

Planning and Environment

Report No. PE24/2022

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SUBJECT: *DRAFT LOCAL PLANNING FRAMEWORK FOR THE CESSNOCK LGA VINEYARDS DISTRICT*

RESPONSIBLE OFFICER: *Strategic Planning Manager - Martin Johnson*

SUMMARY

A new local planning framework has been drafted for the Cessnock Local Government Area (LGA) Vineyards District ('the Vineyards District'). The planning framework is based on the Department of Planning and Environment's (DPE) 'Local Character Statement' (LCS) approach to planning areas that have a distinctive or unique character. The draft local planning framework comprises several amendments to the *Cessnock Local Environmental Plan 2011* ('the LEP') and a Draft Development Control Plan (DCP) that incorporates a LCS.

Substantial community input has been sought to assist Council staff develop the draft planning framework for the Vineyards District, including through the Cessnock Vineyards District Community Reference Group ('the CRG'), consultation associated with the Cessnock Local Strategic Planning Statement 2036 (LSPS) and a survey carried out in late 2019 relating to the Vineyards District, to which 454 people responded.

The purpose of this report is to seek Council's endorsement to obtain a Gateway determination for the Cessnock Vineyards District Planning Proposal, and endorsement to publically exhibit the Draft LCS / DCP with the Planning Proposal. Both documents are enclosed under separate cover.

RECOMMENDATION

1. That Council requests a Gateway determination in respect of the Cessnock Vineyards District Planning Proposal from the NSW Department of Planning and Environment, pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council exhibits the Draft Cessnock Vineyards District Local Character Statement and Development Control Plan with the Planning Proposal.
5. That Council receives a report back on the Planning Proposal and draft local planning framework, following public exhibition.

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**BACKGROUND**

The Vineyards District encompasses an area of land to the north west of the Cessnock Town Centre, zoned RU4 Primary Production Small Lots (see **Figure 1**).

