

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2016HCC069
<b>DA Number</b>	8/2016/557/1
<b>LGA</b>	Cessnock City Council
<b>Proposed Development</b>	Staged Development - Integrated Tourist Development in Seven (7) Stages Proposing an 18 Hole Golf Course, 50 Room Hotel, 250 Serviced Apartments, 300 Residential Lots and Ancillary Function Centre & Aboriginal Heritage Centre, Retail & Food Outlet and Spa & Recreation Facilities - Masterplan Approval and Stage 1 - Four (4) Lot Community Title Subdivision
<b>Street Address</b>	Wine Country Drive, Lovedale NSW
<b>Applicant/Owner</b>	Capital Hunter Pty Ltd
<b>Date of DA lodgement</b>	7 September 2016
<b>Number of Submissions</b>	3
<b>Recommendation</b>	Determined by the granting of consent, subject to conditions.
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	<p>Pursuant to the requirements of Schedule 4A of the Environmental Planning and Assessment Act 1979 and Clause 22 of the State Environmental Planning Policy (State and Regional Development) 2011, this application is referred to the Joint Regional Planning Panel for determination as the application is defined as 'General Development' with a capital investment value exceeding \$20,000,000.</p> <p>The application submitted to Council indicates a value of \$101,250,000 for the concept masterplan.</p>
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>• State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• Cessnock Local Environmental Plan 2011</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<p>APPENDIX 1 – Development Plans</p> <p>APPENDIX 2 – Copy of Submissions</p>
<b>Report prepared by</b>	Kristen Wells
<b>Report date</b>	8 May 2018

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

No

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

Have draft conditions been provided to the applicant for comment?

Yes

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## EXECUTIVE SUMMARY

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Council is in receipt of Development Application No. 8/2016/557/1 seeking approval for a masterplan for staged development involving an integrated tourist/residential development within Lots 2 – 4 DP 869651 and Lot 11 DP 1187663; and approval for Stage 1, being the community subdivision of the subject site into 4 superlots to establish the boundaries for the various future stages proposed under the concept masterplan.

In brief, the applicant is only seeking approval for a concept masterplan, and also for Stage 1 works which comprises the subdivision of 4 existing lots into 4 community title lots (with no physical works necessary). All future stages (2 – 7 inclusive), will be subject to lodgement and approval of separate development applications pursuant to Section 83B(4)(a) of the *Environmental Planning and Assessment Act 1979*, at which time, the impact of those stages will be assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*.

The Environmental Planning and Assessment Amendment Act 2017 (NSW) (Amendment Act) commenced on 1 March 2018. This Development Application was lodged prior to this date (7 September 2016), therefore the assessment and determination report have been conducted using references to the EP&A Act as it was prior to the introduction of the amendments.

The Development Application has been submitted as 'Integrated Development' in accordance with Section 91 of the Environmental Planning and Assessment Act 1979; requiring the concurrence of the NSW Rural Fires Service (RFS) in accordance with Section 100B of the Rural Fires Act 1997. General Terms of Approval have been received from the NSW RFS.

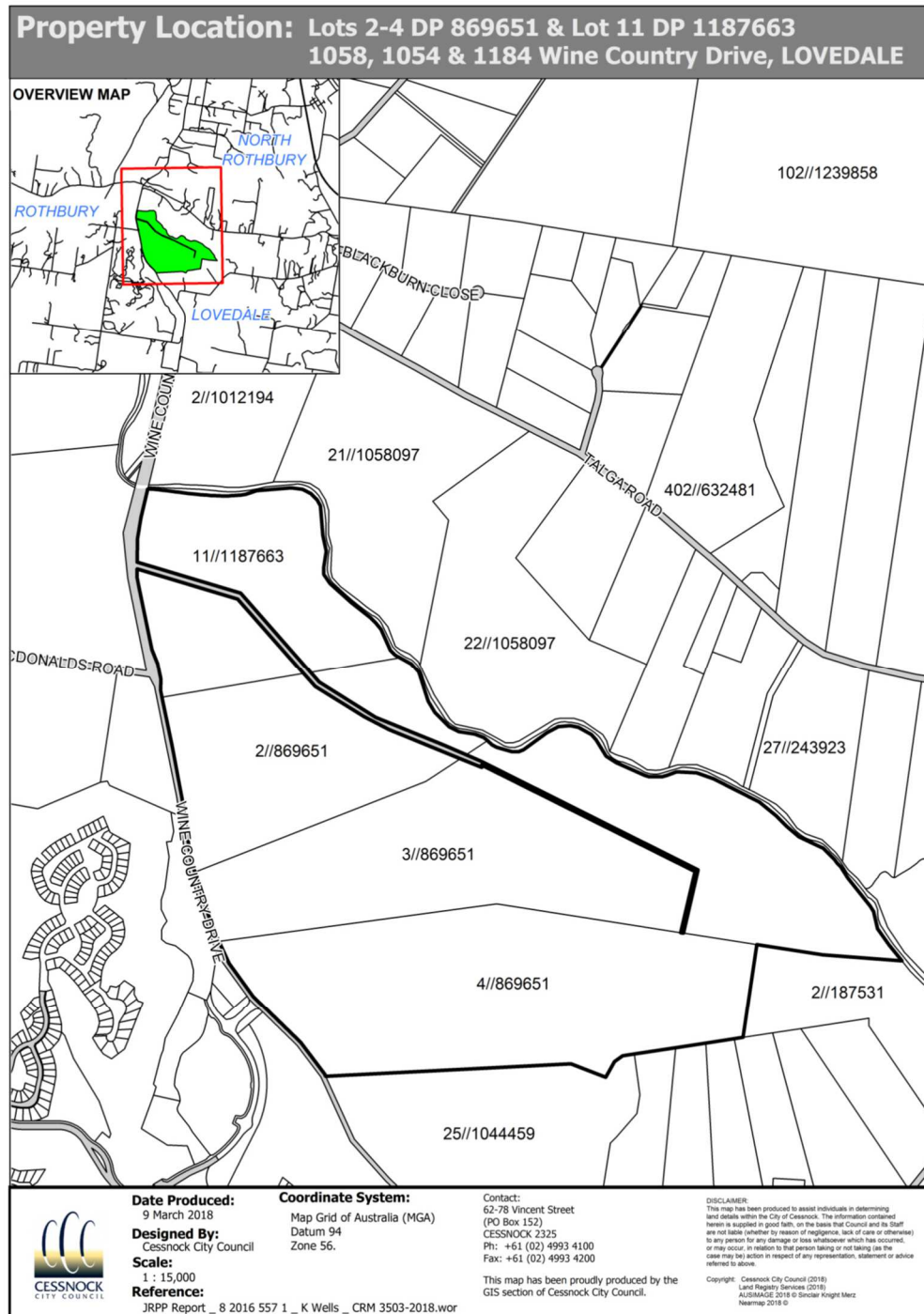
The Development Application has been assessed against the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulations 2000, relevant Environmental Planning Instruments and Council policies. The outcome of this assessment is detailed further in this report.

The Development Application was publicly exhibited and 3 separate submissions were received, comprising one submission in support and two submissions in objection to the proposal.

A planning agreement for the subject site has been executed between the applicant and the NSW Department of Planning and Environment. The Satisfactory Arrangements Certificate (SAC) issued 18 April, 2017 satisfies the provisions for the

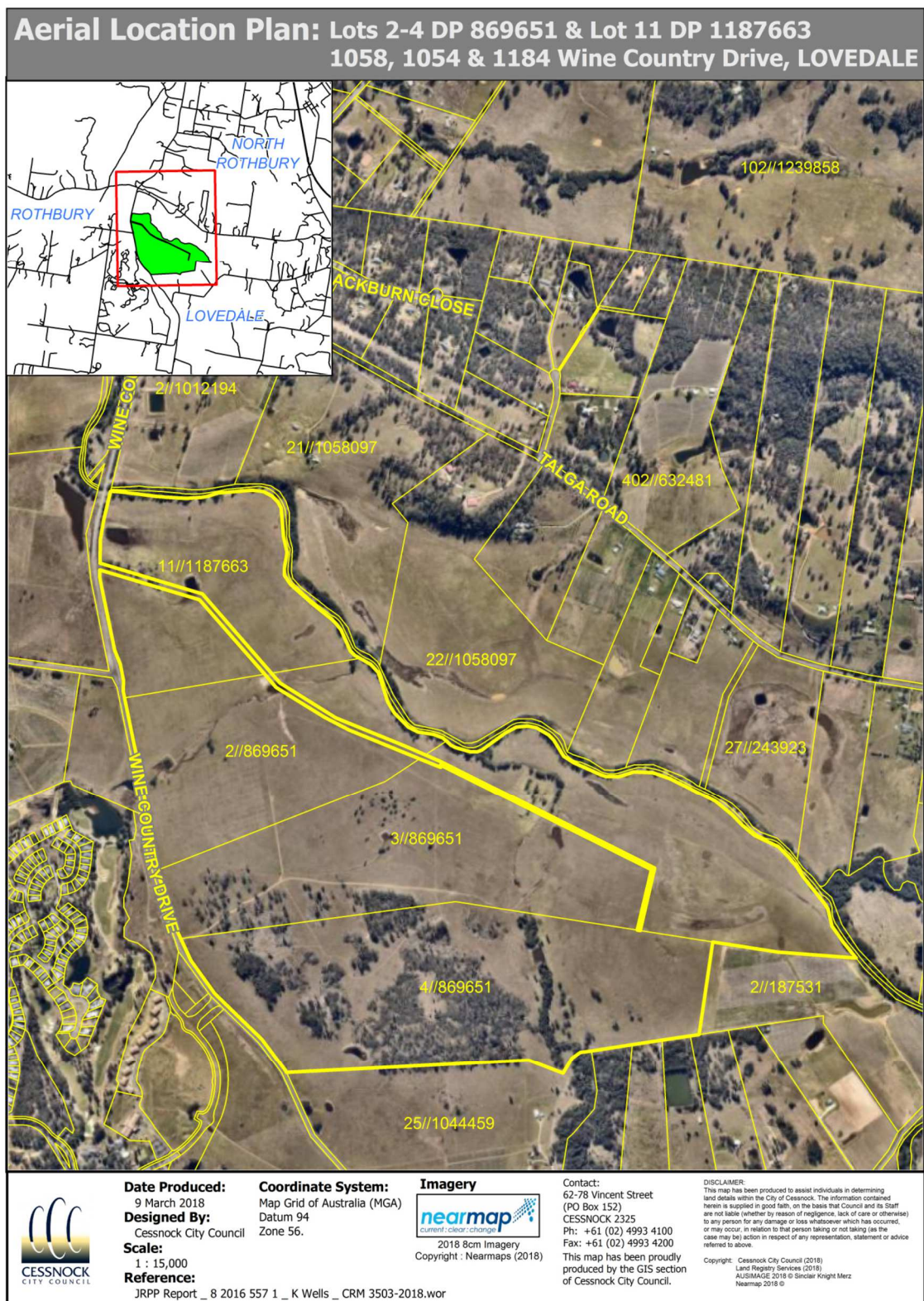
granting of development consent under Clause 6.1 of Cessnock Local Environmental Plan 2011.

