                                                                                                                                                                                                                                                                     |
| Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?                                                                                                                                                         | Uncertain – There are no definite figures provided to show the Proposal will facilitate employment generating activities given that most of the land is intended for private residential accommodation and the golf course is an extension of the existing 18 holes and club house at the Vintage that is already staffed.<br><br>There is no analysis of how the Proposal might affect the viability of viticulture and wine tourism, or comparison with employment opportunities that would be created from other types of development in the region with a similar level of investment.<br><br>There is no analysis of the need for the additional 9-hole golf course and whether the proposal will generate additional tourism and employment, or whether it will simply draw patronage from similar developments in the area – that is transfer benefits rather than create additional or net benefit. |
| Will the LEP impact upon the supply of residential land and therefore housing supply and affordability?                                                                                                                                                             | While the Proposal would contribute 450 dwellings to housing stock there is no analysis of whether the type of housing proposed will address housing need in the region and the Cessnock LGA, and no analysis of the impact of the proposed housing on affordability.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Is the existing public infrastructure (roads, rail, utilities) capable of servicing the proposed site? Is there good pedestrian and cycling access? Is public transport currently available or is there infrastructure capacity to support future public transport? | Yes - it appears that Wine Country Drive is capable of servicing the proposed site for traffic and there are statements in the submission from service providers that services can be extended from the adjacent Vintage.<br><br>No - there is no pedestrian or cycling access to the site and while the proposed internal design provides for pedestrians and cyclists, no such access is proposed to or from the Land. The low level of public transport servicing the Land is unlikely to increase given its isolation from the town centres and the lack of critical mass for efficient public transport.                                                                                                                                                                                                                                                                                               |
| Will the proposal result in changes to the car distances travelled by customers, employees and suppliers? If so, what are the likely impacts in terms of greenhouse gas emissions, operating costs and road safety?                                                 | No – while not directly applicable in relation to customers, employees and suppliers, it is conceded in the Proposal that the residents of the site would use private cars for most trips. Given the distance of the site to centres this is likely to result in significant additional private car use that will contribute to greenhouse gas emissions, and potentially the increase in traffic on Wine Country Drive could reduce road safety.                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Are there significant Government investments in infrastructure or services in the area whose patronage will be affected by the proposal? If so, what is the expected impact?                                                                                        | Not directly applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Will the proposal impact on land that the Government has identified a need to protect (e.g. land with high biodiversity values) or have other environmental impacts? Is the land constrained by environmental factors such as flooding?                             | Yes – Requirements for protection in relation to flora and fauna, aboriginal archaeology, possible European heritage, bushfire and flooding, and the riparian area will, to some extent, constrain development on the Land. However, the extent of affectation can't be determined at this stage, as current studies have not been lodged with the Proposal.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Will the LEP be compatible or complementary with surrounding land uses? What is the impact on amenity in the location and wider community? Will the public domain improve? | <p>No – residential development, rural residential development and an out door recreation facility are not considered appropriate in the RU4 zone and are therefore prohibited. This is an indication that such land uses are not compatible or complimentary with surrounding land use, which is predominantly rural and low scale tourist facility. It is considered that the Proposal will have a negative impact on the rural and viticulture character of the area, as it will introduce uses that are not compatible or complimentary, and will significantly increase the density of development on the Land in comparison to most of the surrounding land.</p> <p>The site is a northern gateway into the Vineyards District (that will increase in importance with the F3 extension to Branxton). A large area of high-density development at the gateway to a rural area is not an appropriate public domain element and will detract from the rural and wine tour experience.</p> |
| Will the proposal increase choice and competition by increasing the number of retail and commercial premises operating in the area?                                        | No.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| If a stand-alone proposal and not a centre, does the proposal have the potential to develop into a centre in the future?                                                   | Uncertain – continued residential development outside of the existing centres may eventually lead to services being required in the vicinity and the concentration of golf courses may lead to the development of a centre of sorts. If the Vintage, VBL and Golden Bear sites are developed to the extent proposed they would represent the fourth largest residential settlement in the Cessnock LGA.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| What are the public interest reasons for preparing the draft plan? What are the implications of not proceeding at that time?                                               | Nil – it has not been demonstrated in the Proposal that there are clear public benefits. While there is provision of housing and possibly some employment most of the benefits will accrue to the owner of the land and the occupiers of the development.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

## 2.2. Relationship to strategic planning framework (Section B of the Guideline)

### 2.2.1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Proponent has included an assessment of the proposal against the Sustainability Criteria stipulated in Appendix 1 of the LHRS, necessary because the Land is not identified as an urban release area in any strategic document. It is stated in the Proposal "It is necessary to assess this proposal against these criteria." and "The assessment shows the proposal meets these criteria, thus achieving the NSW Government's benchmarks for sustainable urban development (albeit in a rural setting)." [Proposal p.19]

However, the Proponent states that the existing golf course and community facilities are not sustainable, and further permanent residential accommodation is required to sustain these. It is not clear from the information provided how sustainability will be achieved, particularly in light of policies that endorsed urban containment to support sustainability.