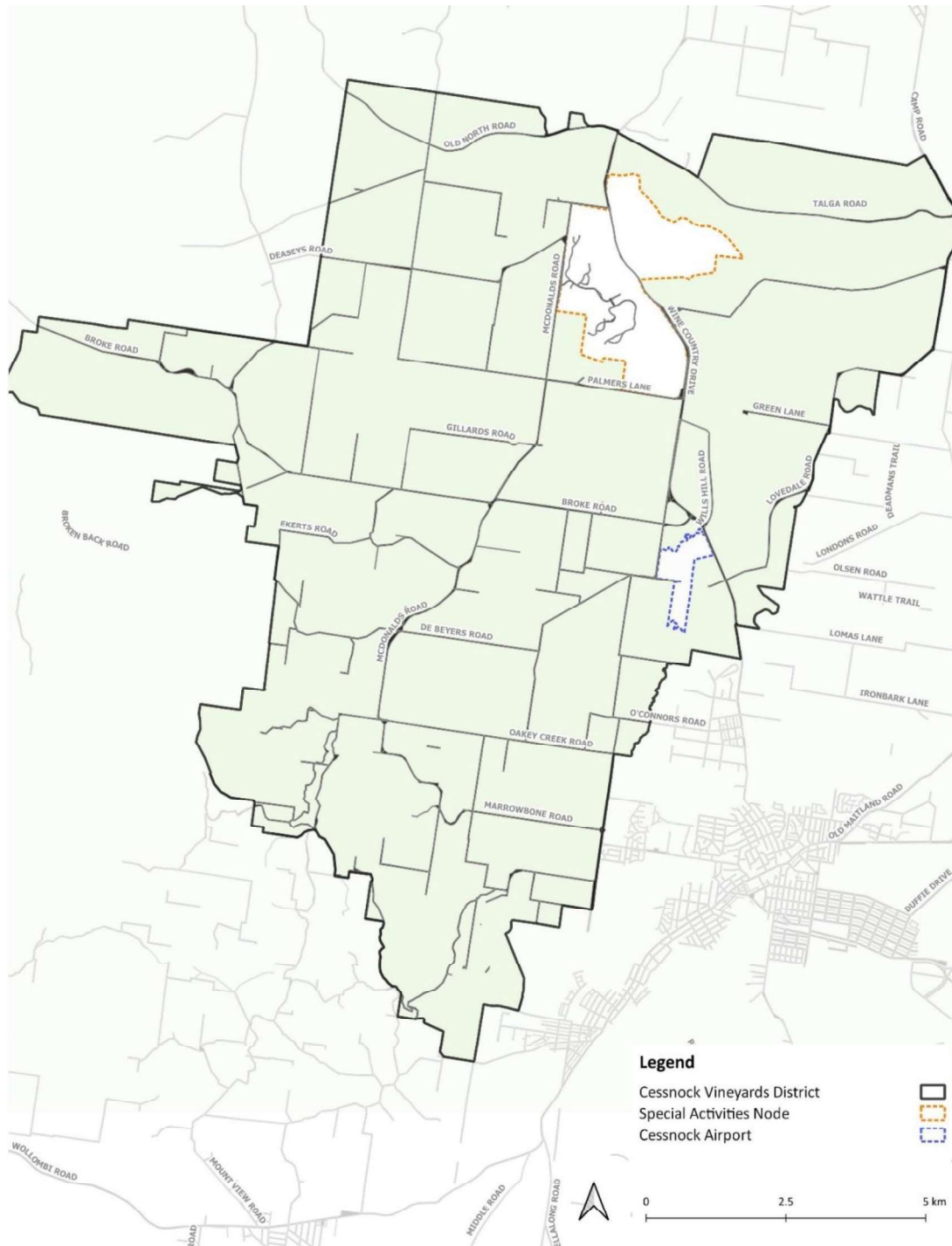


Figure 1 - The Vineyards District

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The Vineyards District is the major component of the broader Hunter Valley Wine Region, which is the nation's oldest, continuous wine growing area and is internationally recognised for producing premium wines. The broader Hunter Valley Wine Region includes land at Broke, Fordwich, Pokolbin and Belford in the Singleton LGA and land in the Upper Hunter Valley.

The Vineyards District contains a diverse range of supporting tourism development, including cellar door premises, tourist and visitor accommodation, restaurants and a variety of cultural and recreational facilities and events. The Vineyards District is a particularly difficult area to plan for given the wide range of permitted development, the extensive history of viticulture on the land, and the potential for incompatible developments and land use conflict.

In November 2018, Council resolved to not proceed with a planning proposal to align the RU4 Primary Production Small Lots Zone with that of Singleton Council. The decision was made on the basis of community feedback and the view that a more comprehensive review of the local planning framework for the Vineyards District was required. While there are several issues relevant to the review of the local planning framework for the Vineyards District, the principal issue was how to achieve a 'balance' between agricultural and non-agricultural development so all industry sectors remain economically viable.

To assist in this task, in April 2019, the Cessnock Vineyards District CRG was established by Council to provide local knowledge and advice regarding possible changes to the local planning framework for the Vineyards District. The CRG comprises a broad representation of views relating to the Vineyard District. Several meetings of the CRG have occurred since 2019.

Following consultation with the CRG and the public, Council staff recommended a new local policy framework for the Vineyards District and at the August 2020 meeting, Council resolved:

1. ***That Council prepare a 'Local Character Statement' for the Cessnock LGA Vineyards District, with a focus on the following key strategic areas:***
 - ***strategic agricultural land;***
 - ***important vegetation and fauna corridors;***
 - ***visually significant land; and***
 - ***centre and nodes.***
2. ***That Council implement the local policy framework as part of the comprehensive review of the Cessnock Local Environmental Plan 2011 and representatives from the established viticultural areas in Cessnock and in consultation with members of the Cessnock Vineyards District Community Reference Group to:***
 - ***give effect to the Local Character Statement through the Cessnock Local Environmental Plan 2011;***
 - ***investigate an appropriate zone for the Vineyard's District centre and nodes;***
 - ***review the range of permitted land-uses in the RU4 Primary Production Small Lots Zone and SP3 Tourist Zone; and***
 - ***review clause 7.6 of the Cessnock Local Environmental Plan 2011 relating to the minimum requirement of 10 hectares for tourist and visitor accommodation in the RU4 Primary Production Small Lots Zone.***

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3. That Council notify members of the Cessnock Vineyard's District Community Reference Group of its decision and thank them for their input.