## LOCATION MAP





# AERIAL



## SITE DESCRIPTION AND LOCALITY

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The application is made over 4 existing lots: Lot 2 DP 869651, Lot 3 DP 869651, Lot 4 DP 869651 and Lot 11 DP 1187663. These lots are addressed as 1054, 1057 and 1184 Wine Country Drive, Lovedale. Unless otherwise specified, the 4 lots described will be referred to as 'the subject site' for the purpose of this report.

The subject site is approximately 238.63ha in area, and is located 15km north of Cessnock township and 8 km south of the town of Branxton, on Wine Country Drive, Lovedale. Wine Country Drive is the main road between Cessnock and Branxton and gives access to the many wineries and tourist accommodations residing there. The Vineyards District is a specialised centre recognised in the Hunter Regional Plan, 2036 for its economic importance in the region, and its contribution to tourism in NSW. Most of the Vineyards District is zoned RU4 Rural Small Holdings under Cessnock Local Environmental Plan (CLEP) 1182011, while this subject land is zoned SP3 Tourism.

The subject site is located on the eastern side of Wine Country Drive, approximately 1.13km south of the intersection of McDonalds Road and Wine Country Drive and 1.37km north of the intersection between Wilderness Road and Wine Country Drive. The subject site is situated opposite the existing integrated tourist and resident development known as 'The Vintage'; however 'The Vintage' is currently solely accessed via an intersection on McDonalds Road (this is discussed in more detail later within this report).

The land is flat to gently sloping, and is rural in character - having been substantially cleared and used for grazing and agricultural activities in the past. Black Creek runs through the land generally in a north-south direction, and drains further to the north into the Hunter River. The subject site consists of improved pasture with areas of woodland and regrowth in the south and west. The woodland consists mainly of Lower Hunter Spotted Gum-Ironbark Forest, the regrowth is dominated by juvenile Eucalypt species with a minimal scattering of Melaleuca, and the narrow strip lining Black Creek is dominated by two species of Casuarina. Structures on the subject site include fencing, dams, sheds, feed silos, holding yards, a dwelling, and a derelict homestead.

Lot 11 has an area of 39.45 hectares and is the northernmost of the subject lots. This lot contains a small rural dwelling and associated outbuildings (all clustered in the north-west portion of the site). The lot is bound by Wine Country Drive to the west, Black Creek to the north and east, and Lot 4 to the south. There are two medium sized dams on the lot. The lot is dissected by an unnamed road reserve 20.115m wide and 10.06m. In the event the application is approved, the unnamed road reserve will need to be closed and incorporated into the proposed subdivision, prior to issue of a subdivision certificate.

Lot 4 has an area of 70.29 hectares and is entirely vacant land apart from a minor scattering of trees and two small/medium sized dams. The site has previously been used for grazing purposes. The site is bound by Lot 11 to the north, Wine Country Drive to the west, Black Creek to the east and Lot 3 to the south. This lot is also dissected by the unnamed road reserve.

Lot 3 is the largest of the subject lots with an area of 91.32 hectares. There is an established internal gravel access track over the site connecting to Wine Country

Drive. This site contains a stand of vegetation, mostly to the west and central southern portion of the site. The site is bound by Lot 4 to the north, Wine Country Drive to the west, Black Creek to the north and east, and Lot 3 to the south. There are two small dams situated on the property. This lot is also dissected by a closed paper road.

Lot 2 is the southernmost lot in the collection comprising the subject land and has an area of 40.36 hectares. This lot is the most heavily vegetated property. The site has no evidence of previous agricultural land uses; however it does contain two medium sized dams. The lot is bound by Lot 3 to the north, Wine Country Drive to the west and a series of lots in private ownership (not associated with this proposal) to the south and east.

As previously noted, 'The Vintage' golf course and residential land development is situated opposite this land, to the west. 'The Vintage' land rises higher than the subject land, meaning the future proposed works on this land will not jeopardize any view lines afforded to 'The Vintage'. The visually significant Brokenback ridge lies to the west of the site; however it is not visible from the subject land. Northern and eastern view lines are dominated by the tree lined riparian zone of Black Creek. The southern view line is also dominated by vegetation areas. Glimpses of distant hill lines can be seen to the east and north of this property.

'The Vintage' development is the most relevant approval in the vicinity of this site. 'The Vintage' development was approved in December 1996 (Reference No. 5/1995/80147/1), permitting an integrated tourist recreation facility, golf course and residential development. Progressive development of the site has since taken place in accordance with the masterplan approval. As at December 2014, 375 lots had been created, including 238 dwellings and 144 tourism accommodation units. A range of tourist and recreational assets (including a golf course, day spa and clubhouse), have also been constructed.

A planning proposal was lodged for 'The Vintage' Balance Lands (VBL) to rezone the land from RU4 Primary Production – Small Lots, to SP3 Tourist. The planning proposal was approved by the Department of Planning in December 2015. The change in zoning has enabled additional tourist and commercial land uses to be proposed at the site.

The next stage of 'The Vintage' concept masterplan (Stage 3), if approved, will allow for establishment of a significant tourist resort which will include provision for the construction of a roundabout intersection onto Wine Country Drive opposite the road frontage of the subject land. This may form part of the access to development comprising the staged development of the site under future development applications.

## **HISTORY**

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### Rezoning

The site specific rezoning proposal (18/2011/10) known as 'Jack Nicklaus Golf Club Resort' altered the zones of the following properties:

- Lots 1-4 DP 869651\*

*\*Please note that Lot 1 DP 869651 was subject to a boundary adjustment with Lot 1503 DP 1110274, which created Lot 11 1187663 (subject to this proposal). This subdivision was endorsed 12/07/2013.*

At its meeting of 15 February 2012, Council resolved:

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

*To enable such parts of the “Jack Nicklaus Golf Club Resort” on Lots 1-4 DP 869651, Wine Country Drive, Rothbury for subdivision of lots to a minimum lot size of 450m<sup>2</sup> and the development of Recreational Facilities (Outdoor) and (Indoor), Tourist and Visitor Accommodation and Dwelling Houses provided at an equal 50/50 provision (temporary and permanent residency), hotel, function centre, retail premises and associated uses where the subdivision is required as an integral part of a major tourist and visitor accommodation development” for the following reasons:*

- *The proposal is considered a positive tourism based use of the land on the edge of the Vineyards District that is not suitable for viticultural uses.*
- *The proposal will broaden the tourism appeal of the LGA to a national and international market.*
- *The proposal’s co-location next to the existing ‘Vintage’ Golf development has strategic merit creating a golfing tourist destination with significant flow on benefits to the Vineyard District tourism market and the Cessnock LGA.*

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

The planning proposal was referred to the then NSW Department of Planning and Infrastructure (DoPI) on 27 March 2012. DoPI issued a gateway determination on August 1, 2012 to allow exhibition of the planning proposal, subject to conditions.

Following this process, the rezoning was incorporated into the Cessnock Local Environmental Plan 2011 (LEP) via an amendment (Amendment No 10), gazetted 22 August 2014. This amendment rezoned the land from RU4 to SP3, enabling subdivision of the land via Clauses 4.1AA and 4.2B, and permitted integrated tourist development via the insertion of Clause 7.11 into the Cessnock Local Environmental Plan 2011.

#### Development Application

The history of the subject Development Application is summarised in the following table:

Date	Action
07/09/2016	The application is lodged.
12/09/2016	The application is allocated to an assessment officer.
24/11/2016	Matters are clarified from the applicant regarding the nominated-integrated status of the application and the payment of advertising fees. Once resolved, this enables the commencement of referrals, advertising and assessment processes.

25/11/2016	Referrals are initiated and they are returned as follows:  <b>INTERNAL REFERRALS</b> <table><tr><th>Referral Officer</th><th>Date Returned</th></tr><tr><td>Flood Engineer</td><td>21/12/2016</td></tr><tr><td>Design Delivery</td><td>26/04/2017</td></tr><tr><td>Traffic Committee</td><td></td></tr><tr><td>Environmental Health: Onsite Sewer Management</td><td>09/12/2016</td></tr><tr><td>Environmental Health</td><td>09/12/2016</td></tr><tr><td>Ecological</td><td>12/12/2016</td></tr><tr><td>Development Engineers</td><td>24/01/2017</td></tr><tr><td>Community Planning</td><td>07/12/2016</td></tr><tr><td>Heritage Officer</td><td>02/12/2016</td></tr><tr><td>Strategic Planning</td><td>20/01/2017</td></tr></table> <b>EXTERNAL ENGINEERS</b> <table><tr><th>Referral Officer</th><th>Date Returned</th></tr><tr><td>DPI Water</td><td>22/03/2017</td></tr><tr><td>Hunter Water Corporation</td><td>Not returned.</td></tr><tr><td>AUSGRID</td><td>14/12/2016</td></tr><tr><td>RMS (comment only)</td><td>06/04/2017</td></tr><tr><td>NSW RFS (integrated under s100b of the Rural Fires Act 1997)</td><td>11/01/2017</td></tr></table>	Referral Officer	Date Returned	Flood Engineer	21/12/2016	Design Delivery	26/04/2017	Traffic Committee		Environmental Health: Onsite Sewer Management	09/12/2016	Environmental Health	09/12/2016	Ecological	12/12/2016	Development Engineers	24/01/2017	Community Planning	07/12/2016	Heritage Officer	02/12/2016	Strategic Planning	20/01/2017	Referral Officer	Date Returned	DPI Water	22/03/2017	Hunter Water Corporation	Not returned.	AUSGRID	14/12/2016	RMS (comment only)	06/04/2017	NSW RFS (integrated under s100b of the Rural Fires Act 1997)	11/01/2017
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05/12/2016	The proposal is notified and registered with the Joint Regional Planning Panel as the determining authority.																																		
07/12/2016 21/12/2016	– Public exhibition period.  Three (3) separate submissions are received during this period.																																		
30/03/2017	A request for information is made to the applicant. Matters associated with RFS comments, DPI Water Comments and Council's Development Engineers are forwarded to the applicant for consideration. It is noted that internal Traffic Referral, RMS and Hunter Water have not yet completed their referrals.																																		
18/04/2017	The certificate of Satisfactory Arrangements is issued by the Department of Planning and Environment.																																		
24/04/2017	The applicant submits revised plans in accordance with the request for additional information dated 30/03/2017.																																		
06/06/2017	Application is re-assigned to a new assessing officer.																																		