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

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Pokolbin is identified as a specialised centre in the LHRs with an expected increase of 1600 jobs. As part of the balancing process between competing interests for land in the Vineyards District, the LHRs also requires councils to protect agricultural land from encroachment by urban and rural-residential development [LHRs p 36-37]. In recognition of this approach, the LHRs also makes a clear distinction between this form of specialised centre and other commercial centres by not allocating any associated dwelling capacity projections to support its employment growth.

The LHRs requires a consistent approach to the zoning of rural lands that espouses protection from inappropriate and incompatible land uses, but includes the Sustainability Criteria that provide a framework to consider inconsistent planning proposals that might have merit. The Proponent's table of assessment against the Sustainability Criteria is included in the Proposal and is attached to this report at Enclosure 3.

It is considered that the sustainability of the Proposal has not been demonstrated in the attached assessment against the Sustainability Criteria. Sustainability needs to be demonstrated through a comprehensive economic and social impact assessment.

While the Proposal is not considered to have merit under this assessment the responses in the following Table are provided as a comparison to the Proponent's responses. The responses indicate that the Proposal is unlikely to contribute to sustainable development or exhibit enough merit to overcome the negative impacts.

|                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>1. Infrastructure Provision - Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way.</p> | <p>The Proposal is not consistent with the relevant regional strategy (LHRs), or state strategies that require urban development within and adjacent to existing centres to enable economies of scale and orderly extension of infrastructure. The Proposal requires extension and augmentation of services that is not associated with adjacent urban development and, therefore, can't be considered an efficient and orderly extension of infrastructure in urban areas.</p>                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>2. Access - Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation existing or to be provided.</p>     | <p>The level of public transport servicing the Land is unlikely to increase given its isolation from the town centres and the lack of critical mass for efficient public transport. There is no pedestrian or cycling access to the Land, and while the proposed internal design provides for pedestrians and cyclists, no such access is proposed to or from the Land.</p> <p>Given the distance of the site to centres the proposal is likely to result in significant additional private car use that will contribute to greenhouse gas emissions.</p> <p>The residents would rely almost exclusively on the use of private vehicles for access. The Proposal, therefore does not "show the capacity to make a positive contribution to achievement of travel and vehicle use goals" that focus on increased use of public transport, walking and cycling and decreased use of private vehicles.</p> |
| <p>3. Housing Diversity - Provide a range of housing choices to ensure a broad population can be housed</p>                                                       | <p>The Proposal does not refer to the geographic market spread of housing supply in the Cessnock LGA or the region, or to any government targets established for aged, disabled or affordable housing. There is no consideration of housing needs in the Cessnock LGA and no assessment of how the proposal would meet local housing needs.</p> <p>It is likely from the ownership figures supplied for the Vintage that the proposed housing will be taken up by corporate investors, second and third homebuyers and relatively affluent and retired/semi-retired permanent residents.</p> <p>Given that the Cessnock LGA is identified as an area of relative disadvantage with strong demand from low-income households and those with special needs the proposal is unlikely to add housing stock</p>                                                                                              |

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|                                                                                                                                                                      | that will satisfy local demand. Given that the housing is for a limited sector of the housing market it is not providing a range of housing choices that would ensure a broad population can be housed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4. Employment Lands - Provide regional or local employment opportunities to support the Lower Hunter's expanding role in the wider regional and NSW economies.       | <ul style="list-style-type: none"> <li>In the Proposal it is stated that jobs will be provided during construction and jobs will be provided in the long term. It is not clear whether the development will simply draw patronage (and thus employees) from similar developments in the area – that is transfer employment rather than create additional employment.</li> </ul> <p>While Pokolbin is identified as a specialised centre for its economic contribution to the region, with 1600 additional jobs, no dwelling growth is identified outside of Cessnock. Dwelling growth for Cessnock is to be accommodated within the centre, in the existing residential area and in new release areas identified on the LHRS Strategy Map. None of these apply to the Land. The Land is identified in the LHRS Strategy Map as Rural and Resource Land, and as Rural Land and Environmental Assets on the Natural Resources Map.</p> <p>In light of the above it is uncertain whether the proposal will maintain or improve the existing level of sub-regional employment self-containment and it is considered that the Proposal may not result in additional employment being provided in appropriately zoned areas.</p> |
| 5. Avoidance of Risk - Land use conflicts and risk to human health and life, avoided                                                                                 | The site is not surrounded by like uses but is bounded by rural land and rural road (the Vintage is a major exception). Residential development, rural residential development and outdoor recreation facility are not considered appropriate in the zone that has been applied, and are therefore prohibited – an indication that such land uses are not compatible or complimentary with surrounding land use.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 6. Natural Resources - Natural resource limits not exceeded, environmental footprint minimized.                                                                      | The Proposal does not identify harvestable water rights on the Land and how this compares to proposed water use or what impact water use and interruption to overland flows will have on environmental flows. Given that it is intended to pipe water from Cessnock and Branxton the Proposal is not considered the most efficient or suitable use of land.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 7. Environmental Protection - Protect and enhance biodiversity, air quality, heritage and waterway health                                                            | <p>It is not known whether there are endangered or threatened species or communities on the Land (such species have been identified through studies of adjacent land). It is not clear, whether protection of biodiversity on site can be achieved given that residential, golf course and landscaping is proposed in close proximity to, and over, the areas of remnant/regenerating vegetation and riparian areas.</p> <p>Additional work is required to determine the significance of Aboriginal heritage on the Land and how this will be protected, including the involvement and agreement of Aboriginal parties relevant to the Land.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8. Quality and Equity in Services - Quality health, education, legal, recreational, cultural and community development and other Government services are accessible. | <p>While it is claimed in the Proposal that the relatively wealthy residents will not require publicly provided services there is no evidence to support this. It is possible that residents will demand services such as schools and shops. It can reasonably be expected that such a population would place a demand for services in the area, particularly if retirees who are likely to have greater health and support needs. The provision of, or extension of publicly funded services to the Land would not be efficient or equitable.</p> <p>The developer would fund extension of utilities and augment these where necessary (whether this is the best or most efficient use of resources is not determined). The developer is required to pay \$ 94 contributions; however, these would not cover extension or provision of services on the Land.</p>                                                                                                                                                                                                                                                                                                                                                          |

