

COUNCIL ASSESSMENT REPORT

Panel Reference	2016HCC069
DA Number	8/2016/557/1
LGA	Cessnock City Council
Proposed Development	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
Street Address	Wine Country Drive, Lovedale NSW
Applicant/Owner	Capital Hunter Pty Ltd
Date of DA lodgement	7 September 2016
Number of Submissions	3
Recommendation	Determined by the granting of consent, subject to conditions.
Regional Development Criteria (Schedule 4A of the EP&A Act)	<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>
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • 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
List all documents submitted with this report for the Panel's consideration	<p>APPENDIX 1 – Development Plans</p> <p>APPENDIX 2 – Copy of Submissions</p> <p>APPENDIX 3 – Statement of Environmental Effects</p> <p>APPENDIX 4 – Concept Plan of Management</p> <p>APPENDIX 5 – Applicant Letter, 24 April 2018</p> <p>APPENDIX 6 – RMS Correspondence</p> <p>APPENDIX 7 – Applicant Response Letter, Deferral Notice, 8 June 2018</p> <p>APPENDIX 8 – Updated Plans, Flood Information</p>
Report prepared by	Kristen Wells
Report date	8 May 2018, Addendum Report 27 November 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?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Yes

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

No

Conditions

Have draft conditions been provided to the applicant for comment?
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

Yes

EXECUTIVE SUMMARY

An addendum report has been prepared for the Joint Regional Planning Panel (JRPP) in response to the 2018 deferral decision handed down on May 24, 2018. At the May 24, 2018 meeting, the JRPP determined to defer the decision pending the receipt of additional information and clarifying information.

The deferral items are provided below:

Item Number 1: *Council staff provide updated referrals and seek advice from key agencies regarding giving effect to the whole development subject of the staged DA, including (the actions stated).*

While not all matters need to be resolved in detail at this stage, there needs to be a framework that stipulates what pre-conditions need to be met at what stage of the development, to a degree of certainty to enable the development to proceed. This is expected to need iterative involvement of Council staff, the proponent and the relevant agencies.

Action 1.1 *Hunter Water and/or relevant agency responsible for the on-site waste water solution (which should include a preferred conceptual solution, not options),*

Action 1.2 *RMS (regarding road access taking into account entry location identified on the concept plan, the proposed concept land uses and yields) and what matter need to be resolved by when to enable the development to proceed and be serviced),*

Action 1.3 *DPI (regarding water impacts to and from the proposal),*

Action 1.4 *OEI (regarding fauna and flora impacts and the proposed offset solution).*

Item Number 2: *The applicant submit details to comply with Clause 6.3 of the Cessnock Local Environmental Plan 2011. In terms of these matters (listed in the actions).*

All this information shall be provided to Council within 2 months of the publishing of this decision. If the timetable is not able to be met, another option available for the applicant is withdrawal of the DA and lodgement of a new DA with the requisite information.

Action 2.1 *The staging plan shall include details of infrastructure provision and timing linked to the staging;*

Action 2.2 *The transport/road solution shall indicate the hierarchy of road access and sections to show widths of roads, footpaths and any street parking;*

Action 2.3 *The urban design guidelines could use the adjoining "Vineyards DCP" as a guide;*

Action 2.4 *And commercial uses should include measures to ensure destinational (sic) and independent retailing is not provided.*

Action 2.5 *The applicant shall also provide the Aboriginal Management Plan and advise of the current status of negotiations with the LALC.*

Item Number 3: *Council staff shall provide:*

Action required: *3.1 Written clarification that the proposal meets the definition of an "Integrated Tourist Development (noting the existing site is not on one lot and noting the proposed subdivision);*

Action required: *An assessment addressing the above matters as soon as practicable, and within 6 months;*

Action required: *A briefing to the Panel on the progress of the matter after 3 months.*

Additional item:

It is noted that Chapter C.9 - Development on Flood Prone Land - of the Cessnock Development Control Plan 2010 (DCP) is relevant to the assessment of the application. This part of the DCP came into effect on November 22, 2017. It is noted that Council's development engineers finalised their assessment of flood impacts associated with this proposal on November 24, 2017. A specific assessment against this part of the DCP was not undertaken, however, this issue has since been addressed via a re-referral to Council's Development Engineer.

A subsequent assessment of flood matters in relation to Part C.9 has taken place and is outlined within this report.

Executive Summary Continued:

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.

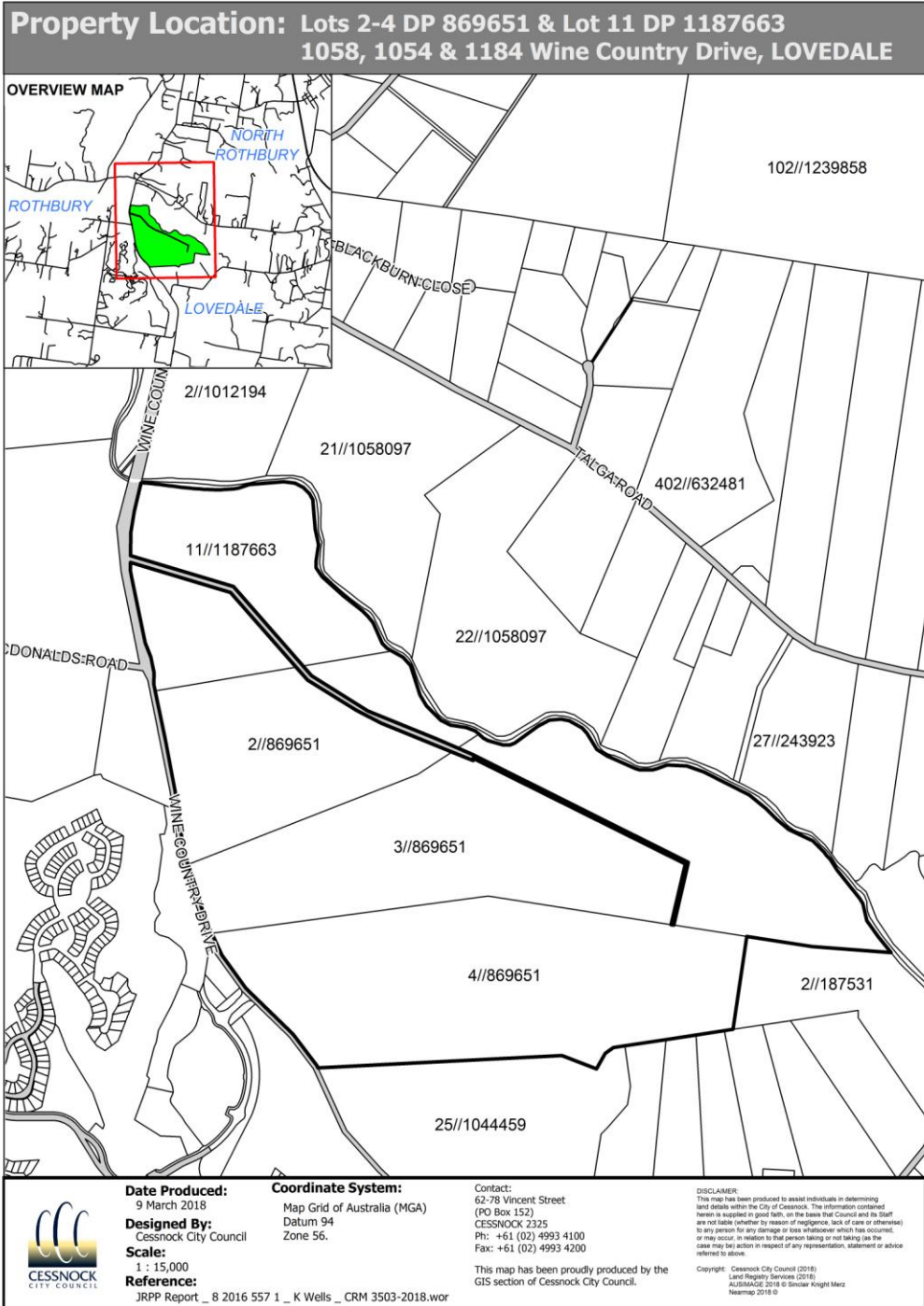
The Development Application has been submitted as 'Integrated Development' in accordance with Section 91 of the Environmental Planning and Assessment Act 1979; requiring the concurrence of the NSW Rural Fires Service (RFS) in accordance with Section 100B of the Rural Fires Act 1997. General Terms of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