08/11/2017	A meeting is held with the applicant regarding outstanding flood matters. At this meeting an agreed approach on flood free access to future lots is established between Council officers and the applicant.
09/11/2017	The applicant submits a response to the outstanding flood information. In their correspondence the applicant suggests that effective access can be provided in accordance with the definition of the Floodplain Management Manual, being “...an exit route that remains trafficable for sufficient time to evacuate people and possessions...”  This information is forwarded to Council's Development Engineers for review.
24/11/2017	All referrals are finalised.
12/03/2018	Assessment completed.

## DETAILS OF THE PROPOSED DEVELOPMENT

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Development Application No 8/2016/557/1 seeks approval for a masterplan of a staged development involving the creation of a community title residential precinct (300 residences), integrated tourist development (including 250 short stay villas, 50 room motel, sports, recreation and health spa resort), 18 hole golf course and associated clubhouse, function centre and associated infrastructure over 7 stages. The application also seeks approval for Stage 1, being the creation of 4 community title lots. The proposal is outlined as follows:

### Masterplan

The stages of the concept masterplan are summarised below:

- *Stage 1: Four (4) Lot Community Title Subdivision,*

Stage 1 is proposed to create 4 super lots under a Community Title subdivision, to allocate land for particular uses. Land within proposed Lot 3 will be subdivided in future to accommodate 300 residential lots, while proposed Lot 4 is intended for tourist and visitor accommodation (300 units) and associated sporting/recreational facilities. The internal road network will be contained within proposed Lot 1, while a water treatment plant will also be established on the southernmost section within proposed Lot 1. The remainder of the subject site (being proposed Lot 2) will contain the 18-hole Golf Course and regeneration of vegetation.

The proposed lots are detailed as follows:

PROPOSED LOT	PROPOSED AREA	INTENDED FUTURE USE
1	7.16ha	Access and services.
2	161.21ha	Super lot for recreation/golf course
3	55.10ha	Super lot for 300 residential lots

4	15.15ha	Super lot for 250 tourist villas, clubhouse and motel
<b>Total</b>	<b>238.63ha</b>	

No actual works are proposed to take place on the site under Stage 1 as the lots created will not be the subject of development until further design is proposed under subsequent development applications.

- *Stage 2: 18 Hole Golf Course,*

This stage will see the creation of the golf course, landscaping and connection to necessary services (including road connection to Wine Country Drive).

- *Stage 3: 50 Room Hotel & Club House including ancillary Function Centre and 50 Residential Lots,*

Stage 3 will comprise the construction of internal access roads to residential allotments as well as the construction of the 50 room tourist hotel (and a restaurant, clubhouse and golf shop) on proposed lot 401; 50 residential lots on proposed lots 303 and 304 are also proposed.

- *Stage 4: 70 Serviced Apartments, 70 Residential Lots Spa & Recreation Facilities,*

This stage will consist of the construction of 70 tourist and visitor accommodation units (and supporting infrastructure such as day spa, swimming pool) on proposed lot 402. The stage will also propose the construction of 70 residential lots and dwellings on proposed lots 304 and 305.

- *Stage 5: 65 Serviced Apartments and 65 Residential Lots,*

Stage 5 will propose the construction of 65 tourist and visitor accommodation units on proposed lot 402. The stage will also propose the construction of 65 residential lots and dwellings on proposed lot 301.

- *Stage 6: 60 Serviced Apartments and 60 Residential Lots, and*

Stage 6 will propose the construction of 60 tourist and visitor accommodation units on Lot 402 as well as the construction of 60 residential lots and dwellings on proposed lot 301.

- *Stage 7: 55 Serviced Apartments and 55 Residential Lots.*

The final stage will seek consent for the construction of 55 tourist and visitor accommodation units on proposed lot 402, as well as the construction of 55 residential lots and dwellings on proposed lot 302.

In accordance with *Section 83B(1) of the Environmental Planning and Assessment Act 1979*, a concept development application is a development application that sets out concept proposals for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications.

In consideration of the above, it is noted that Stages 2 – 7 (inclusive), will be subject to submission, and consideration of, subsequent development applications. Such development applications must be consistent with the approved concept proposal for the site, pursuant to Section 83D (2) of the *Environmental Planning and Assessment Act 1979*.

### Stage 1 Approval

As noted above, Stage 1 involves the proposed subdivision of four existing lots (Lots 2 – 4 DP 869651 and Lot 11 DP 1187663) into four community title 'super lots'. The super lots are designed to accommodate the future proposed stages under the concept masterplan as previously outlined above.

## **ASSESSMENT**

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### ***Environmental Planning and Assessment Act 1979 – Section 83B***

The subject proposal is lodged as a concept development application in accordance with Section 83B(1) of the *Environmental Planning and Assessment Act 1979*. In this regard, the assessment involves consideration of the following components:

- A concept proposal (i.e. masterplan) for the entire site referred to as Stages 2 – 7 (inclusive); and
- A detailed proposal for Stage 1 development approval.

It is noted that separate development applications, outlining the details of the proposal, must be granted to carry out development on this part of the site (i.e. areas nominated as Stage 2-7 inclusive) following a development application or application pursuant to Section 83B(4)(a) of the *Environmental Planning and Assessment Act 1979*; and

### ***Environmental Planning and Assessment Act 1979 – Section 83C***

Section 83C, *Concept development applications as alternative to DCP required by environmental planning instrument*, provides the following:

- (1) *An environmental planning instrument cannot require the making of a concept development application before development is carried out.*
- (2) *However, if an environmental planning instrument requires the preparation of a development control plan before any particular or kind of development is carried out on any land, that obligation may be satisfied by the making and approval of a concept development application in respect of that land.*
- (3) *Any such concept development application is to contain the information required to be included in the development control plan by the environmental planning instrument or the regulations.*

Pursuant to Clause 6.3(2) of the Cessnock LEP 2011, development consent must not be granted for development on land in an Urban Release Area (URA) unless a DCP that provides for specified matters has been prepared for the land. However, by

virtue of Section 83C(2) of the *Environmental Planning and Assessment Act 1979*, an applicant may satisfy this requirement by the making and approval of a concept development application.

A site specific DCP has not been adopted for development within the URA. In this circumstance, the applicant has opted to lodge a concept development application which satisfies the obligation for a development control plan to be prepared before any particular or kind of development is carried out on any land.

The subject application was therefore required to be accompanied by information prescribed by the Environmental Planning Instrument (Cessnock LEP 2011) for the site specific development control plan. Council's Strategic Land Use Planner has reviewed the proposal and provided comment in respect to the submitted information. It is considered that the subject application meets the requirements of Clause 6.3 of the Cessnock LEP 2011 as follows:

DCP requirement	Proposed
(a) <i>a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing</i>	<p>Development consent is limited to a Stage 1 of a seven (7) stage Integrated Tourist Development concept plan.</p> <p><b>Stage 1</b> - Four (4) Lot Community Title Subdivision  <b>Stage 2</b> - 18 Hole Golf Course &amp; All Services Requirements  <b>Stage 3</b> - Retail &amp; Food Outlet &amp; Spa &amp; Recreation Facilities 50 Room Hotel and 50 Residential Lots Ancillary Function Centre &amp; Aboriginal Heritage Centre  <b>Stage 4</b> - 70 Serviced Apartments and 70 Residential Lots  <b>Stage 5</b> - 65 Serviced Apartments and 65 Residential Lots  <b>Stage 6</b> - 60 Serviced Apartments and 60 Residential Lots  <b>Stage 7</b> - 55 Serviced Apartments and 55 Residential Lots</p> <p>The first stage will involve the creation of four (4) development lots under community title subdivision.</p> <ul style="list-style-type: none"> <li>• Lot 1 – 7.16ha</li> <li>• Lot 2 – 161.2ha</li> <li>• Lot 3 – 55.10ha</li> <li>• Lot 4 – 15.15ha</li> </ul> <p>Any future stages must be in accordance with the Concept Plan approved in conjunction with the development consent.</p>
(b) <i>an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement</i>	<p>The transport movement hierarchy shall generally be in accordance with the circulation route shown on the concept plan.</p> <p>Suitable transport access and connectivity within</p>

<p><i>system for private vehicles, public transport, pedestrians and cyclists</i></p>	<p>the site and to adjoining areas is to be maintained with all staged development applications for motor vehicles (including public transport), cyclists and pedestrians.</p> <p>In terms of the subsequent stage (Stage 2), access into the site shall be via a 4 way one lane circulating roundabout on Wine Country Drive.</p> <p>A roundabout which services both this development and the proposed development at 'The Vintage' Development (to the west) has been the subject of discussion between the relevant proponents and would be subject to a VPA (Voluntary Planning Agreement) being apportioned to the respective proponents. Final design shall be approved by Council in consultation with the RMS, with the development application for Stage 2.</p> <p>All road, footpath and cycleway works are required to be completed in accordance with Council's standards under later stages.</p>
<p><i>(c) an overall landscaping strategy for the protection and enhancement of riparian areas and remnant vegetation, including visually prominent locations, and detailed landscaping requirements for both the public and private domain</i></p>	<p>A landscape plan must be submitted with a development application for subdivision. Any future landscaping should aim to utilise locally occurring species. The subdivision design is to provide for lot frontages addressing streets, and drainage reserves.</p>
<p><i>(d) a network of passive and active recreational areas</i></p>	<p>The indicative layout plan identifies areas of passive and active recreational spaces. Embellishment of passive open space is to be undertaken in accordance with Councils Recreation and Open Space Strategic Plan (2009) at later stages.</p>
<p><i>(e) stormwater and water quality management controls</i></p>	<p>Adequate stormwater management must be provided at all times during the staged release of land. Stormwater management facilities are to include appropriate landscaping and are to be designed to Council's standards.</p> <p>All development applications are required to demonstrate that there will be no detrimental impact on downstream waterways, wetland environments or agricultural productivity as a result of new development. Details are to be submitted with the development applications or at each stage for the subdivision.</p>
<p><i>(f) amelioration of natural and</i></p>	<p>The proposed subdivision layout takes into</p>

*environmental hazards, including bush fire, flooding and site contamination and, in relation to natural hazards, the safe occupation of, and the evacuation from, any land so affected*

consideration identified natural hazards as follows:

*Bushfire*

General Terms of Approval have been issued by RFS confirming that the development is capable of meeting the 'Planning for Bushfire Protection Guidelines' 2006.

Future development must be assessed in accordance with the NSW Rural Fire Service's 'Planning for Bushfire Protection Guidelines' 2006 and provide Asset Protection Zones (APZs) configured in accordance with the Guidelines.