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

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The proponent does not refer to *Cessnock 2020 – Community Strategic Plan (CSP)* in the Proposal. Without evidence to the contrary it is considered that the proposal will not contribute to the following adopted community objectives, given that the objectives are about people living in the Cessnock LGA and the Proposal is, largely about providing for the recreational and social needs of communities that live elsewhere:

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

Unless it can be demonstrated in an economic impact assessment it is considered that the Proposal will not directly contribute to the economy objective "increasing tourism opportunities and visitation in the area". The Proposal is presented as a means of increasing and diversifying tourism. However, it is identified in the CSP that there is a need to develop specific tourism strategies for "towns, villages and niche markets" to achieve the increase in tourism. The Proposal is assuming golfing tourism is a niche market and is pre-empting the preparation of the recommended strategies

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

**Cessnock City Wide Settlement Strategy 2010 (CWSS)**

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

Council adopted the revised CWSS on 15 September 2010. It is recognised in the adopted CWSS that continuing with a dispersed pattern of growth will not lead to a settlement hierarchy underpinned by sustainable communities. The CWSS seeks to redirect dwelling demand into a more sustainable settlement pattern, in accordance with the actions contained in the LHRs. The Proposal is not consistent with this major strategy of the CWSS, and in particular Direction T2 described below.

In the Proposal reference is made to the 2003 version and that it does not apply to the Vineyards District. There is no discussion on the inconsistencies of the Proposal to the CWSS or any detail about the environmental and policy constraints to the Proposal.

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

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

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

It is further stated in the CWSS "Council has recently considered the issue regarding the suitability of the Vineyards District to accommodate permanent residential occupation in association with major tourism developments. The 2006 review found that there was little justification to amend Council's LEP to support permanent residential occupation in and around the various nominated major tourist resorts either existing or proposed within the Vineyards District. Such a proposal is inconsistent with local and state policy and has the potential to detract from the character of this area that is primarily dedicated to winemaking. Accordingly, Council resolved not to support any additional permanent residential occupation as part of any major tourist development in the Vineyards District. This direction from Council is supported in the CWSS 2009." [CWSS p.157] The relevant Directions and Actions provided in the CWSS in relation to Settlement Hierarchy and Tourism are:

**Direction 1:**

Contain the urban footprint to that identified in the LHRS and the CWSS 2009

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

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

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

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

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

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

Council intends to undertake an Agricultural Lands Study that will determine the base requirements for sustainable agriculture (including dwelling entitlements) and retain the 40ha development standard for rural lot size for a dwelling until the findings of the Study are available. The Directions and Actions in the CWSS do not explicitly support the Proposal.

**Vineyards District Community Visioning (VDCV)**

Council adopted a Vineyard District Community Visioning document at its meeting on 15 August 2012 as per Minute 2217 of Council meeting 15 August 2012:

*"Council adopt the Version of the Vineyards Visioning Statement put forward by Hunter Valley Wine Industry Association and Hunter Valley Wine Country Tourism with a review to occur in twelve (12) months."*

The adopted document bears the title *Hunter Valley Wine Industry Association and Hunter Valley Wine Country Tourism Submission to Cessnock City Council Vineyards District Community Vision Community Consultation Report*. Edge Land Planning prepared the

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document in February 2012.

The adopted Vision is as follows:

*"The Vineyards District:*

- 1. Recognises and protects the primacy of the vineyards and maintains and enhances the existing vineyards, wineries and tourist uses*
- 2. Maintains and preserves the rural amenity, character and scenic vistas of the region for future generations to enjoy*
- 3. A place that reinforces the Hunter Valley Wine Brand as the key component of its tourism identity*
- 4. Allows and fosters a mix of diverse business, accommodation and employment options – creating a balance between working vineyards, tourist uses, residential and visitor amenity;*
- 5. Council, peak business groups and community work collaboratively*
- 6. Has high quality infrastructure and services which meet the community's and visitors' needs"*

The following Objective and Action under Vision 2 appear to be related to the Planning Proposal:

*"Objective 3 Ensure 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."*

*Action 8. Allow some expansion of existing residential estates that provide leisure, tourism and residential facilities as part of a lifestyle niche provided they are built to a high standard."*

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

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

- SEPP 44: It is stated in the Proposal, "A report prepared by Andrews Neil for the 2006 submission stated that the VBL does not contain potential koala habitat. Given the BB has been cleared for viticulture it is most unlikely to support the species."