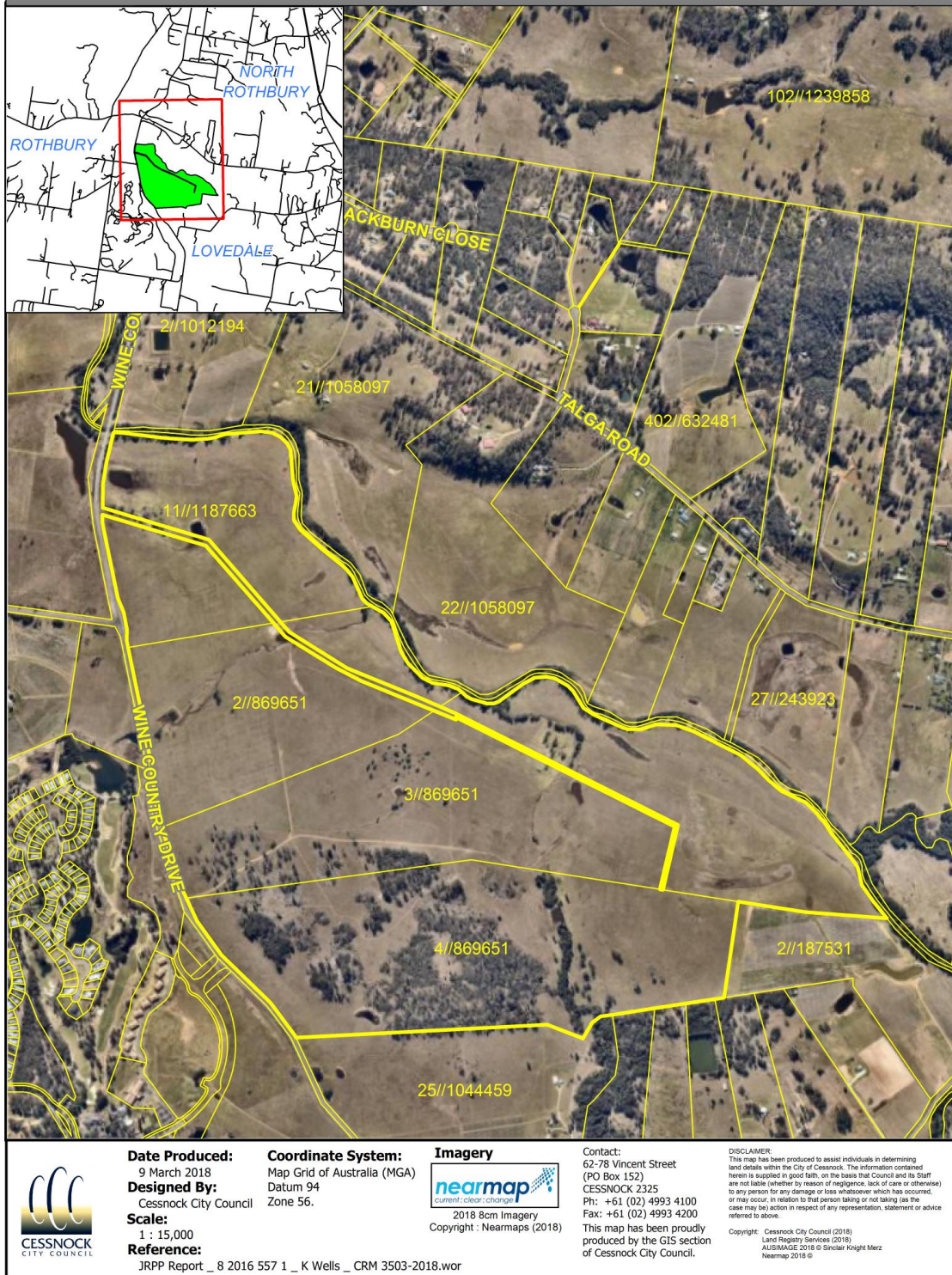
A planning agreement for the subject site has been executed between the applicant and the NSW Department of Planning and Environment. The Satisfactory Arrangements Certificate (SAC) issued 18 April, 2017 satisfies the provisions for the granting of development consent under Clause 6.1 of Cessnock Local Environmental Plan 2011.

LOCATION MAP



AERIAL

Aerial Location Plan: Lots 2-4 DP 869651 & Lot 11 DP 1187663 1058, 1054 & 1184 Wine Country Drive, LOVEDALE



SITE DESCRIPTION AND LOCALITY

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

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 450m2 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:

May 24, 2018 Assessment Report

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	<p>Referrals are initiated and they are returned as follows:</p> <p>INTERNAL REFERRALS</p> <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> <p>EXTERNAL ENGINEERS</p> <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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NSW RFS (integrated under s100b of the Rural Fires Act 1997)	11/01/2017																																		
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	<p>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...”</p> <p>This information is forwarded to Council's Development Engineers for review.</p>
24/11/2017	All referrals are finalised.
12/03/2018	Assessment completed.