*Flooding*

The land is affected by the 1% AEP flood modelling.

Future development must comply with the controls in flood affected areas outlined in Part Development: Specific Development Chapter 1: Subdivision Guidelines of the Cessnock DCP 2010.

*Flora and Fauna*

Any proposed tree removal shall be considered as part of subsequent development applications for future stages.

*Riparian Corridors*

A Vegetation Management Plan (VMP) must be submitted with any future development application to subdivide the land that will result in an impact on a riparian corridor.

The VMP shall identify a strategy to appropriately manage the natural watercourse and riparian vegetation.

Appropriate measures shall include:

- the implementation of a core riparian zone and vegetated buffer combined into a single vegetated riparian zone (VRZ) in accordance with the Department of Primary Industries - Office of Water Guidelines for riparian corridors on waterfront land;
- a restriction on vegetation removal within the VRZ;
- no buildings other than posts & rails are permitted within the VRZ



	<p><i>Salinity</i></p> <p>Salinity level investigations and appropriate amelioration responses must be submitted with the Stage 2 development application and each subsequent stage, to determine the suitability of footing design and road pavement design parameters with respect to rock outcrops, soft/saturated soils, erosion potential and salinity.</p>
<i>(g) detailed urban design controls for significant development sites</i>	<p>Detailed urban design controls are not critical to the site as the URA is not located in an environmentally sensitive location. Notwithstanding, the following matters have been considered:</p> <p><i>Aboriginal Heritage</i></p> <p>A cultural Heritage Management Plan shall be prepared must be submitted with the Stage 2 development application and each subsequent stage, and approved by Council in consultation with the OEH and Local Aboriginal Land Council.</p> <p><i>Rural Land Interface</i></p> <p>Fencing is to make a positive contribution to the visual appearance of development. Fencing adjacent to the boundaries of the surrounding rural lands and visually sensitive areas shown on the Indicative Layout Plan shall be unobtrusive, compatible with the rural character, and may include timber post and rail style. Fencing details are to be submitted to Council with each development application.</p> <p>Development adjacent to rural zones lands are to be suitably designed so as to be compatible with the existing rural landscape and setting.</p>
<i>(h) measures to encourage higher density living around transport, open space and service nodes</i>	<p>The land is zoned SP3 Tourism, and densities are to be guided by the minimum lot size map of the Cessnock LEP 2011. The Urban Release Area, due to its location within the vineyards district area, is largely proposed as a low density precinct.</p> <p>A community management statement and design guideline shall be prepared and approved prior to the commencement of stage 3 works (community buildings) and stage 4 (the first of any stage incorporating individual buildings on residential sized lots).</p>
<i>(i) measures to accommodate and control appropriate</i>	<p>A community management statement and design guideline shall be prepared and approved prior to</p>

<i>neighbourhood commercial and retail uses</i>	the commencement of stage 3 works (community buildings) and stage 4 (the first of any stage incorporating individual buildings on residential sized lots).
<i>(j) suitably located public facilities and services, including provision for appropriate traffic management facilities and parking</i>	<p>There are no specific requirements in this regard as the land release was not considered large enough to warrant a commercial precinct or dedicated public facilities.</p> <p>Adequate access to public services and facilities will be available to future residents through works facilitated by Section 94 Contributions.</p>

### ***Environmental Planning and Assessment Act 1979 – Section 79C(1)***

In determining this Development Application, the consent authority is to take into consideration the assessment criteria of Section 79C(1) of the Environmental Planning and Assessment Act 1979.

In this case, it is noted that this proposal is for a 'concept' development application and Section 83B of the Environmental Planning and Assessment Act 1979 prescribes the following:

*The consent authority, when considering under section 79C the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.*

Effectively, in a concept development application, the consent authority is only required to assess the impacts associated with the concept proposal, and any first stage of development included in the application.

In this instance, the applicant has only submitted for approval the concept proposal, and the first stage of development. Therefore Council's assessment report relates only to these components. Any subsequent development application for future stages of the site will require further consideration under Section 79C when such development applications are lodged.

### ***(a)(i) The Provisions of any Environmental Planning Instrument***

The Environmental Planning Instruments that relate to the proposed development are:

- State Environmental Planning Policy No. 55 – Remediation of Land
- State Environmental Planning Policy No. 44 – Koala Habitat Protection
- State Environmental Planning Policy (Infrastructure) 2007
- Cessnock Local Environmental Plan 2011

An assessment of the proposed development under the Environmental Planning Instruments is provided below:

## **State Environmental Planning Policy No 55 – Remediation of Land**

Clause 7(1) of State Environmental Planning Policy No. 55 – Remediation of Land is relevant to the assessment of this Development Application.

Clause 7(1) requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The applicant submitted a phase 1 preliminary contamination assessment, prepared by *Coffey Geosciences Pty Ltd* (date 8 March 2006). Historical land ownership searches, a site visit, and aerial photograph reviews were conducted. The report concludes that *“...it is considered unlikely that there is wide-spread soil contamination that would prevent the site from being suitable for the proposed development. Localised soil contamination may be present around the house locations and shed, especially residual pesticides which may have been used for treatment of cattle grazed on the site, or as a deterrent to termite attack on structures. Building materials containing asbestos may be present in the existing house and shed, and fragments of such material may be present at the former house site.”*

As a precautionary recommendation, the report requires that *“...preliminary assessment of soil contamination be conducted in the vicinity of the house and shed locations, after demolition of those structures is complete. The purpose of the investigation will be to assess the need for further investigation and/or remediation.”* This will be a condition of consent.

It is worth noting that the dwelling and sheds are located in the north-west portion of the northernmost lot (Lot 11). This land (whilst not anticipated to contain contaminants that would render the land undevelopable) will not be used for residential or tourist accommodation purposes (these are proposed in the central, southern and eastern portion of the collective lots).

Accordingly, the subject site is deemed suitable for future development and the provisions of SEPP 55 are considered to be adequately addressed.

## **State Environmental Planning Policy No. 44 – Koala Habitat Protection**

State Environmental Planning Policy No. 44 – Koala Habitat Protection aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas.

The site comprises an area of 238.63 hectares, and the SEPP is therefore applicable in accordance with the provisions of Part 2, Clause 6.

The submitted ecological assessment report prepared by *RPS Australia East* (Date June 2013) and updated by *MJD Environmental Pty Ltd* (Date 26 April 2016) makes reference to this policy. Both of these documents were reviewed by Councils Ecologist. It was found that the study area does not constitute ‘potential’ or ‘core’ koala habitat as the number of koala feed trees across the site are less than 15% of the total number of trees in the upper and lower strata of the tree component. Some remnant patches of native vegetation contained koala feed trees at a density greater

than 15%. However, additional investigations failed to record past or current use by koalas.

While the SEPP applies to the site, an assessment of the application against the provisions of the SEPP has identified that the vegetation on the site does not constitute feed trees for koalas. On this basis, the site is not considered to comprise potential koala habitat, and therefore, Council is not prevented from granting development consent to the development application, as per the provisions of Part 2, Clause 7(3)(a), which states;

*(3) If the council is satisfied:*

*(a) that the land is not a potential koala habitat, it is not prevented, because of this Policy, from granting consent to the development application...*

No further provisions of the policy apply.

## **State Environmental Planning Policy (Infrastructure) 2007**

Pursuant to Schedule 3 Traffic Generating Development, of *State Environmental Planning (Infrastructure) 2007*, the masterplan provides for future subdivision and tourist facilities utilising Wine Country Drive for access. Council sought RMS comment on this matter (noting that concurrence is not required for the Stage 1 works comprising this application), and it was agreed that the future stages including the subdivision of the residential allotments and tourist facilities, will be subject to separate applications and referral to RMS under this SEPP.

The RMS response raised issue with a proposed access crossing designed to enable 'service vehicles' access to the subject site from Wine Country Drive. It is noted that Stage 1 is purely a 'paper subdivision' and no physical works are required at the site. This means 'service vehicle' access to the site is not necessary. Accordingly, the applicant agreed to remove the proposed access onto Wine Country Drive for Stage 1; noting that Stage 2 will be the stage that triggers formal intersection works onto Wine Country Drive.

## **2. Cessnock Local Environmental Plan 2011**

### **2.1 Permissibility**

The subject site is zoned SP3 Tourist under the provisions of Cessnock Local Environmental Plan (CLEP) 2011. The Stage 1 proposed development is categorised as subdivision of land under Section 4B of the Environmental Planning and Assessment Act 1979 which provides the following:

*The division of land into two (2) or more parts that, after the division, would be obviously adapted for separate occupation, use or disposition.*

Pursuant to Clause 2.6 of Cessnock LEP 2011, all land which is not considered 'deferred matter' may be subdivided only with development consent.

In granting consent under this clause, Council must also be satisfied that subdivision would not result in an existing principal and secondary dwelling being situated on separate lots – this proposal does not contain a secondary dwelling and therefore complies with this clause.

## 2.2 Objectives

The objectives of the SP3 Tourist zone are as follows:

- *To provide for a variety of tourist-oriented development and related uses.*
- *To allow for integrated tourist development.*

It is considered that the proposed development is consistent with these objectives. The Stage 1 community title subdivision has been designed to facilitate future stages of the concept masterplan. The future stages are proposed to contain a 50/50 mix of permanent accommodation and short term tourist accommodation within a golfing resort. These uses are compatible with the intent of both objectives, which is to promote and allow for integrated tourist development.

## 2.3 Relevant Clauses

The Development Application was assessed against the following relevant clauses of CLEP 2011:

- Clause 4.1AA Minimum subdivision lot size for community title schemes

The objective of this clause is to *“ensure that land... is not fragmented by subdivisions that would create additional dwelling entitlements.”* The clause stipulates that community title applications lodged over land in the SP3 zone are subject to this clause [4.1AA (2) (ba)]. The specific requirement of this clause is that: *“The size of any lot resulting from a subdivision of land to which this clause applies (other than any lot comprising association property within the meaning of the Community Land Development Act 1989) is not to be less than the minimum size shown on the Lot Size Map in relation to that land.”*

It is noted that the nominated land is not subjected to the Lot Size Map which prescribes minimum lot sizes. The land therefore does not have a minimum lot size which it must comply with. The proposed four lot community title subdivision (stage 1) will not create additional dwelling entitlements; the lots have been designed to accommodate the further stages that will be lodged under future applications in accordance with the concept masterplan. Clause 7.11 of the Cessnock Local Environmental Plan 2011 provides considerations for the amount of dwellings and development permitted upon the subject land (discussed further within this report).