The information that this conclusion is based on is out of date and needs to be undertaken in accordance with current practice and guidelines. The conclusion presented in the Proposal should not, therefore, be assumed as correct or accurate for the current circumstances of the Land.

- SEPP (Rural Land) 2008: In summary it is stated in the Proposal that it is consistent with the principles in the SEPP.

This conclusion of consistency with the Rural Lands SEPP is not endorsed or demonstrated by the assessment undertaken for this report. The tables above, *Net Community Benefit and Sustainability Criteria*, and below, *Section 117 Directions*, clearly demonstrate that it has not been demonstrated that the Proposal is consistent with the Rural Lands SEPP.

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- SEPP 55 Contaminated Land is not addressed by the Proponent and is considered relevant. A comment is made under the environment heading [Section 2.3.2] of the Proposal.

This comment is based on out of date information and is not adequate in terms of complying with SEPP 55.

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

The Proponent has identified S 117 Directions as relevant to the proposal (a table of the Proponent's comment against each Direction is included at Enclosure 4). Council's comment on consistency is included here for comparison. Directions not included in the Table are considered not applicable to the Proposal. Consistency with the directions is required in all planning proposals. However, the following criteria can be applied to an inconsistency to enable a proposal that has merit to be considered:

*"If the inconsistency can be:*

- (a) *justified by a strategy which:*
  - (i) *gives consideration to the objectives of this direction,*
  - (ii) *identifies the land which is the subject of the draft LEP (if the draft LEP relates to a particular site or sites), and*
  - (iii) *is approved by the Director-General of the Department of Planning, or*
- (b) *justified by an environmental study prepared in accordance with section 57 of the Environmental Planning and Assessment Act 1979 which gives consideration to the objectives of this direction, or*
- (c) *in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, or*
- (d) *is of minor significance.*

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

The Proposal is not of minor significance given that it will result in a significant change of land use from rural to urban and outdoor recreation uses. While it is not proposed to rezone the land from its current RU4 Rural Small Holdings Zone, this is irrelevant as post development there will be little rural about the Land.

| Direction                                                                                                                                                          | Comment                                                                                                                                                                                                                                                                                                                                                                                          |
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| <b>1. Employment and Resources</b><br><b>1.2 Rural Zones</b><br>(1) The objective of this direction is to protect the agricultural production value of rural land. | Any proposal to rezone land from a rural zone or for provisions that will increase the permissible residential density on land within a rural zone must be justified. The Proposal effectively will rezone the Land from rural to residential and recreation facility, and increase the permissible density on part of the Land from 40ha down to 450m <sup>2</sup> . Most of the proposed uses, |

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| <p>1.5 Rural Lands</p> <p>1) The objectives of this direction are to:</p> <p>(a) protect the agricultural production value of rural land,</p> <p>(b) facilitate the orderly and economic development of rural lands for rural and related purposes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>particularly residential and golf course are not a rural related purpose.</p> <p>For the above reasons the Proposal is considered inconsistent with directions 1.2 and 1.5. For the reasons outlined at the head of this Table there is no justification for the inconsistency yet provided.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>2. Environment and Heritage</b></p> <p>2.3 Heritage Conservation</p> <p>(1) The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>No documentation regarding European heritage has been lodged with the Proposal. However a comment under 3.2.3 indicates the site of the former Rothbury Public School is identified for further attention (in regard to archaeological remains) should the development proceed. No provisions are included in the Proposal to protect potential European or Aboriginal heritage on the Land.</p> <p>Under 3.2.3 it is also indicated that Aboriginal artefacts and sites have been identified on the Land. Given that the guidelines have changed since the relevant study was undertaken in 2006 additional work is required to determine the location and significance of sites. New work needs to be undertaken in consultation with relevant Aboriginal parties and guidelines introduced by the NSW Office of Environment and Heritage in 2011.</p> <p>For the above reasons the Proposal is considered inconsistent with direction 2.3. For the reasons outlined at the head of this Table there is no justification for the inconsistency yet provided.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>3. Housing, Infrastructure and Urban Development</b></p> <p>3.1 Residential Zones</p> <p>1) The objectives of this direction are:</p> <p>(a) to encourage a variety and choice of housing types to provide for existing and future housing needs,</p> <p>(b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and</p> <p>(c) to minimise the impact of residential development on the environment and resource lands.</p> <p>3.4 Integrating Land Use and Transport</p> <p>(1) The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</p> <p>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</p> <p>(b) increasing the choice of available transport and reducing dependence on cars, and</p> <p>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</p> | <p>Direction 3.1 applies to residential zones and any other zones in which significant residential development will be permitted. It is considered that this direction is not intended to apply to rural land that is remote from an urban centre. However, the Proposal will result in residential development well outside of any urban footprint (existing or proposed). The Proposal has not demonstrated that it meets any specific or identified housing need for the Cessnock LGA or the region. Further the Proposal has not demonstrated an efficient use of existing services.</p> <p>For the above reasons the Proposal is considered inconsistent with direction 3.1. For the reasons outlined at the head of this Table there is no justification for the inconsistency yet provided.</p> <p>Direction 3.4 applies when a council prepares a draft LEP that creates, alters or removes a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes.</p> <p>The Land is not integrated with any centre where there would be potential for meeting the objectives of this direction. Residents and visitors will be reliant on private cars, and will need to make more and longer trips to access goods and services than residents of centres generally would. The proposal would not improve travel demand including the number of trips generated and the distances travelled. Nor would it increase access to employment, housing and services by walking, cycling and public transport.</p> <p>For the above reasons the Proposal is considered inconsistent</p> |