The draft local planning framework for the Vineyards District has now been drafted in accordance with the Council resolution of 19 August 2020.

REPORT/PROPOSAL

The draft local policy framework for the Vineyards District is based on DPE's LCS approach to planning areas that have a distinctive or unique character. The draft local planning framework comprises several amendments to the LEP and a Draft DCP that incorporates a LCS.

The LCS / DCP for the Vineyards District (provided under separate cover) contains specific objectives, controls and existing and future character statements to give effect to standards for new development. For example, objectives and controls relating to building setbacks, form, height, density and appearance. It is proposed to afford the LCS legislative weight through a local clause in the LEP. This means that its contents must be considered when Council plans or assesses development in the area to which the LCS relates.

Vision and development objectives

The vision, objectives and controls for the Vineyards District have been developed in consultation with the CRG and reflect the core statements of the Vineyards Vision, adopted by Council in 2012. The recommended vision for the Vineyards District is: *'The leading wine and tourism region in Australia'*. The overarching development objectives are to:

- recognise and protect the primacy of the viticulture land use;
- maintain and enhance the rural amenity, character and scenic vistas of the region for future generations to enjoy; and
- allow and foster a mix of complementary business, accommodation and employment options.

Local Character Statements

The LCS identifies four strategic areas:

- primary production land;
- biodiversity, important vegetation and corridors;
- visually significant land; and
- Tourist Centre and major tourist accommodation nodes.

For the purpose of the LCS, a 'strategic area' is land that contains similar natural, agricultural or built attributes. Character statements have been developed for each of the strategic areas and these will be the primary mechanism guiding development outcomes in the Vineyards District. Importantly, the strategic areas will not be mutually exclusive. Two or more strategic areas may apply to the same land, and in which case, the character statement for each would need to be considered in the assessment of any development on that land. The LCS also

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contain specific objectives and development controls to give effect to design standards, such as building setbacks, form, height, density and appearance.

Primary production land

The first strategic area relates to land that is 'primary production land'. The principal planning objective for development that occurs on primary production land will be minimising impacts on planted vineyards and preserving and enhancing the rural and viticultural amenity of the area. Tourist development, such as accommodation, will continue to be permitted on primary production land, subject to an assessment of its compatibility with the LCS and any objectives and controls relating to built outcomes.

At this point, it is not possible to be definitive regarding the location of the region's important agricultural land, this is primarily due to a lack of data. The NSW Department of Primary Industries (DPI) is presently mapping the Hunter Region's important agricultural land and, when complete, the LCS may be updated to reflect the outcomes of that review. However, for the time being, the Draft LCS includes all land in the Vineyards District as primary production land, other than land that is primary habitat, proposed Tourist Centre, or major tourist accommodation node.

Biodiversity, important vegetation and corridors

The second strategic area relates to land that contains important vegetation or comprises corridors for fauna movement. The highest planning consideration for development in this precinct is impact on established native vegetation. Development will be strictly controlled through a combination of character statement, development objectives and controls, the *Biodiversity Conservation Act 2016* and the need for external agency referrals.

Land in this precinct contributes to the overall amenity of the Vineyards District and provides habitat for native fauna. Development within these areas is subject to specific development controls to reduce potential impacts on vegetation and encourage replanting to strengthen existing habitat.

Visually significant land

The third strategic area relates to that land which is considered visually significant. The highest planning consideration for development in this precinct is impact on views from land to which the public has access, such as roads. Development within or immediately adjacent to these areas are subject to additional development controls to mitigate visual impacts.

While some data presently exists regarding the visually significant land in the Vineyard's District, this information is expected to be further refined in the future through a separate, LGA wide study.

Tourist Centre and major tourist accommodation nodes

The final strategic area relates to a presently undefined area of land at the intersection of Broke and McDonalds Road, which is proposed as the Tourist Centre. Subject to the Vineyards District Planning Proposal, Council will investigate an appropriate area for the Tourist Centre to acknowledge the historical evolution of the area as a focus for more intensive tourism, retail and community development.