December 11, 2018 Assessment Report:

Date	Action
24/05/2018	The application is deferred by the JRPP.
08/06/2018	<p>A meeting is held with the applicant to discuss a strategy in respect of the issues raised by the JRPP.</p> <p>It is agreed that the applicant will address items: 1.1, 1.2, 1.3, 2.1, 2.2, 2.3 and 2.5.</p> <p>Council staff will address items 1.4, 2.4 and 3.1.</p>
21/06/2018	A referral to the Office of Environment and Heritage is initiated by Council.
20/07/2018	<p>The first version of the additional information submitted by the applicant is received.</p> <p>A referral to Council's Ecologist is initiated.</p>
07/08/2018	Flood issues are identified by Council staff and an internal referral to Development Engineers is initiated.
22/08/2018	In the absence of a response by the OEH, Council's Ecologist conducts a review of ecological matters. The referral response is received on this date.
29/08/2018	An additional meeting is held with the applicant regarding the flood matters. A discussion is also held with the applicant with regards to outstanding matters (specifically item 1.3).

24/10/2018	<p>A request for information is made to the applicant regarding ecological matters. The matters to be addressed include:</p> <ul style="list-style-type: none"> <i>The Ecological Update by MJD Environmental Pty Limited dated 26 April 2016 States that 12.95 hectares of native vegetation will be removed as a result of the proposal, with 38.7 hectares proposed to be revegetated. However, no details are provided on the net/loss gain of individual vegetation types. To provide an accurate assessment of the development and its impact on vegetation communities, more information is required. Please refer to Table 6 (proposed vegetation removal and retention) of the Flora and Fauna Report dated June 2013 and update this table based on the most recent masterplan.</i> <i>Whilst a Vegetation Management Plan could be conditioned as part of the consent, provision of a draft Vegetation Management Plan at Stage 1 would provide more clarity as to how this would be achieved, in accordance with the request by JRPP to provide details of the proposed offset solution.</i>
30/10/2018	<p>Advice sought regarding the interpretation of item 3.1 in the deferral notice.</p> <p>Council initiates contact with the DPI (Water) to address item 1.3.</p>
05/11/2018	The applicant submits the second version of additional information. This information includes clarification of flood matters and a response to ecological matters.
08/11/2018	The final engineering referral comments are received. All flood matters are addressed.
26/11/2018	Assessment finalised.

DETAILS OF THE PROPOSED DEVELOPMENT

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
Total	238.63ha	

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

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
<i>(a) a staging plan for the timely and efficient release of urban land making provision for necessary infrastructure and sequencing</i>	<p>The May 24, 2018 deferral notice required additional information with regard to the staging plan and “<i>detail of infrastructure provision and timing linked to the staging</i>” (item 2.1).</p> <p>A brief outline of the staging plan was provided in the original report; however a more detailed version, including a summary of infrastructure provision is provided below:</p> <p>Stage 1: Four (4) Lot Community Title Subdivision, and concept masterplan;</p> <p>Stage 1 is proposed to create 4 super lots under a community title subdivision, to allocate land for particular uses. No actual work is proposed to take</p>

	<p>place on the site as part of this stage.</p> <p>The applicant also seeks approval in stage 1 for the concept masterplan. Under the concept masterplan, the applicant sets out the future works to occur at the site. The works will require separate development approval prior to commencing.</p> <p>Based upon the proposed lot configuration of the community title subdivision, the future works (proposed under the masterplan) are summarised as follows:</p> <ul style="list-style-type: none"> • Land within the proposed Lot 3 will be subdivided in future to accommodate 300 single dwelling units, • Proposed Lot 4 is intended for hotel and tourist accommodation (300) and associated sporting/recreational facilities forming the prime feature of the development. • A water treatment plant will be erected on the southernmost section within Lot 1. • The remainder of the subject site being proposed Lot 2 will contain the 18 hole Golf Course and regeneration of vegetation. <p>Stage 2: 18 Hole Golf Course;</p> <p>This stage will see the creation of the golf course, implementation of landscaping, creation of environmental offsets and connection to necessary services, including:</p> <ul style="list-style-type: none"> • Install service connections to the site • Potable water • Grey water • Electricity • Telecommunications • Establish water quality control • Construct intersection treatment to site <p>The specific design details of the road connection are not finalised; however a recommended condition in the draft notice of determination has been prepared, stating the following:</p> <p><i>Prior to lodgement of DA for Stage 2, the applicant is to consult with the RMS regarding access arrangements from Wine Country Drive, with details submitted to Council.</i></p> <p><i>Access shall be a four (4) way one (1) lane circulating roundabout on Wine Country</i></p>
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Drive which services both the 'Golden Bear' development and the proposed development at the Vintage Development (to the west). Final design shall be approved by Council in consultation with the RMS, with any development application for Stage 2.

No residential development shall access Wine Country Drive until Stage 2 is finalised.

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. Service connection will be extended to each lot.

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;

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

	<p>residential lots and dwellings on proposed lot 302.</p> <p>The applicant provided this final comment with regard to infrastructure provision:</p> <p><i>“The connection of services to each lot is part of Stage 3 and occupation certificates will not be released until all lots are serviced.</i></p> <p><i>The construction of dwelling components will be proposed in Stages 4, 5, 6 and 7. The staging of the development will enable roads and infrastructure to be progressively developed in a cost efficient and effective manner, and minimise site disturbance from engineering works by concentrating construction into finite areas of the overall site.</i></p> <p><i>The provision of infrastructure including adequate access and all services to service each stage will form part of each subsequent development application and will be assessed in relation to the impacts and requirements of that stage of the development.</i></p> <p><i>At this stage of the development detailed design of the tourist complex has not been determined as title is required to the super lot to create an identity to underpin the required investment in design.”</i></p>
<p><i>(b) an overall transport movement hierarchy showing the major circulation routes and connections to achieve a simple and safe movement system for private vehicles, public transport, pedestrians and cyclists</i></p>	<p>In the May 24, 2018 deferral notice, the applicant has been requested to provide detailed information on the “...hierarchy of road access and sections to show widths of roads, footpaths and any street parking” (item 2.2).</p> <p>The applicant maintained in their response of 8 June 2018 (appendix 7) that this requirement was addressed as part of the original submission as well as the assessment report prepared by Council staff for review by the JRPP on May 24. The applicant states: “All roads within the complex are to be private, and as such road/carriageway widths and design standards shall be in accordance with road design best practice. Section 3.2 of the Concept and Management Plan provides a summary of: Integrated Travel Network, Multi-Modal Transportation, Vehicular Parking, and the Proposed Intersection”. This information is attached to the briefing for the panel’s review.</p> <p>In summary, the applicant further provides: “Internal accessibility for, pedestrians, cyclists, disabled persons and golfers will be facilitated through linkages between streets, vegetation corridors and</p>

	<p><i>the gold course. Pedestrian accessibility will be the priority within the complex.”</i></p> <p>Provision for public transport shall be accommodated on the main collector road access by providing bus shelters on each side of the road within intended bus bay areas.</p> <p>On-site parking will be provided in accordance with Council's requirements as provided in the Cessnock DCP – C1 Parking and Access. Parking should be screened from perimeter access roads by either built form or landscaping consistent with the Jack Nicklaus Golf Course of Australia landscape vision.</p> <p>Regarding the access into the site, condition 4 of the draft notice of determination is provided on the consent to ensure that the access to the site is confirmed by the RMS prior to any works being undertaken on site. The letter provided as appendix J in the statement of environmental effects (and re-confirmed in appendix 6) confirm that RMS is satisfied that access to the development may be suitably provided however due to the complexity of negotiations with adjoining landowners the access details cannot be confirmed for this stage of the development.</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>	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.
<i>(d) a network of passive and active recreational areas</i>	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.
<i>(e) stormwater and water quality management controls</i>	<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</p>

	development. Details are to be submitted with the development applications or at each stage for the subdivision.
<i>(f) amelioration of natural and 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</i>	<p>The proposed subdivision layout takes into consideration identified natural hazards as follows:</p> <p><i>Bushfire</i></p> <p>General Terms of Approval have been issued by RFS confirming that the development is capable of meeting the 'Planning for Bushfire Protection Guidelines' 2006.</p> <p>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.</p> <p><i>Flooding</i></p> <p>The land is affected by the 1% AEP flood modelling.</p> <p>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.</p> <p><i>Flora and Fauna</i></p> <p>Any proposed tree removal shall be considered as part of subsequent development applications for future stages.</p> <p><i>Riparian Corridors</i></p> <p>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.</p> <p>The VMP shall identify a strategy to appropriately manage the natural watercourse and riparian vegetation.</p> <p>Appropriate measures shall include:</p> <ul style="list-style-type: none"> • 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;

	<ul style="list-style-type: none"> • 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>The May 24, 2018 deferral notice required the applicant to consider using Part E.2 'The Vintage' of the Cessnock DCP 2010 as a cue for developing similar urban design guidelines for this proposal (item 2.3).</p> <p>The applicant and Council staff met on 8 June 2018 to discuss this matter.</p> <p>During this meeting, it was noted that the applicant submitted a concept management plan (appendix 4), of which a commitment has been made to adhere to the vision and design themes of this plan. This information was not available for the JRPP during the original assessment.</p> <p>It was agreed that while there are similarities between the this proposal (i.e. 'Golden Bear') and the existing Vintage development, the stringent design guidelines for building works and landscaping at the Vintage are not deemed necessary for the proposed 'Golden Bear' precinct. In the submitted documentation, the applicant has committed to all dwellings being built by the developer and resold as completed packages. By ensuring that the developer builds all dwellings (and associated features, including landscaping and driveways etc), a consistent design theme can be achieved and managed by the controlling developer.</p> <p>With reference to 'the Vintage', the lots are sold individually before dwellings are privately built. The need for a design guideline in this scenario is warranted as individual influences are more likely to come into consideration for privately built dwellings. The design guidelines provide a certainty for the character of the area; whereas with the 'Golden Bear' proposal, this character can be governed by the developer conducting the entire build.</p> <p>Notwithstanding this, it is accepted that some surety is needed for the urban design of the development.</p>

	For this reason, it is recommended that an advisory note be imposed where the applicant is required to submit an urban design outline of the works proposed under each stage (and how the outline fits with past and future stages) prior to each stage being approved. This has been included in the draft notice of determination.
<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 neighbourhood commercial and retail uses</i>	<p>The May 24, 2018 deferral notice requires the implementation of measures to: “<i>ensure destinational (sic) and independent retailing is not provided</i>” (item 2.4).</p> <p>In response to this deferral item, it is noted that ‘retail’ land uses are prohibited under the SP3 Tourist zone; therefore any retail or commercial land uses permitted on site shall only be approved as ancillary to the principal tourist development.</p>
<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.

Additional comment:

The May 24, 2018 deferral notice required the applicant to *"Provide the Aboriginal Management Plan and advise of the current status of negotiations with the LALC"* (item 2.5).

The applicant responded to this item by noting that discussions have been ongoing between representatives for the applicant and with the Mindaribba Local Aboriginal Land Council and to date, the draft Aboriginal Management Plan has yet to be signed. It is noted that the requirement for the Aboriginal Management Plan would only be required once physical works are undertaken on site. In consultation with the applicant, it has been agreed to impose an advisory note on the draft notice of determination that reads as follows:

Prior to any construction works commencing on site as part of this development approval or any subsequent development approvals a copy of the Aboriginal Management Plan endorsed by the Local Aboriginal Land Council is to be provided to Council.

- 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’.

Updated information:

Flood considerations were revisited in August 2018, to ensure the proposal was assessed against *Part C.9 Development on Flood Prone Land* of the *Cessnock Development Control Plan 2010*.

A slight amendment to the layout of proposed lots in Stage 1 has taken place. The western portion of proposed lot 3 is flood affected land and in order to allow for future residential development outside of the identified *floodway*, the layout of the proposed lot has been reconfigured (see figure 1 within DCP discussion, also shown in appendix 8).

The applicant proposes to construct a set of culverts to allow the flow of a 1 in 100 year event. A blockage factor of 50% will need to be applied in all future modelling. As a result of construction of the culverts it will be necessary to fill a section of the land to raise the road level to allow for flood free access. The minor filling and culvert construction within the floodway is not considered to have a detrimental effect on any surrounding properties and will only define a more suitable channel for flows.

The applicant has provided a flood assessment demonstrating cross sections of flood depths. Further modelling will be required at each stage to ensure alteration completed at each stage do not affect the following stages or adjacent structures.

On the basis of the above, it is considered that Clause 7.3 has been addressed and compliance is achieved.

- 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.

In conjunction with the May 24, 2018 deferral notice, the JRPP requested clarification that: *"...the proposal meets the definition of an "Integrated Tourist Development (noting the existing site is not on one lot and noting the proposed subdivision)" (item 3.1).*

The term 'parcel of land' is not separately defined in the LEP or the Environmental Planning and Assessment Act 1979 (the Act). The expression appears consistently in the LEP and the Act, but in the absence of a definition, Council has turned to case law to distinguish the terms.

In *Asquith v Clarence Valley Council [2011] NSWLEC 1246*, it is noted that both terms: 'parcel of land' and 'allotment' are defined in the since repealed *Copmanhurst Local Environmental Plan 1990*. The respective terms are defined as:

Parcel , in relation to land, means any area of adjoining or adjacent land held in the same ownership.

Allotment means any lot or portion which has been lawfully created.

These definitions are the accepted definitions used in *Asquith v Clarence Valley Council [2011] NSWLEC 1246* case law and in the absence of similar definitions in the Cessnock LEP or the Act, both definitions have been applied in this instance.

Furthermore, as referenced in *Triguboff v Valuer General [2009] NSWLEC 9*, J Wells said in *Christies Sands Pty Ltd v Tea Tree Gully, City of (1975)*;

'It seems to me, therefore, to be clear beyond argument that the expression 'any parcel of land' means what it says according to common understanding and to the understanding of the conveyancer and historian. It means, in my opinion, a specified and reasonably well defined area of land. That area may be defined by general description, by reference to a map or plan, by clearly established usage, or by a combination of all three (or one or two of them) with landmarks, fences, walls, tracks, watercourses or natural boundaries or signs on or in the land of any kind whatever. It is essential to the creation of a parcel, in this sense, that its limits should be ascertainable with reasonable precision.'

In the case of this proposed development application, the four super lots of land created in proposed Stage 1 of the concept masterplan form an agglomerated area of land (or a combined parcel), to which the integrated tourist development will take place. The fact that the lots are created in community title further binds the parcel together. Council is satisfied that the development is proposed upon a single parcel of land, which incidentally consists of four combined allotments (specifically referred to in the first part of Clause 7.11(1)).

Advice was sought in respect of this matter, whereby it was recommended that Council officers consider the 'intent' of this clause. The intent is clearly not to permit four separate 'integrated tourist development' proposals upon each of the four allotments specified in Clause 7.11(1). The intent is to permit one 'integrated tourist development' over multiple allotments [each referenced in 7.11(1)].

In recognition of the interpretation of a 'parcel' of land and of the 'intent' of the clause, Council officers are satisfied that the definition of an 'integrated tourist development' has been met.

The additional provisions of this clause [7.11(a), 7.11(b), 7.11(c) and 7.11(d) have also been met]. The concept masterplan demonstrates a tourism focused development encompassing 18 hole golf course, 5 star hotel, tourist villas, residences and sports and recreational facilities [7.11(a)]. The number of permanent residences and tourist accommodation maintain the limit of 300 units each [7.11(b) and (c)].

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).

(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

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.

Additional information:

Chapter C.9 Development on Flood Prone Land

It is noted that Chapter C.9 - Development on Flood Prone Land - of the Cessnock Development Control Plan 2010 (DCP) is relevant to the assessment of the application. This part of the DCP came into effect on November 22, 2017.

A specific assessment against this part of the DCP has been undertaken.

The development application was lodged on September 7, 2016. In this regard, Clause 1.5 (Savings Provisions) of Chapter C.9 of the DCP 2010 states as follows:

'Any application lodged but not determined prior to this Chapter coming into effect will be determined as though the provisions of this Chapter apply'.

In consideration of the above, the application must be assessed against the provisions of Chapter C.9 and determined accordingly.

The subject land comprises land that is identified under the DCP as flood fringe, flood storage and floodway. The following flood studies apply to the site:

- Black Creek Stage 2 – Flood Category (Floodway, Flood Storage and Flood Fringe).
- Black Creek Stage 2 – Flood Hazard Category (H1 to H6).

The information from each flood study is presented in Diagrams 1 and 2 below:

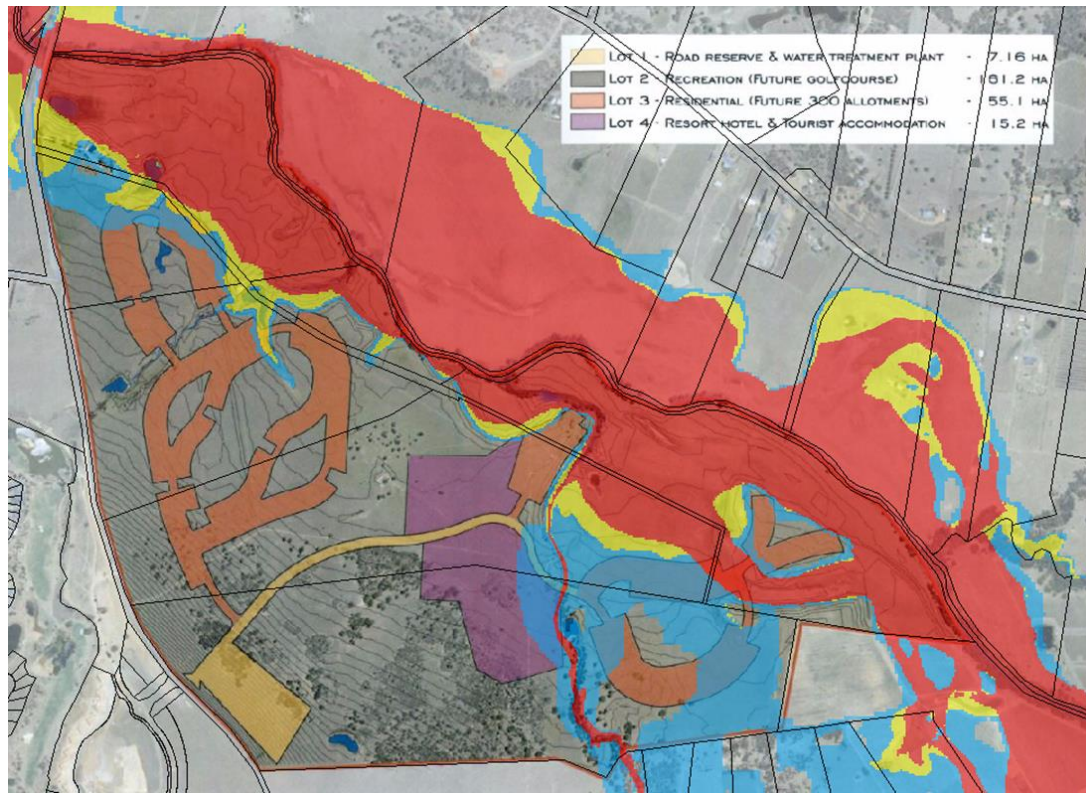


Diagram 1 – Black Creek Stage 2 – Flood Category

- ☒ Flood Storage
- ☒ Floodway
- ☒ Flood Fringe

Diagram 1 shows the development encroaching within Floodway, Flood Storage and Flood Fringe areas.

Sections 1.6, 3.1 and 3.9 of Council's DCP seeks to limit development within the areas mapped as Floodway and Flood Storage.

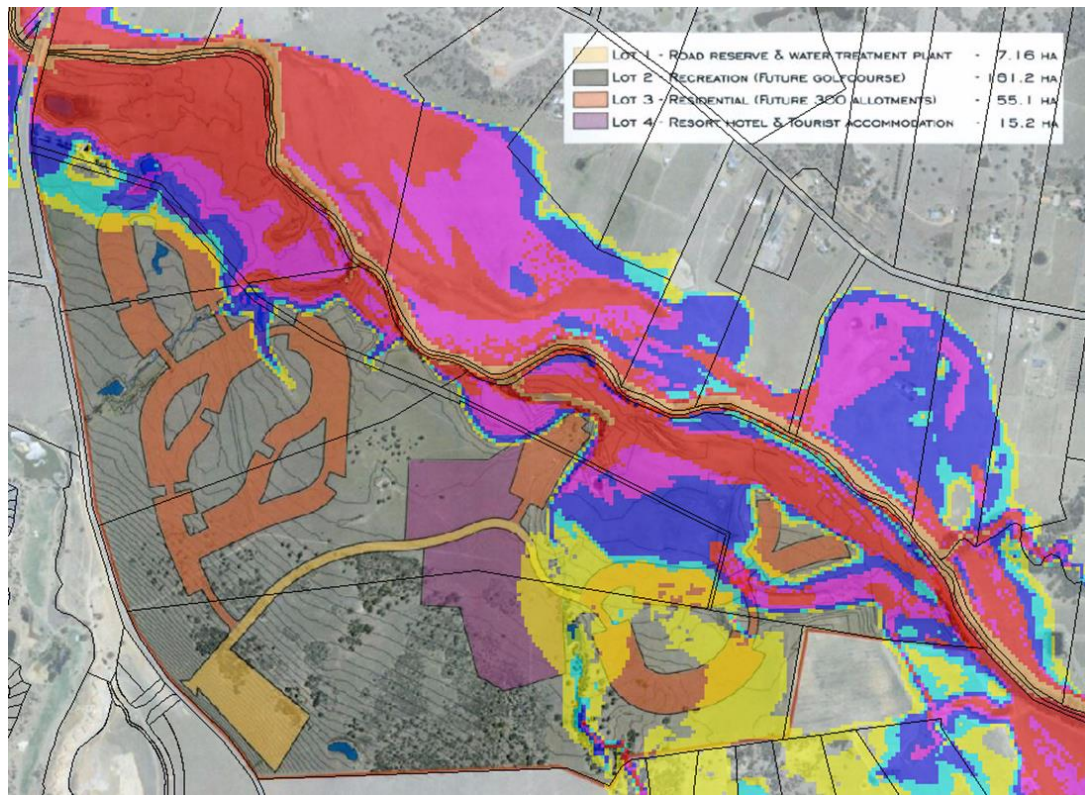


Diagram 2 – Black Creek Stage 2 – Flood Hazard Category

- ☒ H1 - H2
- ☒ H2 - H3
- ☒ H3 - H4
- ☒ H4 - H5
- ☒ H5 - H6
- ☒ H6

In accordance with Clause 3.9.2 of the DCP, development within the areas mapped as *Floodway* (i.e. diagram 1) cannot be supported. Four proposed residential allotments were to be situated within the area identified floodway. The applicant therefore submitted a minor lot-adjustment to relocate some allotments to a flood-free area (discussed below).

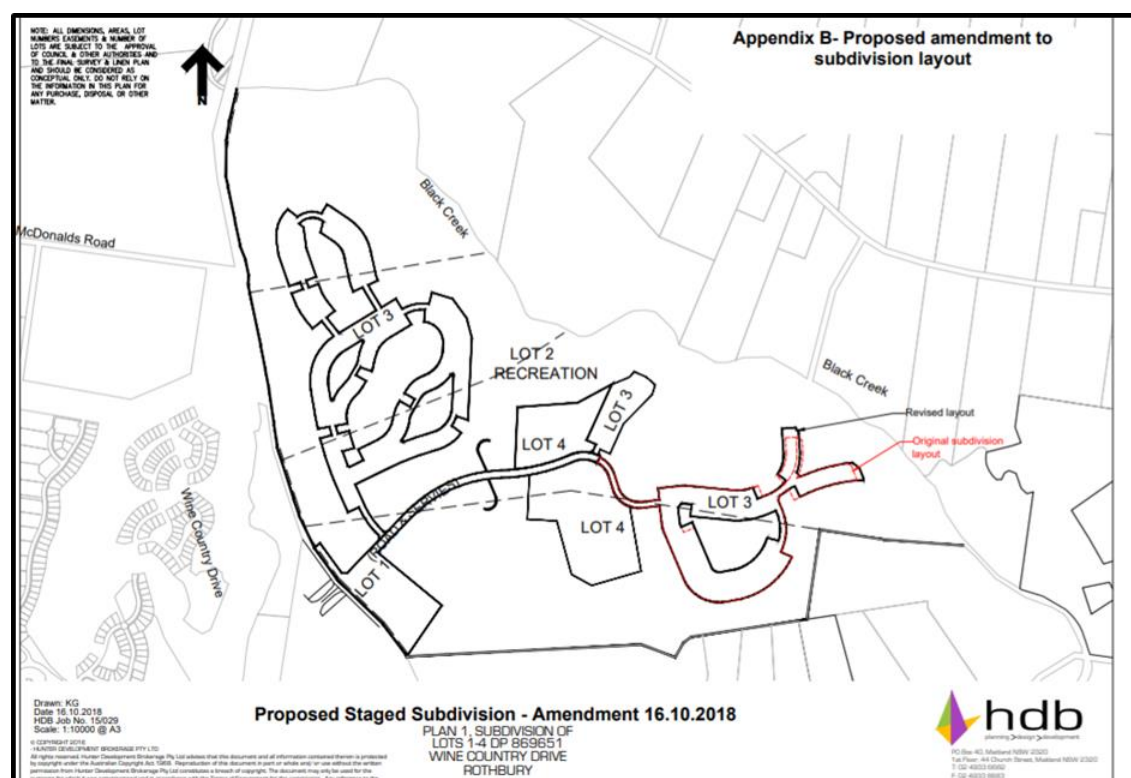
Similarly, development within the areas mapped as *Flood Storage* required further assessment to determine if filling is proposed in these areas. The applicant was required to undertake a flood assessment report on the proposed filing in accordance with the requirements of Appendix 1 of Part C.9 of the DCP.

Diagram 2 shows the development encroaching within Flood Hazard Categories from H1 to H5 at various locations across the site.

In accordance with Section 3.1 of the Council's DCP, a merit assessment is required for single residential dwellings located with hazard categories H3 and H4. Single residential dwellings must not be located within areas mapped as H5 and H6.

An assessment of the affected areas was prepared taking into account the requirements for Section 3 of the DCP, in particular Clauses 3.1, 3.2 and 3.3.

The applicant has slightly amended the original layout to make provisions for the requirements of the DCP including the flood hazard classification and the flood category (appendix 8). The applicant has satisfactorily demonstrated that compliance with both provisions can be achieved and the redesigned allotment layout is shown below (in red).



In addition, the applicant proposes to construct a set of culverts to allow the flow of a 1 in 100 year event. All future modelling applicable to site (i.e. when later stages are submitted for approval) will need to ensure that a blockage factor of 50% is applied.

As a result of the construction of the culverts it will be necessary to fill a section of the land to raise the road level to allow for flood free access. The minor filling and culvert construction within the floodway is not considered to have a detrimental effect on any surrounding properties and will only define a more suitable channel for flows (this is confirmed via Council's Principal Development Engineer).

The applicant has provided a flood assessment demonstrating cross sections of flood depths. Further modelling will be required at each stage to ensure alteration completed at each stage do not affect the following stages or adjacent structures.

On the basis of the above, it is considered that the proposal complies with Part C.9 of the DCP and is acceptable from a flooding perspective.

(a)(iia) 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.

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.

Wastewater

In response to item 1.1 of the deferral notice, the following information is provided for wastewater:

The applicant submitted a Wastewater Options Report (date 31- 08- 2016), prepared by Whitehead and Associates Environmental Consultants and the Notice of Formal Requirements from Hunter Water (Date 14 January 2016 – *attachment A*) submitted with the original application. In this regard, the applicant states: *"The wastewater options report provided three viable options for the handling of waste on site with the preferred solution being option 2. Option 2 involves the use of a common effluent sewer to collect the wastewater produced at this site. Wastewater would then be treated by textile filters and an MBR produce high quality effluent suitable for internal reuse and irrigation of areas when access is unrestricted. A return line from*

Cessnock WWTW and pump station will also be built to provide additional recycled water and to also drought proof the site. The water from Cessnock WWTW will undergo further treatment in the MBR to ensure it meets quality requirements”.

In the Hunter Water letter (dated 14 January, 2016), no preferred option is specified; however Hunter Water have indicated that all three options are **deemed acceptable** pending the submission of detailed information when works are to commence. It is the view of the applicant that *“...as no physical works are currently undertaken on site as part of this initial stage of the development that confirmation of the wastewater solution be deferred to the development application for stage 2. It is suggested that the following condition be applied to the development consent:*

Prior to the approval of any further stages of this development, the applicant is to submit details of the waste water solution, authorised by Hunter Water, that will address the waste water needs for the whole site.”

An advisory note to this effect has been included in the draft notice of determination.

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"> <i>Engine oil and vehicle waste washing into stormwater systems and polluting Black Creek.</i> <i>House hold waste (garden pesticides) seeping into the ground and stormwater, and then contaminating Black Creek.</i> <i>Building rubbish and debris entering 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. 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>	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. This process undertook a

		separate assessment, whereby public comment was invited, received and considered.
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 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	<i>Artefacts have been found in the area. They will be disturbed by the development.</i>	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

		<p>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	<i>Any change to this area could adversely impact vegetation and animal life, particularly around Black Creek.</i>	The potential flora and 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"> • <i>Do we really need another golf resort and development?</i> • <i>How many is too many?</i> • <i>Is our tourist demand for golf resorts growing that fast?</i> 	The proponent has determined that there is a need for a facility of this nature within the area. The existence of other golf

	<ul style="list-style-type: none"> • <i>Do other golf resorts have an occupancy rate of 60-70% which is needed to have a successful business?</i> • <i>Will this impact on the existing accommodation, small B&Bs be considered?</i> • <i>Do we need more residential development?</i> 	<p>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>
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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 Summary	Comment	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

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

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

Referral Officer	Comment/Outcome
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 Health: Onsite Sewer Management	Stage 1 works propose no form of onsite wastewater 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	<p>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.</p> <p>Additional Referral:</p> <p>A secondary referral was made to Council's Development Engineers on 7th August 2018 following confirmation that additional flooding requirements had not been considered. In liaison with the applicant, a suitable solution to flood matters was determined and a final referral comment from</p>

	Development Engineers was received on 8 November 2018.
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

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 original 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.</p> <p>The applicant stated in a letter dated 24 April 2017 (appendix 5) that <i>'the site currently holds 100 Mega Litre allocations from the Hunter Valley Wine Country Irrigation District. There is no intention to seek an additional WAL as a part of this proposal.'</i></p> <p>Additionally, the applicant made minor adjustments to the originally submitted plans to address the 'concern' regarding future controlled activity approvals raised by DPI Water in their referral response of 22 March 2017. The applicant stated in their response that 'comments from DPI Water are noted, and taken into consideration in developing the concept masterplan.' As no concurrence is required from</p>

	<p>DPI (Water) for the stage 1 approval, the additional information was not forwarded back to DPI (Water).</p> <p>The May 24 deferral notice required additional DPI Water clarification on this matter (item 1.3). It was agreed at the June 8, 2018 meeting between the Council and the applicant that the applicant will liaise with DPI Water and provide a response to this matter. At the secondary meeting on 29 August, 2018 between Council staff and the applicant, the applicant stated that additional information will not be sought from DPI Water as the proposal is for concept only and no concurrence is required for the stage 1 approval. This information was noted by Council staff.</p> <p>On 23 October 2018, Council staff attempted to contact the DPI Water to discuss the matter. No response was received. An email was sent to DPI Water including all relevant information relating to this application on October 30, 2018. No response has been received.</p> <p>Council has reviewed the concept masterplan against the <i>DPI Water Guidelines for Controlled Activity Approvals</i>. It does appear that compliance with this guideline can be achieved for future stages. Notwithstanding, the concurrence role of DPI Water will only take effect once works are actually proposed within 40 metres of watercourses. This is likely to occur when Stage 2 is lodged.</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</i></p>

	<p><i>development:</i></p> <ul style="list-style-type: none"> <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> <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> <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 contributions towards the upgrade, to Council and Roads and Maritime's satisfaction.</i> <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> <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> <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> <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> <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</p>
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	<p>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>
<p>NSW RFS (integrated under s100b of the Rural Fires Act 1997)</p>	<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>
<p>Office of Environment and Heritage (OEH)</p>	<p>The original assessment of this application did not request a referral to the OEH. This referral has been conducted as an outcome of the May 24 deferral decision (item 1.4), requiring consultation with the OEH <i>“regarding fauna and flora impacts and the proposed offset solution”</i>.</p> <p>A referral was thereby initiated to the OEH on 18 June 2018 stating the following:</p> <p><i>The site currently has a pre-developed vegetated area of 34 hectares. The post-development vegetated area is proposed to be 38.75 hectares, resulting in a net increase of 4.75 hectares of vegetation. The staged masterplan proposes to remove approximately 12.95 hectares of vegetation, resulting in 17.7 hectares of revegetation proposed upon the land.</i></p> <p><i>Council’s ecologist has reviewed the proposed masterplan and has confirmed that it is not likely that there will be a significant impact on any listed threatened species, populations or ecological communities from works associated with Stage 1 of the development. Notwithstanding this, the JRPP has requested that OEH input is sought for the offset arrangement, particularly with regard to the masterplan and future works to occur at the site. The OEH is requested to provide any pre-conditions for various stages that OEH would like imposed, or any comments that can be added to the JRPP determination report.</i></p> <p><i>In order for Council to determine the application within the required time frame, it would be appreciated if your comments could be made available by 17 July 2018. Should Council not receive comments by this date it will assume that your organisation has no interest in the determination of the application.</i></p> <p>No response has been received from the OEH in regards to this matter. In lieu of this, a re-referral to Councils ecologist has been made.</p>

	<p>Council's ecologist conducted a secondary assessment of the extent of vegetation clearing and subsequent revegetation proposed at the site (i.e. the offset solution). It was deemed that there are suitable areas on the site that could be used to provide the required offsets. However; to best determine the ratio of loss to gain of each vegetation type a revised table will need to be prepared by the applicant. The applicant was advised of this and declined to provide additional information, noting: <i>"...Information on the required site works for implementing the concept plan including details of proposed vegetation clearing and revegetation will be addressed in subsequent development applications in accordance with section 4.22 of the act... Presently, the information available on vegetation clearing and revegetation is limited to what was presented by Table 6 – Proposed vegetation removal & retention under Ecological Update prepared by MJD Environmental Pty Ltd, dated 26 Apr 2016."</i></p> <p>The outcome of the secondary ecology referral also raised uncertainty surrounding the management of revegetation works. To address this, the applicant has been requested to provide a draft Vegetation Management Plan (VMP) to provide clarity as to how the revegetation will be successfully achieved. Again, the applicant has been unable to provide this information as: <i>"...it is understood that referrals from relevant government agencies must inform the preparation of a VMP, which are currently unavailable due to the early stages of detailed design. As such, this information will be submitted to council when designs are available at subsequent DA stages. It is noted that this could be included as advice on this approval."</i></p> <p>Given that Council's ecologist raised no significant concern with the masterplan proposal and that OEH has no statutory role to play in the decision making of this application (noting that no threatened species are likely to be impacted', no further action in this regard is necessary at this stage.</p>
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CONCLUSION

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 raised 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

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
Proposed Staged Subdivision	HDB Planning Design Development	Amendment 16.10.2018

Concept Masterplan	HDB Planning Design Development	24/10/2018
Proposed Plan of Subdivision, Sheets 1 - 5	HDB Planning Design Development	24/10/2018

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.

7. Plan of Management

The applicant is to submit a plan of management for the four (4) super lots community title prior to the release of a subdivision certificate. The plan is to state the following;

"Access Rights for the original proprietor and owner of the community lots - complete and unrestricted access by foot or motor vehicle over Community Property".

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.

4. Water – Stage 2 and subsequent stages

Prior to lodgement of a Development Application for Stage 2, the applicant is to submit details of the waste water solution, authorised by Hunter Water that will address the waste water needs for the whole site

5. Aboriginal Management Plan – Stage 2 and subsequent stages

Prior to lodgement of a Development Application for Stage 2, the applicant shall submit a copy of the Aboriginal Management Plan endorsed by the Local Aboriginal Land Council is to be provided to Council.

6. Urban Design Guidelines – Stage 2 and subsequent stages

Prior to lodgement of a Development Application for Stage 2, the applicant is required to submit an urban design outline of the works proposed under each stage (and how the outline fits with past and future stages) prior to each stage being approved.

4. Vegetation Management Plan– Stage 2 and subsequent stages

Prior to lodgement of a Development Application for Stage 2, the applicant must prepare and submit to Council and obtain approval for a Vegetation Management Plan (VMP) for the area to be revegetated with native shrubs and small trees. The VMP is to be prepared by a suitably qualified and experienced Ecologist. The primary objective of the plan is to be weed management, regeneration of native vegetation and if necessary replanting. Implementation of the VMP must commence immediately following issue of the Construction Certificate. In preparing and implementing the VMP the following criteria must be addressed:

- a. A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the VMP. The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate IV in Conservation and Land Management (or equivalent) and three years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Conservation and Land Management and one year demonstrated experience (for other personnel).
- b. A site plan must be prepared at an appropriate scale, clearly showing the area to which the VMP applies, existing vegetation and extent of dominant weed infestations.
- c. A description of existing native vegetation, assessment of ability to regenerate and rehabilitation methods must be provided.
- d. A schedule of works must be prepared detailing the sequence and duration of works necessary for the regeneration, any revegetation and maintenance works. All primary weed control must be undertaken in the first year following commencement of the VMP, with secondary

weed control undertaken in the second following commencement of the VMP. If natural regeneration has not occurred within one (1) year of implementation of the VMP then replanting must occur. A minimum of 90% survival rate of plantings is required, with replacement planting to occur if required to achieve this.

- e. The location and type of fencing or other suitable method of restricting access of livestock into the area to which the VMP applies must be identified if livestock are to be kept on the lot.
- f. Photo monitoring points, details of plant survival and occurrence of natural regeneration are to be used as part of the monitoring of the area and included in each monitoring report.
- g. Monitoring reports on the progress of the VMP are to be submitted to and approved by Council's Ecologist once every six (6) months for the duration of the VMP.