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| <p>(d) supporting the efficient and viable operation of public transport services, and</p> <p>(e) providing for the efficient movement of freight.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>with direction 3.4. For the reasons outlined at the head of this Table there is no justification for the inconsistency yet provided.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p><b>4. Hazard and Risk</b></p> <p><b>4.3 Flood Prone Land</b></p> <p>(1) The objectives of this direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p><b>4.4 Planning for Bushfire</b></p> <p>(1) The objectives of this direction are:</p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage sound management of bush fire prone areas.</p> | <p>The Land is identified as being Flood Prone. Under 2.3.2, it is indicated that flood mitigation measures can be implemented to address flooding on the Land, which is considered minor and manageable.</p> <p>The Land is identified as being Bushfire Prone. Under 2.3.2 it is indicated that the impact can be managed through asset protection zones that may need to be reviewed.</p> <p>While there is little detail it is considered that any development under the Proposal can be made to comply, by way of amended design or conditions.</p> <p>At this stage it is not considered that the Proposal is inconsistent with direction 4.3 or 4.4. However, to be acceptable both flood and bushfire studies need to be undertaken in accordance with the most recent versions of the relevant guidelines and incorporate all relevant information. Mitigation measures and how these will affect the Proposal and other attributes of the Land, such as threatened species, needs to be incorporated. This rework can be undertaken if the Proposal is approved for the Gateway Process.</p> |
| <p><b>5. Regional Planning</b></p> <p><b>5.1 Implementation of Regional Strategies</b></p> <p>(1) The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>The direction requires draft LEPs to be consistent with a regional strategy released by the Minister for Planning. As discussed in relation to justification the Proposal has not demonstrated consistency with the LHRS.</p> <p>The Proposal is not of minor significance and does not achieve the overall intent of the LHRS, has not demonstrated inconsistency with the Sustainability Criteria in the LHRS, and there is no demonstrated Net Community Benefit.</p> <p>For the above reasons the proposal is considered inconsistent with direction 5.1 and there is no justification for the inconsistency yet provided.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>6. Local Plan Making</b></p> <p><b>6.3 Site Specific Provisions</b></p> <p>(1) The objective of this direction is to discourage unnecessarily restrictive site-specific planning controls.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>Although the drafting of the "additional use" in the Proposal does not refer to a specific set of drawings, it does describe a particular development and does provide development standards that are not contained in the principal instrument.</p> <p>For this reason the Proposal is inconsistent with direction 6.3 and there is no justification for the inconsistency. Other means of drafting, such as using Standard Instrument land use zones and definitions may address this inconsistency and are being considered by Council staff.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

**2.3. Environmental, social and economic impact (Section C of the LEP Guideline)**

**2.3.1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?**

It is stated in the Proposal that Andrews Neil examined ecology in the 2006 submission for the site and that no threatened flora species were recorded, although site surveys indicate the presence of an 'inferred' endangered species.

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The information on which these statements are based is out of date and an ecological study will need to be undertaken in accordance with current guidelines should the Proposal proceed. Threatened and endangered species have been recorded on an adjacent site, and there is a possibility they are present on the Land.

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

It is stated in the proposal that the following environmental issues were addressed in the 2006 submission. A brief conclusion is provided in the Proposal and reiterated in this report for information, although the conclusions are not endorsed by this assessment and will need to be tested through reviewed or new studies undertaken with current information and in accordance with current guidelines where relevant.

- **Flooding** – the nature and extent of flooding is unlikely to affect development, flooding is minor and manageable,
- **Water quality and management** – management through 20m riparian zone and restorative works,
- **Geotechnics (sic)** – surveyed and nothing found that would prevent development,
- **Contamination** – assessed as low risk – should any hazard be found will be addressed by site works and earthworks,
- **Bushfire risk** - asset protection zones were identified in 2006 report and may need review,
- **Agricultural suitability and capability** – two (small) parts of the site assessed as having good agricultural potential to be developed with a vineyard, remainder of site is only able to support grazing,
- **Aboriginal cultural heritage** – development should not be prevented by the presence of Aboriginal cultural relics,
- **Non-aboriginal cultural heritage** – site of former Rothbury Public School – a separate approval may be required should remains be identified and need to be removed or disturbed,
- **Irrigation** – 90% security of water supply for irrigation of the vineyard and golf course using treated effluent, recycled water, stormwater and private irrigation district,
- **Visual impact** – significant natural plantings are proposed to screen the proposal from adjoining roads. This landscaping will complement the rural and viticultural character of the landscape,
- **Access and traffic** – previous studies conclude neither development will adversely impact local road network safety and efficiency.

Again most of this information is not current and does not comply with applicable guidelines. Studies in relation to all issues will need to be reviewed or undertaken afresh should the Proposal proceed.