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Resulting amendments to the Cessnock Local Environmental Plan 2011

A planning proposal (enclosed under separate cover) is a necessary component of the new local planning framework for Vineyards District and will achieve the following outcomes:

1. give statutory weight to the Draft LCS, contained in the Cessnock DCP;
2. amend Clause 7.6 of the LEP;
3. amend the RU4 Primary Production Small Lots Zone Land Use Table; and
4. redesign the SP3 Tourist Zone Land Use Table and apply the zone to a proposed 'Tourist Centre' at the intersection of Broke Road and McDonalds Road in Pokolbin; and
5. apply a minimum lot size of 10 hectares to the SP3 Tourist Zone.

The planning proposal, the LCS and the DCP are expected to reduce development pressure and the potential for land-use conflict (primarily between tourist and agricultural development) in the broader primary production areas of the Vineyards District.

The manner in which the LEP handles dwelling entitlements will not be addressed in the new local planning framework. The dwelling entitlement matter needs to be addressed holistically (i.e. LGA wide) and not in an ad hoc manner. As such, the matter will be deferred to a specific component of the comprehensive LEP review, which is currently in progress.

OPTIONS

1. Support the recommendation to obtain a Gateway determination for the Cessnock Vineyards District Planning Proposal and concurrently exhibit the Draft LCS/DCP and Planning Proposal.

This is the recommended option.

2. Not support the recommendation to obtain a Gateway determination for the Cessnock Vineyards District Planning Proposal and concurrently exhibit the Draft LCS/DCP and Planning Proposal for the following reasons:

(To be provided by Council).

This option is not recommended. Council's existing policy framework is out of date and is not sufficiently flexible to appropriately regulate the range of development that is currently permitted in the Vineyard's District.

CONSULTATION

Since 2019, substantial community input has been gathered in relation to a new local planning framework for the Vineyards District, including through:

- the CRG;

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- councillors attending CRG meetings;
- consultation associated with the Cessnock LSPS; and
- a survey carried out in late 2019 relating to the Vineyard's District, to which 454 people responded.

Cessnock Vineyard's District Community Reference Group

In April 2019, the CRG was established by Council to provide local knowledge and advice regarding possible changes to the local planning framework relating to the Vineyard's District. The CRG includes representation from Hunter Valley Wine and Tourism Association, Parish of Pokolbin, Around Hermitage, Lovedale Chamber of Commerce, NSW Department of Planning, Industry and Environment, NSW Department of Primary Industries, Property Council of Australia, Singleton Council, landowners, vignerons, property developers, wine tourism professionals and town planning consultants. The CRG achieves a broad representation of views relating to the Vineyard District.

Several meetings of the CRG have occurred since 2019, including most recently on 28 February 2022, and have culminated in the preparation of this report and draft local policy framework for the Vineyards District. The CRG has assisted in the development of the community survey, the overall vision, and the draft development objectives and controls for the Vineyards District. The CRG also provided critical feedback regarding the LCS approach.

The LCS approach for the Vineyard's District, including narratives for the strategic areas is generally supported by the CRG. In contrast, precincts based on 'branded' viticultural areas was not overwhelmingly supported, primarily due to the branded precinct areas being a product of tourism marketing and not necessarily a good indicator of planning outcomes. The 'branded' viticultural areas include: Around Heritage, Lovedale, Central Pokolbin, Parish of Pokolbin and Mount View.

Based on feedback provided by the CRG, it became evident that the most useful approach to manage development in the Vineyard's District is an assessment of the compatibility of the development against strategic areas, i.e. similar natural, physical and built attributes of the land.

Vineyard's District Community Survey

For a period of six weeks in August and September of 2019, Council conducted a community survey relating to the Cessnock LGA Vineyard's District. The survey primarily focused on two questions:

1. What things presently add value to the character and amenity of the Vineyard's District?
2. What things should there be more or less of in the Vineyard's District?

In answering these questions, respondents were able to select from a predetermined list of features relevant to the Vineyard's District. A total of 454 people responded to the survey. The features most highly valued by respondents were grape vines, cellar doors and scenic views. The least valued features were residential housing estates, short-term rental accommodation and shops. The results of the community survey assisted in the development of the LCS and amendments to the LEP.

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STRATEGIC LINKS

a. Delivery Program

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

b. Other Plans

Hunter Regional Plan 2036

The *Hunter Regional Plan 2036* (HRP) provides the overarching strategic framework to guide the NSW Government's land use planning priorities and decisions in the Hunter Region. The NSW Government's vision for the Hunter is, "the leading regional economy in Australia with a vibrant new metropolitan city at its heart." To achieve this vision the Government has set four goals for the region:

1. The leading regional economy in Australia
2. A biodiversity-rich natural environment
3. Thriving communities
4. Greater housing choice and jobs.

The draft local planning framework is consistent with directions 9, 10, 13 and 14 of the Hunter Regional Plan 2036 in that it seeks to recognise and protect the primacy of viticulture and maintain the scenic rural landscape of the Vineyard's District, which draws tourism to the area.

Greater Newcastle Metropolitan Plan 2036

The Greater Newcastle Metropolitan Plan 2036 (GNMP) sets out strategies and actions to drive sustainable growth across much of the Lower Hunter Region. The GNMP applies to the majority of the Cessnock LGA Vineyard's District. The draft local planning framework is consistent with strategies 6 and 13 of the GNMP, which seek to promote tourism and protect the rural amenity outside urban areas, respectively.

Local Strategic Planning Statement (2036) (LSPS)

The Local Strategic Planning Statement (LSPS) is a high-level strategic document that sets the planning direction for the LGA until 2036. The LSPS implements relevant actions from the HRP and the GNMP as well as Council's own priorities as set out in the Cessnock Community Strategic Plan 2027 and other adopted plans and strategies. The LSPS will shape how the LEP and the DCP evolve over time and will guide how population growth and development are managed in the LGA. The draft local planning framework for the Vineyard's District is consistent with planning priorities 8, 9, 10, 22, 23, 26 and 27 of the LSPS.

Vineyards Vision Statement

The draft local planning framework reflects the intent of the Vineyards Vision to recognise and protect the primacy of the vineyards agricultural land use in the Cessnock RU4 Primary Production Small Lots Zone, while supporting compatible forms of tourist development.

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IMPLICATIONS

a. Policy and Procedural Implications

This Report has regard to the provision of the *Environmental Planning and Assessment Act 1979* and associated Regulations.

b. Financial Implications

The cost of this project is funded from Council's Strategic Land Use Planning budget.

c. Legislative Implications

Guidelines for development in the Cessnock LGA Vineyard's District are presently set out in chapter E.3 of the Cessnock Development Control Plan 2010 (the DCP). While several amendments have been made to the Vineyards District DCP chapter over the years, a comprehensive review has not occurred since the chapter's initial adoption, over 20 years ago, on 2 December 1998.

The new planning framework for the Vineyards District is based on the DPE's LCS approach to planning areas that have a distinctive or unique character. The LCS for the Vineyards District is contained in a new DCP chapter. The LCS will be afforded legislative weight through the LEP. This means that its contents must be considered when Council plans or assesses development in the area to which the LCS relates. The LCS includes an overarching vision, development objectives and LCS, incorporating character statements and specific development controls.

d. Risk Implications

Nil

e. Environmental Implications

The Draft LCS contains provisions that seek to enhance outcomes for land that contains important biodiversity or corridors for fauna movement. Development in this strategic area is subject to specific development controls to reduce potential impacts on vegetation and encourage replanting to strengthen existing habitat.

f. Other Implications

Nil

CONCLUSION

A new local planning framework has been drafted for the Vineyards District. The planning framework is based on DPE's LCS approach to planning areas that have a distinctive or unique character. The new local planning framework comprises several amendments to LEP and a new DCP chapter that incorporates a LCS.

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Substantial community input has been obtained in relation to the new planning framework for the Vineyards District, including through the CRG, consultation associated with the LSPS, and a survey carried out in late 2019 relating to the Vineyards District, to which 454 people responded.

It is recommended that Council endorse the new planning framework for the Vineyards District, by obtaining a Gateway determination for the Cessnock Vineyards District Planning Proposal, and concurrently exhibit the Draft LCS / DCP with the Planning Proposal.

ENCLOSURES

- 1  Cessnock Vineyard District Planning Proposal - Provided under Separate Cover
- 2  Draft Cessnock Vineyard District Local Character Statement and Development Control Plan - Provided under Separate Cover