- Clause 5.10 Heritage Conservation

A number of items of aboriginal cultural significance have been identified on the site. No items of european heritage are located on the site. A heritage item of local significance: *Blick Bros. Graves at Belbourie Winery*, exists on the adjoining property to the north-east (1176 under Schedule 5 of the CLEP).

The applicant submitted an Aboriginal Heritage Due Diligence Assessment (prepared by L Roberts and dated 12/03/2013) and a draft Aboriginal Heritage Management Plan.

The site is not an identified Aboriginal Place of Heritage Significance; therefore the provisions of Clause 5.10(8) do not apply. However; the considerations of Clause 5.10(2)(a-f) have been reviewed and a comment of compliance is provided below:

*(a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):*

- (i) a heritage item,*
- (ii) an Aboriginal object,*
- (iii) a building, work, relic or tree within a heritage conservation area,*

Comment: According to the Aboriginal Heritage Due Diligence Assessment, the site contains a number of Aboriginal objects. The object sites identified in this study are shown on the masterplan and the applicant has committed to ensuring that they will not be disturbed. In addition, a transect north/south across the site (where clusters of objects were located), has also been excluded from development.

A draft Aboriginal Cultural Heritage Management Plan (ACHMP) has been prepared and is currently under review by the local Aboriginal Land Council. This draft document was submitted for review as part of the stage 1 considerations.

The applicant has indicated that a building will be provided to house and display items of Aboriginal heritage onsite. The ACHMP will be finalised prior to lodgment of subsequent development applications associated with the staging.

*(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,*

Comment: N/A. The site does not contain any heritage items listed in Schedule 5 of the CLEP.

*(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,*

Comment: The stage 1 proposal does not contain any physical works (including 'excavation') that will 'disturb' or otherwise impact an archaeological site.

*(d) disturbing or excavating an Aboriginal place of heritage significance,*

Comment: N/A. The land is not a statutorily identified Aboriginal place of heritage significance.

*(e) erecting a building on land:*

- (i) on which a heritage item is located or that is within a heritage conservation area, or*
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,*

Comment: The stage 1 works do not propose the erection of a building on any land.

*(f) subdividing land:*

- (i) on which a heritage item is located or that is within a heritage conservation area, or*
- (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.*



Comment: Stage 1 proposes the subdivision of land and the land has been identified to contain Aboriginal objects. The submitted *Aboriginal Heritage Due Diligence Assessment* recommends that an *Aboriginal Heritage Management Plan* be prepared in consultation with the Mindaribba Aboriginal Land Council and the Wonnaruah people. Whilst it is noted that draft *Aboriginal Heritage Management Plan* has been submitted, the future agreed plan shall be prepared taking into consideration the specific works proposed for each subsequent stage involving works that will be lodged.

- Clause 6.1 – Arrangements for Designated State Public Infrastructure

Clause 6.1 has the effect of precluding Council from granting consent to the subdivision of land within an Urban Release Area until such time as satisfactory state infrastructure contribution arrangements have been made, and a Certificate from the Director General has been issued.

The Department of Planning and Environment issued a Satisfactory Arrangements Certificate (SAC) on 18 April 2017.

- Clause 6.2 – Public Utility Infrastructure

Development consent must not be granted for development on land in an Urban Release Area unless the Council is satisfied that any public utility infrastructure that is essential for the proposed development is available or that adequate arrangements have been made to make that infrastructure available when required.

The applicant has provided three options for wastewater utility services. The options are satisfactory to enable the disposal of wastewater and can be considered and assessed under later stages.

Other utility arrangements, including telecommunications, water and electricity can be achieved at the site.

- Clause 6.3 – Development Control Plan

This Clause provides that consent must not be granted for development on land in an Urban Release Area unless a development control plan addressing all prescribed matters has been prepared.

Notwithstanding the above, the applicant has sought approval under Section 83C of the Act which satisfies the requirements under this standard as consent is sought for a concept development.

- Clause 7.3 – Flood Planning

In part, Clause 7.3 states as follows:

*‘(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

*(a) is compatible with the flood hazard of the land, and*

- (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) *incorporates appropriate measures to manage risk to life from flood, and*
- (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding’.*

Whilst it is noted that portions of the site are flood affected (notably proposed Lot 3 in the Stage 1 subdivision), the proposed Stage 1 subdivision does not create lots that enable use of the land for solely residential purposes. The land must be developed in accordance with the requirements of Clause 7.11 of CLEP, meaning that future stages shall propose land uses compatible with integrated tourist development. The latter stages as detailed in the concept masterplan outline the future intentions of the site.

Council's Development Engineer reviewed the submitted plans. The review confirmed that the concept layout of residences and tourist buildings will be clear of the 1 in 100 year flood affectation zone; however some lots (proposed lots 304 and 305 in stages 3) have the potential to be cut off in a flood event. Specifically, access roads to these lots may fall below the 1% AEP flood level. The applicant stated that effective access can be provided in accordance with the definition of the Floodplain Management Manual, being “...an exit route that remains trafficable for sufficient time to evacuate people and possessions...”

In short, if the 1% AEP flood level is exceeded, there will be a series of visual warnings to the residents as flood waters rise (e.g. flood waters rising to the level of lots at or above the 1% AEP flood level, followed by inundation of dwelling floors at the flood planning level - during which time the road is still trafficable). This meets the requirements of the *NSW Government Floodplain Development Manual (Section L6.8)*, and therefore the requirement of Clause 7.3 has been addressed.

▪ Clause 7.11 – Integrated Tourist Development at Wine Country Drive, Pokolbin

This clause relates specifically to the subject site [as detailed in 7.11(1)]. The clause states:

- (1) *This clause applies to land at Wine Country Drive, Pokolbin, being Lots 2–4, DP 869651 and Lot 11, DP 1187663.*
- (2) *Development consent must not be granted to any development on land to which this clause applies unless:*
  - (a) *the consent authority is satisfied that the development is integrated tourist development, and*
  - (b) *the total number of permanent residential dwellings on that land does not exceed 300, and*

*(c) the total number of serviced apartments and hotel or motel accommodation units used for the purposes of tourist and visitor accommodation on that land does not exceed 300, and*

*(d) the total number of permanent residential dwellings does not exceed the total number of serviced apartments and hotel or motel accommodation units on that land used for the purposes of tourist and visitor accommodation at any time.*

*(3) In this clause:*

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

The concept masterplan demonstrates a tourism focused development encompassing 18 hole golf course, 5 star hotel, tourist villas, residences and sports and recreational facilities. The number of permanent residences and tourist accommodation maintain the limit of 300 units each.

The staging of the development is such that the land release and subsequent construction of permanent residential dwellings and tourist accommodation units will comply with the stipulated 1:1 ratio at any given time, pursuant to clause 7.11(d). This matter will be considered when future applications for later stages of development are lodged.

***(a)(ii) The Provisions of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)).***

No Draft Environmental Planning Instruments are relevant to the application.

***(a)(iii) The Provisions of any Development Control Plan***

#### **Cessnock Development Control Plan 2010**

Chapter D.1 Subdivision Guidelines applies to all subdivision proposed within the Cessnock LGA. This chapter has no specific guidelines for subdivision proposed within the SP3 Tourist zone. Concept plans submitted with the application indicate that the proposed four lot subdivision (creating the 'super lots' for the future subdivision) can support residential lots, roads and infrastructure services.

The proposal is generally consistent with the objectives of this chapter, noting that in lieu of preparing a site specific DCP in accordance with Clause 6.3 of the CLEP, the applicant has opted to lodge a concept development application in accordance with Section 83C of the Environmental Planning and Assessment Act 1979.

***(a)(iiia) The Provision of any Planning Agreement that has been entered into under Section 94F, or any draft Planning Agreement that a developer has offered to enter into under Section 93F***

No such agreement has been proposed as part of this application.

***(a)(iv) The Regulations***

There are no matters prescribed by the Regulations that apply to this development.

**(b) *The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality***

As demonstrated by the above assessment, the proposed development is unlikely to have a significant impact on both the natural and built environments. The social and economic conditions of the locality will be enhanced by the proposed development as identified by the strategic assessment of the Social & Economic Impact Assessment provided in consideration of the Golden Bear Planning Proposal in 2013.

The relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979 have been considered as follows:

**Natural Hazards**

***Bushfire***

The proposed development is classed as 'Integrated Development' pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979*, with approval from the NSW Rural Fire Service (RFS) required for the subdivision of bushfire prone land. The land could lawfully be used for residential purposes; therefore the provision of Section 100b of the Rural Fires Act 1997 applies.

The south west part of the site together with northern and eastern boundaries is identified as bushfire prone land. The area in the south west provides the largest area of remnant vegetation. The nominated areas to the north and east correspond with the riparian vegetation. The corresponding mapping shows that the site contains Vegetation Categories 1 and 2 bushfire buffer areas.

The RFS provided a Bushfire Safety Authority via General Terms of Approval (GTA's) on 26 April 2017. The GTA's stipulate the following:

***Asset Protection Zones***

*The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:*

*1. At the issue of a subdivision certificate, a suitable legal mechanism(s) shall be created over lot 2 which requires the following to be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':*

- Land within 50 metres of Lot 3 except for areas shown as 'Remnant vegetation Woodland', 'Remnant vegetation forest' or 'Remnant vegetation Rainforest' on Drawing No. BTA 102, prepared by hdb, dated 6/4/2017, job No. 15/029;*
- Land for a distance of 15 metres either side of the future access road carriageway in lot 1.*

It is considered that these requirements can be feasibly carried out because land within 50 metres of proposed lot 3 is managed grazing land, and the road reserve within proposed lot 1 is predominantly cleared.

### *Flooding*

The subject site is affected by flooding from Black Creek and the unnamed 4<sup>th</sup> order watercourse.

While the proposed residential lots are located above the 1:100 year flood level, previous engineering referrals have requested additional consideration of the proposed "Lot 304" and "Lot 305" residential lots in accordance with the requirements of the NSW Government Floodplain Development Manual.

Following a meeting with the applicant on 8 November 2017, additional information was submitted on 9 November 2017. In their correspondence the applicant suggests that effective access can be provided in accordance with the definition of the Floodplain Management Manual, being *"...an exit route that remains trafficable for sufficient time to evacuate people and possessions..."*

Further to the quote provided by the applicant, Section L6.8 of the Manual states:

*"... in potentially hazardous developments (such as isolated high spots of land and canal subdivisions which can become inundated in floods larger than the event used to derive the FPL), provision should at least be made for access routes in extreme flood events. Access routes do not have to be above the PMF level but be at a level of flood protection that, in combination with effective warning time, development type and flood duration, provides adequate time for evacuation and reduces risk to acceptable levels."*

From correspondence provided by the applicant and discussions at the meeting, it is proposed that the "Lot 304" and "Lot 305" residential lots would be at or above the 1% AEP flood level at their rear boundary, rising to the road at the front boundary. The proposed road levels, confirmed by the revised concept long section, would then be approximately 1m above the 1% AEP flood level.

If the 1% AEP flood level is exceeded, there will be a series of visual warnings to the residents as flood waters rise (e.g. flood waters rising to the level of lots at or above the 1% AEP flood level, followed by inundation of dwelling floors at the flood planning level - during which time the road is still trafficable).

Justification provided by the applicant that the proposed development has considered the requirements of the *NSW Government Floodplain Development Manual*, is considered acceptable for assessment of the masterplan.

### Flora and Fauna Impacts

The vegetation onsite is mapped as *Central Hunter Swamp Oak Forest (Swamp Oak Variant) Endangered Ecological Community (EEC)*, *Hunter Narrow-leaf Ironbark – Spotted Gum Forest EEC* and *Central Hunter Riparian Forest EEC* bordering the 6th order watercourse (Black Creek) located along the eastern boundary of the site. In addition, a 4th order watercourse occurs approximately in the centre of the site with a further 3rd order watercourse in the northern portion of Lot 2.

In total, the staged masterplan proposal will result in the removal of approximately 12.95 hectares of native vegetation including one hollow bearing tree. A revegetated area of 38.75 hectares is proposed as a result of the proposal. It is recommended that a Restoration Plan for native revegetation areas and a Management Plan for existing native vegetation, restored native vegetation and vegetation planting for landscaping is prepared in accordance with latter stages of development. It is recommended that the proposed plans be presented in the form of a Vegetation Management Plan (VMP) when further stages are submitted.

No works are proposed during stage 1 of the development. Therefore, no ecological impact is expected at this stage of assessment. A series of recommendations relating to the masterplan have been made by Council's Ecologist and the submitted *Flora and Fauna Report dated June 2013* and the *Ecological Update by MJD Environmental Pty Limited*.

### Visual Impact

A Visual Impact Assessment was initially undertaken in 2007 by *Richard Lamb & Associates* in conjunction with the rezoning application. This report was subsequently updated in 2013. The updated Visual Impact Assessment identifies the impacts of the proposal on the scenic quality, visual character and qualities of the vineyards district.

The predominant landscape character (grazed floodplain and the remnant areas of vegetation) of the site are typical of the vineyards district and the broader Hunter region. There are no distinctive features that require preservation of views to or from the site, and the existing landscape attributes are not considered to be a constraint on the future development of the site.

As part of the Visual Impact Assessment, multiple view-points were identified in and around the subject site and the overall extent of visual impact was seen to be generally low, or low to medium. View lines from sensitive public areas along Wine Country Drive can be managed through appropriate landscape design and buffers.

It is noted that the site is already impacted visually by the neighboring 'The Vintage' development. The likely anticipated impact from this development is not considered to be any more significant than that proposed within the north-east part of 'The Vintage' estate. The development is therefore considered to be compatible with the site and will not have any negative impact on the gateway to the Vineyards District or developments and land uses in its vicinity.

### Water

#### *Stormwater Management*

Stormwater run-off from the golf course area and sealed areas will have nutrient loads and therefore will need to be treated prior to re-use or discharge into natural watercourses. A Gross Pollutant Trap (GPT) system is likely to be proposed. This information can be provided at later stages.

#### *Water servicing – potable water*

There is no water main fronting the subject site, however it exists in the vicinity of the pump station located north of the intersection of Wilderness Road and Wine Country Drive, and the internal network servicing 'The Vintage' development. There is



sufficient capacity in this system to provide the minimum pressure requirements on the peak day and for firefighting purposes.

The applicant engaged a consultant to prepare a servicing strategy for the provision of a secure domestic water supply to the development. The recommended option includes the construction of a 100mm main to the site from the low pressure zone downstream of the existing pump station and a private reticulation network within the site consisting of 100mm mains. In order to ensure a steady supply, a private reservoir within the site will be required, with a trickle feed from the HWC mains. This reservoir will be designed with 48-hour capacity to service the development.

The internal reticulation system within the site will be privately owned and operated, as per correspondence from Hunter Water Corporation. There are no environmental constraints to the implementation of the recommended strategy and the new water mains will be wholly contained within the existing and proposed road reserves.

A strategy for non-potable water (i.e. water to irrigate the golf course) has also been prepared. This study will be reviewed and assessed during the assessment of stage 2 development.

## Waste

### *Sewer strategy*

Three potential options for servicing were considered by the applicant and outlined in a Wastewater Options Report, submitted by Whitehead and Associates.

The applicant has identified Option 2 of the report as the most feasible option. This option proposes an onsite decentralised wastewater system that utilises a STEP (Site Tank Effluent Pump) / STEG (Site Tank Effluent Gravity) system.

Wastewater will undergo further treatment via textile filters and advanced Membrane Bio-Reactor (MBR) to ensure high quality effluent suitable for internal reuse and irrigation. The recycled water demand and drought security will be provided by constructing a return line from Cessnock Waste Water Treatment Works and further treatment in the MBR. This option was considered to have minimal environmental impacts besides the low operational and maintenance costs when compared to the other options.

As no sewer option is necessary for stage, the concept outline for the masterplan works is considered satisfactory in this instance.

## Access, Transport and Traffic

### *Roads and Access*

Wine Country Drive is a classified state road, and accordingly, comment was sought from the Roads and Maritime Service (RMS) as part of the assessment. The applicant originally proposed to create an access off Wine Country Drive for the purpose of enabling service vehicle access to the site as part of Stage 1. The RMS objected to any new access onto Wine Country Drive without comprehensive intersection design works being submitted and considered first. The applicant did not wish to pursue creating an intersection design at this point in time (noting that the application itself confirms that latter stages will necessitate the need for considerable

intersection works. It was therefore agreed in written confirmation from the applicant (15/12/2017), that no new access will be proposed as part of Stage 1 works.

It was agreed during the assessment that Lot 3, DP 869651 currently has an existing access crossing that has allowed historical vehicular access to this site from Wine Country Drive and the southern portion of the subject land. Aerial imagery indicates that this access crossing and internal track is well established. In addition, Lot 11 DP has an existing access crossing which allows vehicular access to the northern portion of the subdivision. This access crossing relates to the existing dwelling on this lot.

Council has indicated a preference for access under the concept masterplan being via a four way, single lane roundabout on Wine Country Drive. This roundabout would ultimately service both the site the subject of this application, along with the balance of 'The Vintage' development (located to the west). The applicant confirms this intention in the SoEE at 3.1.2; *"The access to the site from Wine Country Drive will be aligned with that proposed for 'The Vintage' to facilitate the future construction of a roundabout that services both these sites."*

The concept masterplan for the Stage 2 works confirms that the lot layout selected for this future stage will correspond with the road reserve set aside for future roundabout works required by 'The Vintage' development. 'The Vintage' is committed to constructing a roundabout prior to the commencement of Stage 3 works of the related development consent (5/1995/80147/4) as per Section 2.4 of Chapter E.2 'The Vintage' within the Cessnock Development Control Plan 2010.

Finally, it is noted that the CLEP 2011 (Land Reservation Acquisition Map - Sheet LRA\_005), identifies the site as being subject to local road widening. In accordance with RMS advice, any improvements proposed by the concept masterplan shall exclude the area required for road widening purposes.

### *Traffic*

The applicant submitted a *Traffic Impact Assessment* (prepared by *Better Transport Future*, dated 30 April 2016), in support of the proposal. The Traffic Impact Assessment was independently reviewed by 'Arkhill Engineers' with advice provided to Council's Local Development Committee. Council's Development Engineers also conducted a review of traffic matters.

Importantly, the submitted Traffic Impact Assessment provides an update to the previous study undertaken in support of the rezoning application completed in 2013. The new study now considers the Hunter Expressway (which opened in 2014), and the nearby Huntlee development.

The Traffic Impact Assessment is considered to provide a reasonable assessment of traffic generated by the development and the likely intersection requirements; however no road work is proposed under Stage 1, therefore a detailed assessment of traffic matters associated with latter stages has not been conducted. A full traffic assessment will be completed for each future development application.

### Heritage

#### *Aboriginal Archaeology*

Previous archaeological review of the site has revealed that a number of Aboriginal artefacts are located on land. The identified Aboriginal object locations are proposed

to be separated from all future development works proposed in Stages 2-7. Additionally, the applicant has identified a transect through the north-south of the site as likely containing further artefacts. This area has also been excluded from development works.

A draft Aboriginal Cultural Heritage Management Plan (ACHMP) has been prepared and is currently under review by the local Aboriginal Land Council. Further consultation and finalization of the ACHMP will take place once further stages are submitted.

#### *Agricultural Impacts*

The Agricultural capability study lodged with the planning proposal indicates the land is not suitable for viticulture, although it is suitable for other forms of agriculture, and has similar characteristics to other land that is zoned rural and used for agricultural purposes other than viticulture.

Notwithstanding, the land has not been identified as important agricultural land in the Hunter Council's Mapping of Important Agricultural Lands in the Lower Hunter Region of NSW.

#### *Economic Impact*

It is likely that the proposal will attract tourism to the area, particularly those drawn to the golf course at the site. Visitors attending the site for golf matters may then visit other local attractions, cafes and businesses, or even stay in the region for multiple days before/afterwards. This will have a positive effect on the local economy.

Additionally, the construction of the development will create jobs for people within the construction industry.

#### **(c)     *The suitability of the site***

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development as the subdivision design makes provisions for identified site constraints.

#### **(d)     *Any submissions made in accordance with this Act or the Regulations***

The Development Application was publicly exhibited between 7 and 21 December 2016.

Three (3) separate submissions were received during the exhibition period. Two (2) of the submissions were in objection to the proposal, whilst one (1) was in support. One objecting submission was signed by two persons, while the remaining objecting submission was signed by four persons. The remaining submission was prepared by the Hunter Wine Industry Association and contained a series of questions with respect to the proposal, whilst expressing overall support for the development.

The following tables address the comments raised in the submissions, and Council's response to each:

*Two (2) submissions received objecting to the application*

OBJECTION SUMMARY		
Submission Category	Submission Comment Summary	Comment from Assessment
Contamination of Black Creek	<p><i>The risk of contaminants seeping into Black Creek should be addressed. There is a risk of:</i></p> <ul style="list-style-type: none"> <li><i>• Engine oil and vehicle waste washing into stormwater systems and polluting Black Creek.</i></li> <li><i>• House hold waste (garden pesticides) seeping into the ground and stormwater, and then contaminating Black Creek.</i></li> <li><i>• Building rubbish and debris entering Black Creek.</i></li> </ul>	The applicant has submitted a concept stormwater management plan for the masterplan. This concept detail specifies that Gross Pollutant Traps (GPT's) and nutrient collectors will be deployed to absorb and treat pollutants prior to stormwater entering the Black Creek watercourse. Further detail on this matter will be required once additional stages are submitted.
Flood	<i>Contamination of Black Creek (as stated above) will be worsened during times of flood.</i>	A comprehensive stormwater management plan will be required for submission at latter stages. This management plan will need to assess the ability of the site to dispose of stormwater during the 1% AEP flood event; particularly with regard to nutrient collectors.
Flood	<i>Black Creek is known to flood 2-3 times per annum. The flood waters tend to absorb into the subject site, once the development goes ahead, this flood water will be displaced – but to where?</i>	A comprehensive stormwater management plan will be required for submission at later stages. This management plan will need to assess the ability of the site to dispose of stormwater during the 1% AEP flood event.
Traffic	<i>Wine Country Drive is considered to be a vehicle accident 'black spot' and the additional traffic cannot be absorbed into its capacity.</i>	As demonstrated within the assessment report, Wine Country Drive has the capacity to accommodate existing vehicles using this road as well as the additional future vehicles associated with this development.
Traffic	<i>Of major concern with traffic is the ability for vehicles to safely enter and exit the site from Wine Country Drive.</i>	The stage 1 component of this proposal does not propose any additional vehicular access onto Wine Country Drive. Intersection works will be a

		consideration of future stages (likely stage 2). The applicant has stated that a four-leg roundabout is the desired intersection treatment for vehicles entering and exiting this site.
Density and Scale of Development	<i>The surrounding area is rural land. Historically, Council has prohibited rural land owners from subdividing their rural land - this development is at odds with this.</i>	<p>The subject land was rezoned via an amendment to the CLEP (Amendment No 10) gazette on 22 August 2014. This amendment rezoned the land from RU4 to SP3; enabled subdivision of the land via Clauses 4.1AA and 4.2B and permitted integrated tourist development via the insertion of Clause 7.11 into the CLEP.</p> <p>This process undertook a separate assessment, whereby public comment was invited, received and considered.</p>
Services	<i>Services (including telecommunications, water and sewage) in the area will become overburdened, causing a negative impact to existing residents in the area.</i>	An upgrade to existing services is required in order to support the expected population growth.
Visual Impact	<p><i>'The Vintage' does not present as a visually appealing locality – comprising high glare roofs and limited tree planting.</i></p> <p><i>Further development like this could have a negative impact on property values.</i></p>	<p>The stage 1 proposal relates to a four lot community title subdivision and concept masterplan. No physical works are proposed at this point in time. Until such time as physical works are proposed and the design qualities of buildings are under assessment, there are no known visual impact issues (i.e. roof glare and landscaping) to consider.</p> <p>In addition to this this and notwithstanding the above, case law from the NSW Land and Environment</p>

		<p>Court of NSW is clear in respect to how the Court determines whether issues relating to loss in property values are given weight (as a result of a proposed development). In <i>Alphatex Australia v The Hills Shire Council (No 2)</i> [2009], the Commissioner stated: <i>"I pay no regard to the fears about loss of property values as, consistent with the position long taken in the Court, this is not a relevant planning consideration"</i>.</p>
Aboriginal Artefacts	<p><i>Artefacts have been found in the area. They will be disturbed by the development.</i></p>	<p>The applicant has acknowledged the existence of Aboriginal objects on the site via the <i>Aboriginal Heritage Due Diligence Assessment</i>. The object sites identified in this study are shown on the masterplan and will be retained on the site. In addition to this, legislation ensures that Aboriginal objects cannot be disturbed (<i>National Parks and Wildlife Act 1974</i>) and if located, the Office of Environment and Heritage must be consulted immediately.</p> <p>A draft Aboriginal Cultural Heritage Management Plan (ACHMP) has been prepared and is currently under review by the local Aboriginal land Council. This document was submitted for review as part of the Stage 1 considerations (which do not involve ground works). The ACHMP will need to be finalised in conjunction with the submission of latter stages involving physical works (i.e. Stage 2 onwards).</p>
Flora and Fauna	<p><i>Any change to this area could</i></p>	<p>The potential flora and</p>



	<i>adversely impact vegetation and animal life, particularly around Black Creek.</i>	fauna impacts have been addressed previously within this report.
Flora and Fauna	<i>The 'density' of the development could have an adverse impact on the flora and fauna corridors on the north-eastern side of Wine Country Drive and Black Creek.</i>	The potential flora and fauna impacts have been addressed previously within this report.
Salt Table	<i>There is a possibility that there is an underlying saline water table only 8-10 metres subterranean. If this salt is disturbed it could have significant consequence to grazing land, vineyards and horse studs.</i>	Salinity levels associated with Black Creek catchment area will be managed with a Salinity Management Plan submitted with Stage 2 of the proposed development.
Questions	<ul style="list-style-type: none"> <li><i>Do we really need another golf resort and development?</i></li> <li><i>How many is too many?</i></li> <li><i>Is our tourist demand for golf resorts growing that fast?</i></li> <li><i>Do other golf resorts have an occupancy rate of 60-70% which is needed to have a successful business?</i></li> <li><i>Will this impact on the existing accommodation, small B&amp;Bs be considered?</i></li> <li><i>Do we need more residential development?</i></li> </ul>	<p>The proponent has determined that there is a need for a facility of this nature within the area. The existence of other golf courses within the region is not a relevant planning consideration.</p> <p>There is no evidence to suggest that this development will have an adverse impact on existing tourist accommodation venues in the area. The intent of the masterplan proposal is to encourage tourism to the area; therefore existing venues may receive a positive impact from additional tourists to the area.</p> <p>The need for additional residential development in the area was considered during the rezoning of the land.</p>

*One (1) submission received in support of the application*

The submission in support was received from the *Hunter Valley Wine & Tourism Association*. The submission stated that: *"the Association does not have any objection to this development proposal, provided it complies with the LEP/DCP."*

Notwithstanding, the submission did note some items that the Association would like to ensure are considered. These items and comment are provided below:

SUPPORTING SUBMISSION COMMENTS		
Submission Category	Submission Comment Summary	Comment from Assessment
Tourism component / staging of development	<i>The tourism component of the proposal is critical and the Association would like to see the golf course and associated buildings completed in the early stages of the project.</i>	The golf course is scheduled for construction as part of Stage 2 works; the associated clubhouse and pro shop as well as the first tourist and residential uses are proposed in Stage 3.
Landscaping	<i>An advanced landscaping requirement should form part of the development approval both within the project and on the boundaries of the development which will soften the effect of the built form within the vineyard landscape.</i>	Landscaping and environmental offset works are proposed in the Stage 2 portion of the masterplan. These works will therefore be established by the time the building works commence in later stages; this will assist in reducing the visual dominance of the proposed later works.
Architectural qualities of buildings	<i>Design review guidelines for architecture and landscaping should form part of the overall DA approval.</i>	Whilst formal design review guidelines do not exist, visual impact and aesthetics will be considered during the assessment of all future works proposed on the site.
Community Title	<i>A proposal of this nature should be conducted under community title to ensure that maintenance standards are in place for landscaping, roads and opens space upkeep.</i>	The proposal has been submitted as Community Title.
Environmental	<i>Black Creek should be protected from the impact of chemical fertiliser or run off from the golf course. The increase in requirements for irrigation of the golf course should not disadvantage any downstream properties on Black Creek.</i>	The applicant has submitted a concept stormwater management plan for the masterplan. This concept detail specifies that Gross Pollutant Traps (GPT's) and nutrient collectors will be deployed to absorb and treat pollutants prior to stormwater entering the Black Creek watercourse.

**(e) The public interest**

The public interest is served through the detailed assessment of this Development Application under the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments and Council Policies.

Based on the above assessment, it is considered that the proposed development is consistent with the public interest.

## **SECTION 94 CONTRIBUTIONS**

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Section 94 Contributions are not applicable for Stage 1. The Stage 1 works do not increase residential allotments or create tourist buildings, therefore no contributions are applicable, however, applications for development in the future stages will generate the requirement for Section 94 Contributions in accordance with the adopted plan.

## **INTERNAL REFERRALS**

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The Development Application was referred to the following Council officers for comment:

<b>Referral Officer</b>	<b>Comment/Outcome</b>
Flood Engineer	Flood information was prepared and used in a referral to development engineers.
Design Delivery	See Local Development Committee notes below.
Local Development Committee	<p>The referral comments for this Committee mirror the referral for the Design Delivery Office above. The comments note: <i>"Whilst Stage 1 of this development may proceed ahead of any further development of 'The Vintage', approval of the current Master Plan should be contingent on further liaison between Council, RMS and proponents of 'The Vintage', to ensure that future opportunities for a roundabout to serve both sides of Wine Country Drive are pursued."</i></p> <p>The referral then recommends the imposition of a four-legged roundabout at Stage 1. As is known, the applicant does not propose any additional vehicle connection to Wine Country Drive as part of Stage 1 works. Additionally there are no physical works proposed in this initial stage, therefore there is no nexus to require the applicant to complete major intersection works at this time.</p> <p>The applicant has stated an intent to carry out intersection treatment works as part of Stage 2. Given the critical nature of this matter, a recommended condition of consent has been imposed (Condition No. 5), ensuring that the matter of intersection treatment is addressed at the Stage 2 assessment of the masterplan.</p>
Environmental	Stage 1 works propose no form of onsite wastewater

Health: Onsite Sewer Management	disposal, therefore no objection raised.
Environmental Health	Health referrals to be carried out following lodgement of additional stages.
Ecological	No works are proposed for Stage 1 of the development. No ecological impact is expected and therefore, no conditions are recommended. A series of recommendations have been made regarding the development's masterplan which should be considered by the applicant in the later stages of development.
Development Engineers	A request for additional information is made. A number of revisions are made, with final referral comments raising no objection to the proposal, subject to recommended conditions of consent.
Community Planning	Stage 1 requires little input from a community planning perspective. It is noted that further stages will require the submission of a Social Impact Assessment and review from Community Planning at such time.
Heritage Officer	The recommendations of the archaeological reports have been considered. Conditions pertaining to the archaeological reports shall be imposed during the determination of future stages.
Strategic Planning	Recommended conditions of consent are received. Where appropriate, the recommended conditions have been applied to the draft notice of determination.

## EXTERNAL REFERRALS

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The Development Application was submitted as 'Integrated Development' in accordance with Section 91 of the Environmental Planning and Assessment Act 1979. The Development Application requires the concurrence of the NSW RFS in accordance with Section 100B of the Rural Fires Act 1997. General Terms of Approval were sought and received from the NSW RFS (summary provided below).

The Development Application was also referred to other external agencies for comment only (i.e. concurrence was not required or sought from these agencies).

All external agency input to this Development Application is summarised below:

Referral Authority	Comment/Outcome
DPI Water	<p>DPI Water has reviewed the concept plan and considers that future stages of the development will require a controlled activity approval and may also require water supply work approvals and associated Water Access Licence (WAL) from the Black Creek Water Source.</p> <p>The DPI Water raised concern that the current concept plan was not consistent with DPI Water Guidelines for Controlled Activity Approvals and therefore DPI Water may not be able to issue subsequent controlled activity approvals which are consistent with this proposed concept plan. The applicant</p>

	<p>revised minor detail in the concept plan, however this was not referred to the DPI as these matters can be addressed when the later stages are lodged.</p> <p>The DPI Water has no concurrence role in the undertaking of the Stage 1 works.</p>
Reticulated water & sewer supplier - Hunter Water Corporation	<p>Comments were sought from Hunter Water in order to determine the ability of the proposal to connect to water and sewer services. In the absence of any response, it is presumed that the preliminary advice provided by the Hunter Water Corporation and dated 14 January 2016 (submitted in support of the application), remains relevant. In any event, the stage 1 works do not require connection to water and sewer as the subdivision is for the creation of super lots only.</p>
Electricity Supplier - AUSGRID	<p>Ausgrid has no objection to the proposed development based on the information available at this time.</p>
RMS	<p>In conjunction with a number of discussions, the RMS provided comments on 31 October 2017. This referral raised no objection to the Stage 1 subdivision and concept masterplan provided no new access is approved in Stage 1. As discussed previously, the applicant agreed to amend the application to remove any proposed 'service vehicle' access to the site for Stage 1.</p> <p>The referral was accompanied by a series of advice requirements, mostly concerned with future intersection treatment to the site. These are outlined below:</p> <p><i>RMS advice to Council dated 31/10/2017</i></p> <p><i>Roads and Maritime recommends that the following matters should be considered by Council in determining this development:</i></p> <ul style="list-style-type: none"> <li><i>• It is recommended if the CHR option is pursued as the treatment, a plan be prepared to show that both CHR's (for 'The Vintage' and Golden Bear) can be accommodated on Wine Country Drive within the allocated road lot frontage for each development, compliant with Austroads and RMS standards, including tapers, turn lanes, transitions, sight distances etc.</i></li> <li><i>• It is also recommended that the traffic report be updated to show the CHR's for both developments, including trip generation for each, is an appropriate outcome for a 20 year life.</i></li> <li><i>• Whilst previous advice relates to the provision of a CHR for each development, it is noted that Council's preferred treatment remains a four way intersection in the form of a roundabout. Roads and Maritime recommend that funding of the roundabout be considered including the developers enter a Voluntary Planning Agreement to ensure equitable</i></li> </ul>

	<p><i>contributions towards the upgrade, to Council and Roads and Maritime's satisfaction.</i></p> <ul style="list-style-type: none"> <li><i>• Lots 2-4 DP869651 are affected by a road widening proposal shown by pink colour on attached maps (Attachment A) to achieve an overall width of 35m for Wine Country Drive. Any improvements to the property are to exclude the area required for road widening purposes.</i></li> <li><i>• Council should have consideration for appropriate sight line distances in accordance with the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed access promotes safe vehicle movements.</i></li> <li><i>• Discharged stormwater from the development shall not exceed the capacity of the Wine Country Drive stormwater drainage system. Council shall ensure that drainage from the site is catered for appropriately and should advise Roads and Maritime of any adjustments to the existing system that are required prior to final approval of the development.</i></li> <li><i>• Council should ensure that the applicant is aware of the potential for road traffic noise to impact on development on the site, in particular, noise generated by Wine Country Drive, a classified State road (B82). In this regard, the developer, not Roads and Maritime, is responsible for providing noise attenuation measures in accordance with the NSW Road Noise Policy 2011, prepared by the department previously known as the Department of Environment, Climate Change and Water.</i></li> </ul> <p>All advice recommendations from the RMS have been noted. Where appropriate, the advice conditions have been applied to the draft notice of determination. It is intended to pursue the RMS recommendation with respect to future stages that a VPA be developed between the proponent and the Vintage to ensure equity in the delivery of future road improvements</p>
NSW RFS (integrated under s100b of the Rural Fires Act 1997)	<p>A request for additional information was initially made. The applicant addressed the request and the information was provided to the NSW RFS for further assessment.</p> <p>General Terms of Approval were received from the NSW RFS on 26/04/2017.</p>

## CONCLUSION

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The Development Application has been assessed in accordance with Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, and all relevant instruments and policies.

As outlined in the report, it is considered unlikely that the development will result in any adverse impacts. The subdivision design has taken into consideration identified environmental constraints and the proposal is supported based on the following:

- The applicant is seeking approval for a concept masterplan, and Stage 1 works which comprising the creation of four (4) 'super lots' to accommodate future stages. All future stages (Stages 2 – 7), will be subject to submission and consideration of separate Development Applications pursuant to Section 83B(4)(a) of the *Environmental Planning and Assessment Act 1979*, at which time, the impact of those stages will be assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*;
- The suitability of the site for residential and tourist subdivision remains consistent with the merits established by Council's strategic assessment of the site's capabilities in the course of the planning proposal;
- Relevant issues associated with the development of Stage 1 have been resolved via a comprehensive assessment process and application of relevant conditions of development consent; and
- Issues raising during the public exhibition periods have been addressed by the planning assessment report, and it is considered that the issues raised do not justify refusal of the application.

It is recommended that the application be determined by the granting of consent, subject to the conditions contained in this report.

# CONDITIONS OF CONSENT

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## SCHEDULE 1

### TERMS OF CONSENT

#### **1. Staged Approval**

Pursuant to Section 83B of the Environmental Planning and Assessment Act 1979, development consent is granted only to works the subject of Stage 1, i.e., the creation of 4 super lots under a Community Title subdivision.

This consent does not authorise the carrying out of development on any part of the site concerned unless consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, pursuant to S83B(4)(a) of the *Environmental Planning and Assessment Act 1979*.

Subsequent Development Applications are therefore required to be submitted to, and approved by Council for Stages 2-7 of the proposed development summarised as follows:

STAGE	DEVELOPMENT WORKS
2	18 hole golf course
3	50 room hotel and club house including ancillary function centre and 50 residential lots)
4	70 serviced apartments, 70 residential lots, spa & recreation facilities
5	65 serviced apartments and 65 residential lots
6	60 serviced apartments and 60 residential lots
7	55 serviced apartments and 55 residential lots

#### **2. General Terms of Approval**

All General Terms of Approval issued by NSW DPI Water and RFS shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- a) NSW RFS (Reference Number D16/4114 DA16120205084JM, dated 26 April 2017).

A copy of the General Terms of Approval is attached to this determination notice.



### 3. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2016/731/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Stage 1 – Subdivision Plan (Super Lots)	HDB Planning Design Development	Undated
Proposed Staged Subdivision, Plan 2, Subdivision of Lots 1-4 DP 869651 (Concept Masterplan)	HDB Planning Design Development	18.04.2017

Document Title	Prepared By	Dated
Statement of Environmental Effects	HDB Planning Design Development	1 September 2016
Bushfire Threat Assessment	HDB Planning Design Development	July 2016

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

### 4. Vehicle Access

This approval does not grant new and/or additional vehicular access onto Wine Country Drive. Reference is made to email correspondence from the applicant, dated 15 December, 2017 confirming that no new and/or additional access is to be constructed in conjunction with Stage 1 of the development.

Where the existing access is proposed to be utilised for any construction traffic in Stage 1 of the development, the applicant is to provide a Construction Management Plan (CMP) detailing the manner in which construction traffic access to Wine Country Drive is to be managed to the satisfaction of Council and Roads & Maritime Services (RMS) prior to the commencement of any operations.

The plan must be submitted to and approved by Council as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:
  - i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
  - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
  - iii) The locations of proposed work zones in the frontage roadways.

- iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
  - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
  - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
  - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
  - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
  - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
  - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) During excavation, demolition and construction phases, noise generated from the site must be controlled.
  - c) All site works must comply with the work health and safety requirements of the New South Wales WorkCover Authority.
  - d) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site.
  - e) All traffic control plans must be in accordance with the RMS publication Traffic Control Worksite Manual and prepared by a suitably qualified person (minimum 'red card' qualification).
- The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.
- f) Approval is to be obtained from Council for any temporary road closures.
  - g) Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

## **PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE**

**The following conditions are to be complied with prior to issue of a Subdivision Certificate by Council.**

### **5. Requirement for a Subdivision Certificate**

Prior to the issue of a SC, the applicant shall submit an original plan of subdivision plus six (6) copies for Council's endorsement. The plan of subdivision must show street names and house numbering as allocated by Council. The following details are also to be submitted:

- a) Evidence that all conditions of Development Consent have been satisfied
- b) Evidence of payment of all relevant fees
- c) The 88B instrument plus six (6) copies
- d) All surveyor's and engineer's certification required by the Development Consent
- e) Evidence that the registered proprietors of the land on whose behalf the application was made have complied with the requirements of Section 50 of the Hunter Water Board (Corporation) Act 1991.
- f) Provide certification that all services (drainage, stormwater, water supply, gas, electricity, telephone) are contained within each lot, or within appropriate easements to accommodate such services.

## **6. Road Closure Notice**

Prior to the issue of the Subdivision Certificate, the applicant shall provide evidence to Council that the unnamed crown public road 20.115m wide and 10.06m wide within the site has been closed. Evidence of the road closure and a copy of the consolidated DP is to be submitted to Council.

## **ADVISORY NOTES**

### **1. Road Widening**

Local Road Widening to Wine Country Drive is required under the provisions of the Cessnock LEP, 2011 (Land Reservation Acquisition Map - Sheet LRA\_005). Any improvements proposed by the Masterplan shall exclude the area of land depicted by the Map as required for future road widening purposes.

### **2. Responsibility for Other Consents/Agreements**

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### **3. Vehicular Access – Stage 2 and subsequent stages**

Prior to lodgement of a Development Application for Stage 2, the applicant is to consult with Roads & Maritime Services (RMS) regarding future access arrangements from Wine Country Drive. Evidence of consultation is to be provided to Council.

Access to development proposed under Stage 2 of the development shall be via a four (4) way, single lane circulating roundabout on Wine Country Drive servicing both the 'Golden Bear' development and the proposed

development of 'The Vintage' Development balance land (located to the west of the subject land on Wine Country Drive). The roundabout design shall be approved by Council in consultation with the RMS in conjunction with any development application for Stage 2.

No residential development shall access Wine Country Drive prior to satisfactory arrangements having been completed under Stage 2 of the development proposal.