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

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It is stated in the Proposal that a socio-economic assessment was prepared as part of the 2006 submission. In summary the social impacts are identified as provision of housing for wealthier and older households who (it is assumed) will not need services such as schools, childcare or public transport. The economic impacts are summarised as retail expenditure in the area of \$13m per annum. Figures to substantiate this figure are not provided.

**2.4 State and Commonwealth interests (Section D of the Guideline)**

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

Service infrastructure will be at the developer's expense. The provision of infrastructure has not been costed in the Proposal and the final methods of water reticulation and effluent disposal have not been resolved, but it is unlikely that provision of adequate service infrastructure would prevent the Proposal from progressing. It is stated in the Proposal that residents of the development will not need public facilities such as schools and public transport, health or aged care support.

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

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

**Part 4 – Community Consultation**

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

The Proponent has not suggested a community consultation strategy. The gateway determination, therefore, is likely to specify the community consultation process.

**OPTIONS**

The Council has the following options:

1. The Council may determine to refuse the Planning Proposal as per the conclusions of this report as:
  - It is inconsistent with the strategic context set by Cessnock City Council in Cessnock 2020 Community Strategic Plan and the Cessnock City Wide Settlement Strategy;
  - It is inconsistent with the strategic context set by the Lower Hunter Regional Strategy;
  - The proposed amendment to Cessnock Local Environmental Plan 2011 in accordance with the Planning Proposal is not justified as it is contrary to regional and local strategies; contrary to good planning practice and may prejudice the future viability of the Vineyards District as a tourist destination; and
  - Updated investigations and additional information are required to justify the Planning Proposal as currently submitted to Council in relation to impacts on wine tourism, economic and social impacts; sustainability; protection of agricultural lands; Aboriginal and European heritage, flora and fauna impacts, bushfire assessment and protection, traffic impact assessment and contaminated land investigations.

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2. The Council may determine to approve the Planning Proposal to incorporate the Vintage Balance Land and Beggars Bridge, for the following reasons:

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(To be provided by Council)

- Request a Gateway Determination on the Planning Proposal from the NSW Department of Planning and Infrastructure under S.56 (2) of the *Environmental Planning and Assessment Act 1979*; and

**CONSULTATION**

Coordinator Strategic Land Use Planning  
Strategic Land Use Planning Manager

**STRATEGIC LINKS**

**a. Delivery Program**

Nil.

**b. Other Plans**

Nil.

**IMPLICATIONS**

**a. Policy and Procedural Implications**

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

- Cessnock Local Environmental Plan 2011 in that it proposes land uses that are not consistent with objectives and controls of the RU4 Rural Small Holdings Zone,
- Cessnock 2020 in that it does not contribute to any of the adopted community objectives,
- Cessnock City Wide Settlement Strategy 2010 in that it proposes residential development outside the identified areas and is not considered to be in keeping with sustainable development practice,

but is consistent with the Vineyard District Community Vision, in that it proposes the expansion of an existing residential / tourism estate.

**b. Financial Implications**

Nil.

**c. Legislative Implications**

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

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

**d. Risk Implications**

Nil

**e. Other Implications**

Nil.

**CONCLUSION**

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

The Lower Hunter Regional Strategy 2006 identifies the "Pokolbin vineyard and tourism precincts" as a specialised centre of regionally significant economic activity and employment. Outcomes and actions arising from LHRS aim to:

- Protect the valuable resource lands from urban and rural-residential encroachment,
- Manage the often conflicting development opportunities (such as commercial vineyards versus tourism opportunities) to avoid detracting from its potential productivity and rural character, and
- Provide increased opportunities for employment (with an additional 1600 jobs nominated for this precinct over the next 25 years). [CWSS p 202]

The Proposal has been assessed in this context and a number of issues have been identified that need to be addressed.

- The Vintage development that is being relied on to justify the Proposal, was approved well before the LHRS was researched and adopted. Circumstances and strategic direction have changed since the Vintage was approved.
- There is existing and approved supply of tourist accommodation in the Vineyards District.
- The Land can't be serviced with efficient transport services and that residents would rely almost exclusively on the use of private vehicles for access, indicating that the Land is not suitable for permanent residential accommodation.

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- The Proposal does not meet local housing need, has the potential to divert resources away from satisfying local housing need, and to contribute to an increase in housing prices in the area.
- By raising the value of the Land the Proposal has the potential to raise the value of agricultural land in the area, create pressure for further residential zoning and large scale tourism facilities, and reduce the viability of agriculture, wine production and wine tourism, on which the community currently relies and wants to protect and further develop.
- A comprehensive economic and social impact analysis has not been undertaken on the Proposal and alternatives, such as continued agricultural use or low scale tourism, have not been explored. It has not been demonstrated in the Proposal that there are clear public benefits. While there is provision of housing, possibly employment and possibly competition, most of the benefits will accrue to the owner of the land and the occupiers of the development.
- The Proponent has not provided any figures to show demand for golf course and associated facilities and, therefore, whether there is need to expand supply.

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

There are a number of conflicting Council resolutions concerning permanent residential accommodation in the Vineyards District. On the one hand the Cessnock City Wide Settlement Strategy, which is consistent with the LHRS, discourages further residential accommodation in the Vineyards District. However, an objective contained within Council's recently adopted Vineyards District Community Vision is to *"ensure some expansion of existing residential estates that incorporate leisure, tourism and residential facilities as part of lifestyle niches in keeping with the character and amenity of the vineyards district provided they are built to a high standard"*.

**ENCLOSURES**

|          |                                                             |         |
|----------|-------------------------------------------------------------|---------|
| <b>1</b> | Location plan and site details (including ariel photograph) | 1 Page  |
| <b>2</b> | Development Concept                                         | 1 Page  |
| <b>3</b> | Proponent's Sustainability Criteria Assessment              | 4 Pages |
| <b>4</b> | Proponent's Compliance with s 117 Directions                | 2 Pages |

**OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT NO. EE6/2013**

**SUBJECT: PLANNING PROPOSAL - VINTAGE BALANCE LAND**

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**MOTION**            **Moved:**    Councillor Smith            **Seconded:**    Councillor Burcham

1.    **The Council determine to approve the Planning Proposal to incorporate the Vintage Balance Land and Beggars Bridge, for the following reason:**

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

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*: and**

**AMENDMENT**    **Moved:**    Councillor Ryan            **Seconded:**    Councillor Olsen

**The Council refuse the Planning Proposal as per the conclusions of this report as:**

- **It is inconsistent with the strategic context set by Cessnock City Council in Cessnock 2020 Community Strategic Plan and the Cessnock City Wide Settlement Strategy;**
- **It is inconsistent with the strategic context set by the Lower Hunter Regional Strategy;**
- **The proposed amendment to Cessnock Local Environmental Plan 2011 in accordance with the Planning Proposal is not justified as it is contrary to regional and local strategies; contrary to good planning practice and may prejudice the future viability of the Vineyards District as a tourist destination; and**
- **Updated investigations and additional information are required to justify the Planning Proposal as currently submitted to Council in relation to impacts on wine tourism, economic and social impacts; sustainability; protection of agricultural lands; Aboriginal and European heritage, flora and fauna impacts, bushfire assessment and protection, traffic impact assessment and contaminated land investigations.**

**FOR**  
Councillor Ryan

**AGAINST**  
Councillor Burcham  
Councillor Doherty  
Councillor Olsen  
Councillor Stapleford  
Councillor Hawkins  
Councillor Smith  
Councillor Campbell  
Councillor Parsons  
Councillor Maybury  
Councillor Pynsent

**Total (1)**

**Total (10)**

The Motion was then **PUT** and **CARRIED**.

**1. The Council determine to approve the Planning Proposal to incorporate the Vintage Balance Land and Beggars Bridge, for the following reason:**

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

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*; and**

## AGAINST

Councillor Ryan

**Total (10)****Total (1)**

**CARRIED**

## Appendix 3: Proponents Sustainability Table

| Threshold Sustainability Criteria                                                                                                                                 | Measurable Explanation of Criteria                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Land Subject to this Planning Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1. Infrastructure Provision</b><br>Mechanisms in place to ensure utilities, transport, open space and communication are provided in a timely and efficient way | <ul style="list-style-type: none"> <li>• Development is consistent with any regional strategy, subregional strategy, and State Infrastructure Strategy.</li> <li>• The provision of infrastructure (utilities, transport, open space, and communications) is costed and economically feasible based on Government methodology for determining infrastructure development contributions.</li> <li>• Preparedness to enter into development agreement.</li> </ul>                                                                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• The land has a similar level of infrastructure service to most areas of the Cessnock LGA.</li> <li>• Infrastructure already extends to the land which this proposal can utilise.</li> <li>• The development has met the cost of connection to infrastructure.</li> <li>• Infrastructure provision has been costed and is economically viable to service the land.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>2. Access</b><br>Accessible transport options for efficient and sustainable travel between homes, jobs, services and recreation to be existing or provided     | <ul style="list-style-type: none"> <li>• Accessibility of the area by public transport and/or appropriate road access in terms of:</li> <li>• Location/Land Use – to existing networks and related activity centres.</li> <li>• Network – the area's potential to be serviced by economically efficient transport services.</li> <li>• Catchment – the area's ability to contain, or form part of the larger urban area which contains adequate transport services. Capacity for land use/transport patterns to make a positive contribution to achievement of travel and vehicle use goals.</li> <li>• No net negative impact on performance of existing subregional road, bus, rail, ferry and freight network.</li> </ul> | <ul style="list-style-type: none"> <li>• Existing public transport service levels for the Vineyards may not be economical or sustainable.</li> <li>• Existing Vintage facilities reduce demand for some public facilities and services.</li> <li>• Same network as the existing Vintage development, potential for better servicing through additional population.</li> <li>• The Vineyards catchment has a low level of public transport service needs. The proposal could support improved transport and will not decrease current services.</li> <li>• No net negative impact on the performance of existing transport is expected. Additional population could support improved transport performance.</li> <li>• The Proposal and The Vintage resort will have its own bus service for residents, if demand requires.</li> </ul> |

| Threshold Sustainability Criteria                                                                                                                                  | Measurable Explanation of Criteria                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Land Subject to this Planning Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>3. Housing Diversity</b><br>Provide a range of housing choices to ensure a broad population can be housed                                                       | <ul style="list-style-type: none"> <li>Contributes to the geographic market spread of housing supply, including any government targets established for aged, disabled or affordable housing.</li> </ul>                                                                                                                                                                                                                                                                                                | The proposal aims to improve housing diversity and enhance the community structure of The Vintage. In this regard the extension of The Vintage will allow for residential lifestyle opportunities in a range of formats including 'Vintage' style lots (residential), rural residential lots – and a 'resort village'. The latter will provide integrated housing in a community environment with a resort theme.                                                                                    |
| <b>4. Employment Lands</b><br>Provide regional/local employment opportunities to support the Lower Hunter's expanding role in the wider regional and NSW economies | <ul style="list-style-type: none"> <li>Maintain or improve the existing level of subregional employment self-containment.</li> <li>Meets subregional employment projections.</li> <li>Employment related land is provided in appropriately zoned areas.</li> </ul>                                                                                                                                                                                                                                     | Lifestyle residential developments have high maintenance needs. Consequently, the golf course and the resort village in particular will generate additional employment. Other elements such as the cellar door, restaurant and conference facilities will also boost local employment.                                                                                                                                                                                                               |
| <b>5. Avoidance of Risk</b><br>Land use conflicts, and risk to human health and life, avoided                                                                      | <ul style="list-style-type: none"> <li>No residential development within 1:100 year flood plain.</li> <li>Avoidance of physically constrained land, e.g.               <ul style="list-style-type: none"> <li>high slope</li> <li>highly erodible.</li> </ul> </li> <li>Avoidance of land use conflicts with adjacent existing or future land use as planned under relevant subregional or regional strategy.</li> <li>Where relevant available safe evacuation route (flood and bushfire).</li> </ul> | <ul style="list-style-type: none"> <li>The site has minimal constraints. Only around one third of the land will be developed. Building and other improvements will be sited clear of any site constraints or hazards.</li> <li>Land use conflict with adjoining vineyards has been considered and mitigation measures (buffers etc) have been designed into the concept master plan.</li> <li>Bushfire threat is low; access from the site is well formed and water is available on site.</li> </ul> |

| Threshold Sustainability Criteria                                                                              | Measurable Explanation of Criteria                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Land Subject to this Planning Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>6. Natural Resources</p> <p>Natural resource limits are not exceeded/ environmental footprint minimised</p> | <ul style="list-style-type: none"> <li>• Demand for water within infrastructure capacity to supply water and does not place unacceptable pressure on environmental flows.</li> <li>• Demonstrates most efficient/suitable use of land</li> <li>• Avoids identified significant agricultural land.</li> <li>• Avoids productive resource lands – extractive industries, coal, gas and other mining, and quarrying.</li> <li>• Demand for energy does not place unacceptable pressure on infrastructure capacity to supply energy requires demonstration of efficient and sustainable supply solution.</li> </ul> | <ul style="list-style-type: none"> <li>• Existing infrastructure will be better utilised and no stress will be placed on water supply. Treated water reuse is proposed to reduce the demand on the existing water supply.</li> <li>• No natural resources exist in this area and no sterilisation will occur.</li> <li>• No strain will be placed on servicing and required services are available.</li> <li>• Quality viticultural land is being retained. A commercial vineyard will be re-established on the VBL and the existing vineyard on the Beggars Bridge land will be retained.</li> </ul> |

| Threshold Sustainability Criteria                                                                                                                                                      | Measurable Explanation of Criteria                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Land Subject to this Planning Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>6. Natural Resources</b></p> <p>Natural resource limits are not exceeded/ environmental footprint minimised</p>                                                                  | <ul style="list-style-type: none"> <li>• Consistent with government approved Regional Conservation Plan (if available).</li> <li>• Maintains or improves areas of regionally significant terrestrial and aquatic biodiversity (as mapped and agreed by DEC). This includes regionally significant vegetation communities; critical habitat; threatened species; populations; ecological communities and their habitats.</li> <li>• Maintain or improve existing environmental condition for air quality.</li> <li>• Maintain or improve existing environmental condition for water quality</li> <li>• Consistent with community water quality objectives for recreational water use and river health (DEC and CMA)</li> <li>• Consistent with catchment and stormwater management planning (CMA and council).</li> <li>• Protects areas</li> </ul> | <ul style="list-style-type: none"> <li>• Revegetation of identified network and priority corridors;</li> <li>• Recognition of site qualities for fauna movement and creation of improved fauna corridors;</li> <li>• Rehabilitation of eroded creek banks and stabilisation with endemic vegetation;</li> <li>• Stormwater management will maintain water quality;</li> <li>• Site contains examples of aboriginal artefacts. These will be conserved in sites of greatest significance. Further investigations are recommended to take place during development assessment.</li> <li>• Water quality will not be degraded. A detailed storm water management strategy will be implemented to address water quality, as an extension of the current plan for The Vintage.</li> </ul> |
| <p><b>8. Quality and Equity in Services</b></p> <p>Quality health, education, legal, recreational, cultural and community development and other government services are accessible</p> | <ul style="list-style-type: none"> <li>• Available and accessible services</li> <li>• Do adequate services exist</li> <li>• Are they at capacity or is some capacity available</li> <li>• Has Government planned and budgeted for further service provision</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>Additional facilities will be provided on site. Access to required facilities is available. An increased population will support existing facilities and services without placing a strain on them. In fact additional population should improve a service provision.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |