

A1.2.1 BF:SS

January 2009

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General Manager

Mayor

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General Manager

Mayor

A1. STATE ENVIRONMENTAL PLANNING POLICY (SEPP) – REPEAL OF CONCURRENCE AND REFERRAL PROVISIONS - 2008
Staff Report to the 20 January 2009 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco on 7 January 2009

The above SEPP was gazetted on 12 December 2008 and commenced on 15 December 2008. The SEPP aims to improve efficiency in the planning system by removing duplicative or unnecessary requirements in environmental planning instruments (Local Environmental Plans (LEPs) etc) to consult with State Agencies on planning decisions.

The SEPP is an “amending instrument” that removes or modifies referral and concurrence clauses in LEPs, regional environmental plans (REPs) and other SEPPs on issues such as:

- Roads and transport
- Aboriginal sites and archaeological sites of significance
- Other heritage sites and archaeological sites of significance
- Land stability, soil issues and contaminated lands
- Flood liable lands
- Acid sulphate soils
- Onsite sewage disposal, wastewater and drainage management
- Mineral and extractive resources, and mine subsidence
- Subdivision of rural lands, agriculture, travelling stock routes and forestry.

However, some referrals have been retained in some LEPs for specific local issues. The main reasons for removing referrals include:

- Duplication of assessment requirements
- Outdated referrals that no longer apply or have been superseded by other assessment mechanisms
- Plan-making referrals being replaced by the new Planning Reform “Gateway” process.

The SEPP does not remove any concurrence or approval requirements under other legislation, including State Agency approvals required under Integrated Development under Section 91 of the Environmental Planning and Assessment Act 1979 (EP and A Act).

Many environmental issues that were previously dealt with through State Agency referrals are now outlined in State Agency guidelines that have been prepared for use by Councils. The guidelines are available on a public directory called the Register of Development Assessment Guidelines and are on the Department of Planning website. The Register will allow Councils, Developers, Consultants and the public to readily obtain the latest information on environmental impact assessment, development control, and best practice advice on a whole range of land uses, development types and environmental issues.

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General Manager

Mayor

I have obtained the complete list of the topics of the guidelines from the website and there are a total of 219 guidelines available for downloading!

Section 79C of the EP and A Act also continues to require the consent authority to consider impacts on natural and built environments, social and economic impacts in the locality, the sustainability of the site for the development and the public interest. Council has to consider these matters irrespective of whether any individual State Agency has a formal concurrence or consultation role.

Recommendation:

That the information be received and noted.

**A2. AMENDMENTS TO OBERON LOCAL ENVIRONMENTAL PLAN 1998 BY NSW
DEPARTMENT OF PLANNING
Staff Report to the 20 January 2009 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco on 6 January 2009**

As a result of the Repeal of Concurrence and Referral Provisions SEPP which is an “amending instrument” referred to in Item A1, by notice published in the NSW Government Gazette dated 12 December 2008, Council’s Local Environmental Plan 1998 (LEP) was amended by the NSW Department of Planning (DoP). The amendments are of a minor nature and include the following clauses:

(a) Clause 17 – Subdivision for the purpose of dwelling-houses on land in Zone 2(v)

The words “*the opinions of the Environment Protection Authority and Department of Health about*” have been omitted from Clause 17(1)(b).

The words “*have been obtained and*” have been omitted from Clause 17(1)(b) and the words “*has been*” have been inserted.

(b) Clause 32 – Protection of heritage items, heritage conservation areas and relics

The following Note has been inserted at the end of Clause 32(5):

“Note: The website of the Heritage Branch of the Department of Planning has publications that provide guidance on assessing the impact of proposed development on the heritage significance of items (for example, Statements of Heritage Impact)”

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General Manager

Mayor

(c) Clause 34 Notice to the Heritage Council

This clause has been omitted.

(d) Clause 35 Development of known or potential archaeological sites

Clause 35(1)(b) has been omitted and has been replaced with the following clause:

“(b) except where the proposed development is integrated development, it has notified the local Aboriginal communities (in such a way as it thinks appropriate) of the development application and taken into consideration any comments received in response within 21 days after the notice was sent, and”

(e) Clause 35 (2)(b)

This clause has been omitted.

(f) Clause 40 Development of known or potential archaeological sites in Zone 1(d)

Clause 40(c) has been omitted and the following clause has been inserted:

“(c) The Local Aboriginal Lands Council has been notified of the proposal, if it relates to Aboriginal relics, and the Council has considered any matters raised within 21 days after the notice is sent.”

A copy of the amended version of the Oberon LEP 1998 is included as a separate document with the Business Paper.

Recommendation:

That the information be received and noted.

**A3. ROLE OF SYDNEY CATCHMENT AUTHORITY AND THE LOCAL GOVERNMENT REFERENCE PANEL
Staff Report to the 20 January 2009 Ordinary Meeting
File No. D52.9
Prepared by Ralph Tambasco on 6 January 2009**

This report has been provided for the benefit of the new Councillors.

A large part of the eastern section of the Oberon Local Government Area, basically east of Mount Werong Road, Edith/Gingkin Roads and the Great Dividing Range is located in the Sydney Catchment Authority (SCA) area and is subject to the Drinking Water Catchments Regional Environmental Plan No 1 (REP1). Most of the catchment consists of the Kanangra

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General Manager

Mayor

Boyd National Park, a section of the Blue Mountains National Park, Gurnang State Forest and part of Jenolan State Forest.

The role of the SCA is to:

- Manage and protect the catchment areas and infrastructure
- Be a supplier of raw water
- Regulate certain activities within or affecting catchment areas and water quality.

Under Section 117 of the Environmental Planning and Assessment Act 1979 (EP and A Act), the SCA is able to influence development in the catchments and Council amendments to Local Environmental Plans (LEPs) to ensure that plans contain adequate measures to protect the catchments and water quality.

The REP1 provides, subject to exceptions, that a person must not carry out development on land in the catchment except with the concurrence of the Chief Executive of the SCA. Concurrence is not required if the Council is satisfied the development would have a neutral or beneficial effect on water quality.

In July 2000 the SCA established the Local Government Reference Panel (LGRP) as a consultative committee and membership had to include representation from Local Government. The role of the Panel is to provide for Local Government involvement in issues relevant to the SCA's activities within the SCA's area of operation. Generally, the LGRP meets four times per annum, and I attend as many of the meetings as possible. There are a total of 15 Councils in the catchment and most of the Councils send at least two representatives, including Councillors, to each of the meetings.

The meetings have been a useful forum for keeping Councils up to date on issues concerning the Regional Plan.

Other Catchments

The Oberon Local Government Area (LGA) is also partly within the Hawkesbury-Nepean, Central West and Lachlan Catchment Management Authority areas of operation, with the majority of contact being with the Central West Catchment Management Authority located in Orange.

Recommendation:

That the information be received and noted.

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General Manager

Mayor

**A4. NSW DEPARTMENT OF PLANNING – PLANNING CIRCULAR PS08-009 –
DISCLOSURE OF POLITICAL DONATIONS AND GIFTS (FURTHER INFORMATION)
Staff Report to the 20 January 2009 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco on 6 January 2009**

The Local Government and Planning Legislation Amendment (Political Donations) Act 2008 introduced a new section 147 into the Environmental Planning and Assessment Act 1979 (EP and A Act). The new section came into effect on the 10th October 2008.

The new legislation relates to the disclosure of reportable political donations for both State and Local Government elections, and to the disclosure of gifts made to local Councillors or Council employees.

The disclosure requirements are triggered by the making of relevant planning applications and relevant public submissions on such applications. The main planning applications concerning Councils are applications for development consent under Part 4 of the EP and A Act and Section 96 Modification Applications. A relevant public submission means a written submission made by a person objecting to or supporting a relevant planning application or any development that would be authorised by the granting of the application.

Planning Applications

A person who lodges a Development Application, Section 96 Modification Application or other planning application to Council is required to disclose the following reportable political donations of \$1000 or more and gifts (if any) made by any person with a financial interest in the application within the period commencing 2 years before the application is lodged and ending when the application is determined:

- All reportable political donations made to any Councillor of the Council, and
- All gifts made to any Councillor or employee of the Council.

Public Submissions

A person who makes a relevant public submission to a Council in relation to a relevant planning application is required to disclose the following reportable political donations of \$1000 or more and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:

- All reportable political donations made to any Councillor of the Council, and
- All gifts made to any Councillor or employee of the Council.

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General Manager

Mayor

Disclosures

The disclosure of a reportable political donation or gift under Section 147 of the EP and A Act is to be made:

- a) In, or in a statement accompanying, the relevant planning application or submission if the donation or gift is made before the application is lodged, or
- b) If the donation or gift is made after the application is lodged, in a statement from the person who lodged the planning application or submission within 7 days after the donation or gift is made.

The information requirements of the disclosure are set out in Sections 147(9) and (10) of the EP and A Act and the Department of Planning has prepared a Disclosure Statement Template for disclosures to a Council (**Attachment A4a**).

Actions to be Taken by Councils

To address the requirements of the EP and A Act, Councils will need to consider:

- a) *Forms*
 - An appropriate disclosure form is shown in **Attachment A4a**.
- b) *Website*
 - A general notification message is required for inclusion on Council's website to inform the public of the requirements of the EP and A Act.
 - Processes required to ensure that disclosures of political donations and/or gifts are made public as required by the Act (i.e. within 14 days after the disclosure is made). This can be done by:
 - i. Making the disclosure statement available on Council's website, or
 - ii. Making the information available to the public in accordance with arrangements notified on Council's website, eg a Register at the front counter.
- c) *Communication/Notification*
 - Appropriate wording for inclusion in advertisements and notification (including notification/letters to the public, residents and neighbours) about planning application submitted to Council, so that the public are aware of the requirements of the Act.
- d) *Education and Training*
 - For planning staff, front counter staff and enquiry staff.

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Reports to Council Meetings

The legislation has no requirements regarding the inclusion in reports to Council of disclosure information. Political donations or gifts are not relevant to the determination of planning applications and they do not provide grounds for challenging the determination of nay planning applications. However, it would be good practice for Council reports on planning matters to identify whether or not any political donation disclosures have been made in relation to the application and if so, to whom the donation was made, so as to minimise any perception of undue influence in accordance with the “objects” of the legislation at Section 147(1) of the EP and A Act.

Information Pamphlets

Information pamphlets concerning this new requirement are available at Council’s front counter. A copy is attached (**Attachment A4b**).

Recommendation:

That the information is received and noted.

A5. DROWNING AT GLENBROOK SWIM CENTRE Staff Report to the 20 January 2009 Ordinary Meeting File No. A1.3.1 Prepared by Ralph Tambasco on 5 January 2009

Following on from a Mayoral Memo received on 9th October 2008 concerning the unfortunate drowning of an 8 year old girl at the Glenbrook Swim Centre, a letter dated 15 December 2008 was received from the Department of Local Government (DLG) concerning the tragedy. A copy of the letter is attached (**Attachment A5a**).

The DLG advise that it intends to review current Practice Note No 15: ‘Water Safety’ in early 2009. The Practice Note provides guidance to Councils on recommended minimum standards for public swimming facilities operated by Councils.

The review will take into account the Coronial findings and recommendations as a result of this incident.

A copy of the Coronial findings and recommendations concerning this incident is attached (**Attachment A5b**) with the important clauses highlighted with an asterisk.

I have also provided a copy of the Coronial findings to the Pool Superintendent for her information.

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General Manager

Mayor

Prior to Christmas 2008 all the schools which attended the Oberon Pool already had in place the "tagging" system for students which identified swimmers and non-swimmers. Also, a rope was placed across the pool to distinguish the deep end from the shallow end. In addition, students also had a "buddy" system whereby two students would look out for each other whilst in the pool.

Oberon Pool has always had one trained staff member (Supervisor) for each 50 patrons at the pool. Since the recent incident at the pool involving a child with a medical condition, there is now one Junior Supervisor "on deck" at all times.

Recommendation:

That the information is received and noted.

**A6. STEALING INCIDENT AT OBERON POOL COMPLEX
Staff Report to the 20 January 2009 Ordinary Meeting
File No. D55.3.1
Prepared by Ralph Tambasco on 5 January 2009**

On the 18th December 2008, an incident of stealing occurred at the Oberon Pool Complex whereby an amount of money totalling \$300 went missing.

A memo prepared by the Pool Superintendent is attached together with an "Incident Report" and a copy of an amended procedure (**Attachment A6a**) to be adopted by staff each day concerning cash register and security procedures.

The matter has been reported to Oberon Police for their records.

The new procedure should prevent this incident recurring.

Recommendation:

That the information is received and noted.

**A7. BASIX SINGLE DWELLING OUTCOMES 2005-08
Staff Report to the 20 January 2009 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco on 6 January 2009**

On the 1st December 2008, the NSW Department of Planning released to all Councils a copy of 'BASIX Single Dwelling Outcomes 2005-2008'. This is the first State-wide monitoring report of the NSW Building Sustainability Index (BASIX) since BASIX was expanded in 2005 to cover the whole of NSW.

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General Manager

Mayor

BASIX has saved 5.7 billion litres of water and 173 million kilograms of greenhouse gas emissions in new single dwellings.

Some of the sustainable measures being taken up in new homes as a result of BASIX include:

- 95% of BASIX Certificates nominated a rainwater tank
- Most toilets, gardens and laundries in new homes are connected to an alternative (non-mains) water supply.
- 60% of dwellings chose a gas hot water system and 31% chose a solar hot water system in 2007/08, up from 26% and 3% in pre-BASIX existing homes.
- BASIX single dwelling designs achieved an average 4.8 NatHERS stars, requiring less energy to maintain a comfortable living environment.

The report is also available online at <http://www.basix.nsw.gov.au/information/monitoring.jsp>

Recommendation:

That the information is received and noted.

**A8. JENOLAN CARAVAN PARK AMENITIES
Staff Report to the 20 January 2009 Ordinary Meeting
File No. PO14.7
Prepared by Jaclyn Burns on 7 January 2009**

At its Ordinary Meeting held on the 16th December 2008 Council resolved the following:

“That tenders for the installation of new amenities at the Jenolan Caravan Park be re-advertised in late January and include an assessment of the potential cost of the development”. **Attachment A8a** outlines the amenities block proposal put to tender.

At Councils Business Development Committee Meeting held on Thursday 18th December 2008 (actually a Discussion Forum owing to the lack of quorum), a proposal was put forward by Aiden Clarke for alternative amenities facilities (**Attachment A8b**) which would entail the installation of 1 quad amenities block for every Four (4) powered sites as well as an additional quad block with Laundry attachment for the use by non-powered sites.

In consideration of each proposal council staff have put together a list of negative and positive attributes to each type of development, as follows:

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General Manager

Mayor

Amenities block

Positive Factors

- An all inclusive tender was received for both the construction and demolition of the existing amenities facility.
- The design complies with the requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- The design is robust and the building will require little maintenance
- The design can be re-tendered with modifications to the contract and to some of the fixtures, but not the total number of fixtures.
- The amenities building is owned and maintained by Council.

Negative Factors

- The tender received is substantially over budget.
- Only one tender received.
- A portable amenities block will need to be provided during the construction of the new facility which is not included in the tender.

Quad amenities blocks

Positive Factors

- It is unlikely that a portable amenities block will be required during the installation of the quads.
- The installation on site will be quick and convenient.
- The Park Manager will purchase the cabins over time.

Negative Factors

- An all inclusive quote has not been provided to Council, including extension of sewer mains, water mains and installation of Hot Water Services etc, so the price difference between the two proposals may be negligible.
- The design has a structural warranty of three years but a 12 month maintenance period. There are concerns of long term durability compared to masonry construction.
- The cabins could be removed should the Park Manager not renew the lease.
- The design of the cabins do not technically comply with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005, however staff have accepted the explanation that as the quads do not form an "Amenities Block" in that they are isolated, they can be regarded as ensuite facilities and therefore their external walls do not have to be of masonry construction.
- Cost does not include the demolition of the existing masonry amenities building.
- Should the Park Manager remove the Quads, Council will be left with a Caravan Park without facilities and a new amenities block will have to be constructed. However, this is a contractual issue subject to further consideration and negotiation.

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General Manager

Mayor

Council needs to be aware that investigations are continuing into alternative suppliers by Council staff and Aiden Clarke. Further information will be made available at the Meeting.

Recommendation:

Submitted for discussion.

A9. UNAUTHORISED BUILDING WORKS
Staff Report to the 20 January 2009 Ordinary Meeting
File No. PR20.275
Prepared by Ralph Tambasco on 8 January 2009

Owner: Mr Wayne Don

Premises: Lot 1 in DP 1014728, 275 Chatham Valley Road, Oberon

Zone: Rural 1a

The following is a chronology of events over the past year concerning unauthorised building works at the abovementioned premises.

On the **26th February 2008** Council staff noted an advertisement for the property located at 275 Chatham Valley Road which stated that the property was an "ideal getaway for weekend or permanent living".

Council staff then checked the records and relevant files and it was found that an Exempt Development application for a "Barn Style Shed" had been submitted on 30th September 2000, but no other application for development had been received for that property.

On the **5th March 2008** a letter was sent to the owner with a copy sent to the Real Estate Agent, Col Brett First National, advising that it appeared that a dwelling had been constructed on the site without the appropriate consent being sought and obtained.

The owner was requested to respond in writing and advise Council of when and why the "Barn Style Shed" was converted to a dwelling and was requested to contact Council to arrange a suitable time for an inspection of the property.

It should be noted that the Exempt Development form for a "Barn Style Shed" supposedly complied with all of the relevant Exempt Development criteria in respect to a Class 10 Outbuilding/Structure, particularly the criteria that refers to the building not being used for habitable purposes and not including toilet or shower facilities.

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General Manager

Mayor

On the **3rd April 2008** Council's Manager Health and Building, Stewart West, and Health and Building Surveyor, Kate Dickson, carried out an inspection with the owner. Photos of several structures, including the shed converted to a dwelling, were taken during the inspection (**Attachment A9a**). It was also noted that the septic tank, which had been installed without approval, had been removed and all drainage lines capped off. The owner indicated to staff that he (mistakenly) believed that by removing the septic tank, this was all that was necessary to decommission the dwelling.

On the **12th May 2008** a letter was sent to the owner (**Attachment A9b**) advising him of the options to legitimise the building on the property, and what was required for these options, namely:

- Option 1 being to decommission the building from a habitable class 1a structure so it is a non-habitable Class 10a structure or;
- Option 2 to submit a retrospective Development Application to convert the shed into a Class 1a Dwelling.

On the **29th May 2008** staff contacted Col Brett First National Real Estate as the owner was unable to be contacted.

On the **7th July 2008** Mr Don phoned Council to advise that he would comply with option 1 to decommission the building to a Class 10a structure (Shed) and that he would respond to Council's letter dated 12th May 2008.

On the **25th July 2008** Council received a letter from Mr Don confirming that he would comply with option 1 of the letter of the 12th May 2008 and the works would be completed by the 8th August 2008.

Council's Health and Building Surveyor, Kate Dickson, then phoned Mr Don to arrange a suitable time for an inspection, which was organised for the 15th August 2008

On the **15th August 2008** an inspection was carried out by the Manager Health and Building, and the Health and Building Surveyor. Photos were taken.

During the inspection it was noted that:

1. The kitchen sink pipes had been disconnected and a cover had been placed over the kitchen sink,
2. The wood fired cooking stove was still present and the owner advised that it had been sold and was to be removed,
3. The laundry tub was still present, but the pipes had been disconnected and capped off.

Mr Don was advised onsite that the kitchen sink, laundry tub and wood fired stove needed to be removed to decommission the building to a shed, and he would need to provide evidence to show that this had been done.

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General Manager

Mayor

On the **19th August 2008** a letter was sent to Mr Don following the inspection confirming that:

1. the kitchen sink was to be removed,
2. the laundry tub was to be removed, and
3. the wood fired cooking stove was to be removed.

and that photographs were to be provided as evidence that the items had been complied with.

On the **1st October 2008** Council received photographs (**Attachment A9c**) showing that the kitchen sink, laundry tub and wood fired stove had been removed.

On the **7th October 2008** Council wrote to Mr Don confirming the receipt of the photographs and advised that no further action was required. **The matter, therefore, should have ended here as Council staff were satisfied that as Mr Don had complied with the above requirements, no further action was necessary.**

However, on the **25th November 2008** Council's Health and Building Surveyor, Kate Dickson, rang a prospective purchaser in response to a message left with Councils Development Control Administration Officer, Janet Bailey.

The prospective purchaser made enquiries as to what was required to convert the shed to a dwelling. The purchaser also advised that there was an existing kitchen sink, laundry tub and two wood heaters in the shed, all of which were connected. Apparently, in the period between 7th October 2008 and 25th November 2008, the owner had, once again, contrary to his previous advice and works undertaken, converted the shed to a dwelling without retrospective Development Consent being obtained. Also on this date, the Real Estate Agent made enquiries as to what type of onsite wastewater system was required as a replacement for the earlier removed one. The Agent was advised that as long as the septic tank was a tank that had Department of Health approval, an application to Council was required pursuant to Section 68 of the Local Government Act.

On the **26th November 2008** Councils Manager Health and Building and the Health and Building Surveyor carried out an inspection and photos were taken (**Attachment A9d**). The photos confirmed that:

1. The laundry tub had been reinstated and the plumbing reconnected,
2. The kitchen sink had been reinstated and the plumbing reconnected, and
3. The wood fired cooking stove had been reinstated.

On the **5th December 2008** Council wrote to Mr Don to advise of the inspection and that a report was to be submitted to the January 2009 Council Meeting recommending that legal proceedings be commenced.

Mr Don was given an opportunity to show cause as to why Council should not take further action.

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General Manager

Mayor

On the **8th December 2008** Mr Don phoned Council and spoke with the Health and Building Surveyor. He advised that he had received Council's letter, and that there was a condition of sale that a septic system be installed. He advised that he had reinstated the kitchen sink and laundry tub pending the sale of the property. He was again advised by Council's Health and Building Surveyor that consent was required for these works as per the previous correspondence regarding this matter.

He advised he would again remove these items. He was advised to respond in writing to Council's letter dated 5th December 2008.

On the **13th December 2008** Council received a letter from Mr Don dated 9th December 2008 (**Attachment A9e**) stating that he "will now remove the kitchen sink and laundry tubs and would apply for a Development Application for waste water for bathroom facilities".

Conclusion

Mr Don had been given consistent advice and several opportunities to either legitimise the building in question as either a Class 1a structure (dwelling) or a Class 10a structure (shed). Mr Don had also reinstated the items that he was required to remove after advising Council that they had been removed. He has blatantly disregarded Council staff's advice and Council's policies and procedures. The Director of Development has, over the years, placed articles in the Oberon Review concerning unauthorised building works. Situations such as these undermine staff's authority and the public perception is that people are able to "get away with unauthorised works".

In these circumstances it is considered that appropriate action should be taken in order to maintain Council's Building/Development Standards and to make the community aware that Council will not tolerate unauthorised building work.

Recommendation

That the matter be referred to Council's legal advisers to determine the appropriate course of action to be taken.

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General Manager

Mayor

A10. COMPLAINTS CONCERNING USE OF PREMISES
Staff Report to the 20 January 2009 Ordinary Meeting
File No. PO11.59-61
Prepared by Stewart West on 9 January 2009

Premises: Lots 35 & 36 in DP 2364, Section B, No 59-61 Carrington Avenue, Oberon

Zone: 2 (v) Village

At its Ordinary Meeting held on 21 October 2008 the Council had before it a report concerning ongoing complaints regarding the unauthorised use of the abovementioned premises. The Council did not adopt the recommendation to refer this matter to the Land and Environment Court for determination but instead resolved, in part, as follows:

*“7. **RESOLVED:** That staff prepare a list of allowable activities, examples of heavy equipment and hours and days of operation on the premises 59-61 Carrington Avenue and send a list to the property owners and neighbours seeking their response and provide a report to Council for determination.”*

Consequently, correspondence dated 30 October 2008 was forwarded to Mr B & Mrs M Kilby (**Attachment A10a**) and to Messrs AR and RH & Mrs LE McMahon (**Attachment A10b**) inviting them to provide a list of activities acceptable to them. Responses were subsequently received from the Kilby's by letter dated 8 November 2008 (**Attachment A10c**) and from the McMahon's by letter date 14 November 2008 (**Attachment A10d**).

The information received was tabulated and forwarded to both parties by letter dated 18 November 2008 (**Attachment A10e and A10f**) with a request that they each consider the list and submit their written responses by 2 December 2008. A response dated 26 November 2008 (**Attachment A10g**) was received on 1 December 2008 from Mr B & Mrs M Kilby. No response was received from the McMahon's by the due date.

On 9 December 2008 a letter was forwarded to Messrs AR and RH & Mrs LE McMahon (**Attachment A10h**) advising them that a response had not been received to Council's letter dated 18 November 2008. A further request was therefore made to respond to the letter by 16 December 2008.

A further report was submitted to the Council at its Ordinary Meeting held on 16 December 2008 advising, among other things, that a response had been received from the Kilby's however, at the date of that report, 9 December 2008 a response had not been received from Messrs AR & RH and Mrs LE McMahon. The Council adopted the recommendation that the information be received and noted.

To date no response has been received from the McMahon's to either letter.

This is Page No. 17 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor

Prior to the preparation of this report, telephone contact was made with Mr Ray McMahon on the morning of Friday 9 January 2009 advising him that a further report was being prepared for submission to the Council on 20 January 2009 and seeking clarification of his intentions in this matter. Mr McMahon's response was rather belligerent and dismissive. During the brief conversation prior to his abruptly hanging up Mr McMahon acknowledged receipt of the Council's letters dated 18 November 2008 and 9 December 2008 and essentially advised that:

1. He has been away and has only just arrived home
2. He is about to leave again shortly and doesn't intend to respond to the letters
3. He doesn't want to deal any further with the Council on this issue
4. He will consult his legal advisers today, and
5. All further contact should be made with his legal advisers.

By way of general comment it is interesting to contrast this attitude with the conciliatory tenor of the final sentence of the McMahon's' letter dated 14 November 2008 signed by Mrs LE McMahon wherein it is stated:

"We are anxious to resolve this matter in a (sic) amicable manner and would be happy to discuss any aspects with Councillors or staff."

The following is a tabulated list of the activities initially suggested by both parties and to which they were invited to respond by 2 December 2008:

Activities Suggested By:	
Kilby, B & M	McMahon, AR and RH & LE
1. Mow lawns, nature strips and between trees with ride-on or push mower	1. Maintain the land by mowing lawns with a slasher and tractor combination
2. Dig a garden with a shovel or rotary hoe	2. Carry out repairs to private vehicles stored in the shed
3. Water garden with a watering can, bucket or trigger hose	3. Maintain the shed/repair any damage that may be sustained
4. Garage own private/vintage vehicles in the shed	4. Grow some vegetables in a small area in the north-eastern corner of the land for personal use

These suggested activities are remarkably similar and indicate that there is significant common ground upon which the Council can finalise a decision, notwithstanding that a response has not been received from Messrs AR and RH & Mrs LE McMahon.

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General Manager

Mayor

The following comments are made on the submission in the Kilby's letter dated 26 November 2008:

1. It appears that perhaps more is being read into the McMahon's suggested activities than would seem to be warranted
2. The nature strip does not form part of the subject premises and therefore is not included in the consideration of this matter
3. Noxious weeds are an unrelated issue that can be dealt with separately, if necessary, by the local noxious weeds authority, the Upper Macquarie County Council
4. Motor vehicle repairs should not be permitted without prior formal development consent. In this regard, Council's "no existing use rights" letter to Mr R and Mrs L McMahon dated 4 March 2003 stated, in part:
*The building on site is being used as a private garage for the long-term **storage** (bold emphasis added) of your private vintage cars and machinery. Council does not object to this private use.*
5. Minor building maintenance is permissible without Council's consent. Any proposed work not qualifying as "exempt development" pursuant to Council's Development Control Plan 2001 will require formal development approval and a construction certificate.
6. The proposed garden has been described as "a small area in the north-eastern corner of the land (to grow vegetables) for personal use". Machinery of a minimal size only should be sufficient for this purpose.
7. Regarding the conclusion-
 - a. Option 1 (take no action) is clearly inappropriate given the history of the circumstances of this matter
 - b. Option 2 (encourage a sell-up and re-location out of town) is unenforceable, and
 - c. Option 3 (enforce conditions as advised by Messenger & Messenger) is also unenforceable.

Having regard to the initial suggestions made by both parties there is sufficient common ground to enable the Council to formulate a response that should reasonably satisfy both the Kilby's and the McMahon's.

Conclusion

It was reported to the Council on 11 November 2008 that the only means by which the use ("development") of the land can be controlled and regulated is by way of determination of a formal development application submitted pursuant to the Environmental Planning and Assessment Act 1979, as amended. Furthermore, the Protection of the Environment Operations Act 1997, as amended restricts the hours of various activities which are applicable to all members of the community. For these reasons any concurrence by the Council to the suggested uses of the land in the prevailing circumstances should only be by way of the Council offering no objection to such uses.

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General Manager

Mayor

Recommendation

That Mr B & Mrs M Kilby and Messrs AR and RH & Mrs LE McMahon be advised that in the circumstances referred to in this report and subject to compliance with the restricted hours of various activities as provided in the Protection of the Environment Operations Act 1997, as amended:

1. No objection is offered to the following uses of land situated at Lots 35 & 36 in DP 2364, Section B, No 59-61 Carrington Avenue, Oberon-
 - a. Mow or slash lawns and grass
 - b. Establish and maintain a small vegetable garden in the north-eastern corner to grow vegetables for personal use
 - c. Store but not repair private motor vehicles in the shed
 - d. Carry out necessary repairs and minor maintenance to the shed qualifying as "exempt development" pursuant to the Council's Development Control Plan 2001.
2. Any use of the land found to be in contravention of this decision will result in the appropriate action being taken.

A11. DEVELOPMENT APPLICATION 23/09
Staff Report to the 20 January 2009 Ordinary Meeting
File No. PR22.173
Prepared by Jaclyn Burns on 12 January 2009

Application: Construction of a Dwelling

Applicant: NDF Building Certification

Owner: Mr H & Mrs S Webb

Zone: Rural 1(a)

Property: Lot 12 in DP: 603429, 173 Titania Road, Oberon

Reason for the Submission to Council

On the 14th August 2008 Council staff received Development Application 23/09 for a proposed dwelling on the abovementioned property. Development Application 23/09 has been referred to Council for determination in accordance with Clause H.3.10.1, as a submission has been received by way of objection.

Furthermore, the applicant has requested a variation to Clause A.2.6 of Development Control Plan 2001 (DCP) in respect to the siting of the dwelling within the 500m buffer from an extractive industry.

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General Manager

Mayor

History

On the 23rd June 2003, Development Application 110/03 was lodged with Council for a "Dwelling Entitlement" by the owner at the time, Luss Pty Ltd. Lot 12 at the time of assessment was part of a substantial original holding and Development Application 110/03 was one of three development applications (DA 110/03, DA 75/05 and DA 76/05) submitted for "Dwelling Entitlements" by Luss Pty Ltd on other lots forming the original holding

Furthermore, Council was at the same time assessing Development Application 126/03 for a Granite Quarry (Mudgee Stone Company) on the adjoining land, Lot 13.

Development Application 110/03 was subsequently approved on the 8th August 2003 with six conditions of Development Consent (**Attachment A11a**). Of particular interest is Condition 3 'Location and Design of Dwelling'.

Development Application 110/03 had a lapsing date of 8th August 2008.

Assessment of this application also reveals that both lots 12 and 13 were created as concessional lots under the Oberon Interim Development Order No.1 for the purpose of dwellings and, as such, a dwelling is permissible under clause 18 of Oberon Local Environmental Plan 1998 (OLEP 1998).

Development Application 23/09

On the 14th August 2008, Council staff received Development Application 23/09 for the construction of a future dwelling on Lot 12 (**Attachment A11b**).

During the determination of the proposed development, the application was notified to the adjoining land owner, Mudgee Stone Company, due to the proximity of the proposed dwelling to the existing quarry.

On the 28th October 2008 Council staff received a submission from Mudgee Stone Company to the proposed development (**Attachment A11c**), which outlined a number of issues that were not addressed by the applicants' Statement of Environmental Effects, as summarised:

- The application does not address Clause 13 of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 (extract reproduced below).
- The application requests the dwelling be located within Council's 500m buffer distance from the extractive industry without proposing any measures to avoid potential land use conflict.
- The application does not address the fact that the dwelling is located on an acknowledged and delineated Alaskite resource. Please refer to the attached map (**Attachment A11d**).

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General Manager

Mayor

- The Statement of Environmental Effects does not justify the location of the proposed building envelope and misquotes the Development Control Plan by stating that a 150m buffer is required from the adjoining property boundaries.
- The application does not address Condition 3 of Development Application 110/03, which required any future dwelling to take into account the presence and impacts of the quarry operations on the adjoining land. Please refer to **Attachment A11a** for reference to this condition.

Mudgee Stone, in their objection however, also suggested that the dwelling be relocated to a more appropriate location, "*eg. the northwest or southwest corners of lot 12 in DP 603429*". It was also suggested that Mudgee Stone were willing to discuss with the applicant and their representatives options, to still achieve their desired outcomes.

On the 28th October 2008, Council staff sent a letter to the applicants and owner regarding a number of issues that needed to be addressed prior to the determination of the application (**Attachment A11e**). The applicant's response to both the objection and Councils correspondence are at **Attachment A11f**.

In an effort to mediate a resolution to the objection received by Mudgee Stone, as they appeared willing to consider in consultation with the application, alternative building sites, Council staff contacted the owners to seek their cooperation to an on-site meeting. The land owners, unfortunately, were not at first willing to seek mediation and, as such, Council contacted Mudgee Stone (**Attachment A11g**) requesting clarification of their suggestions of alternative compliance. Their response is attached (**Attachment A11h**). The response was emailed to H Webb on the 9th December 2008.

A walk over of lot 12 was carried out on the 22nd December 2008 with Council's Director of Development, Senior Development Control Officer, Councillor McCarthy, Mudgee Stone Representative Mr Scott Murdoch and Mr Hugh and Mrs Sue Webb.

During the walkover it was indicated that the main concerns of Mudgee Stone was the location of the proposed dwelling in respect to the existing quarry and the 35dBa noise contour. The walkover revealed a number of alternative dwelling locations on the site that were considered acceptable to Mudgee Stone Company as they were located outside the 35dBa noise contour. Accordingly, it was resolved that Mudgee Stone would provide a plan of the land indicating the 35dBa noise contour relative to the proposed dwelling location.

On the 9th January 2009 a plan was provided by Mudgee Stone Company regarding suitable alternative building sites outside the 35dBa noise contour (**Attachment A11i**) and this information was forwarded to the owners for consideration. Mr Hugh Webb advised Council's Senior Development Control Officer, via telephone, at 11.00 am on Monday, 12th January 2009 that they would like their Development Application determined as submitted (site three) and do not consider the alternative building sites to be appropriate for various reasons.

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General Manager

Mayor

Accordingly, Council staff recommendation will be made on the house site nominated by the land owners.

Site Considerations

There are many pieces of legislation that govern development adjoining an existing extractive industry. The *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 – Clause 13*, requires Council to consider the impacts of the proposed dwelling on the mineral resource which includes current or future extraction.

- “ (1) *This clause applies to an application for consent for development on land that is, immediately before the application is determined:*
- (a) In the vicinity of an existing mine, petroleum production facility or extractive industry....
- (2) *Before determining an application to which this clause applies, the consent authority must:*
- (a) *Consider:*
- (i) *the existing uses and approved uses of land in the vicinity of the development, and*
- (ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*
- (iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*
- (b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*
- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).”*

In the assessment of Development Application 23/09, Council must therefore consider the existing quarry as approved and also the proposed expansion of the white granite quarry which is currently before the Department of Planning who have indicated a number of issues that require clarification in the submitted Environmental Assessment.

Unfortunately, the application for the construction of a dwelling fails to address any current or proposed impact of the extractive industry, such as noise mitigation measures, and, as such, makes a favourable determination by staff extremely difficult.

In respect to the SEPP, Council staff may have considered the application favourably had it been located in a position well away from the quarry (such as those indicated by Mudgee Stone during the walkover). The application itself fails to even indicate the approximate position of the dwelling from the quarry and, as such, staff have had to try and approximate the distance. Council's records indicate that the dwelling is approximately 225 metres from the existing quarry and 210 metres from the proposed extension. The buffer distance required by Clause A.2.6 in Development Control Plan 2001 requires a 500 metre buffer from the quarry, in order to minimise land use conflicts and to avoid undue interference with the living amenity of residents.

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Discussions and correspondence from the applicants and owners have attempted to justify the location of the dwelling in the proposed location as a result of their perception that other dwellings have been determined within the 500 metre buffer. Council staff have assessed the buffer zone, the area of identified mineral resource and the noise contour and can identify the following:

- No dwellings have been approved within the buffer zone since its adoption; the only dwelling existing inside the buffer is that of Mr M and Mrs J Armstrong. An excised lot was approved in 2005 in consultation with the quarry owner; however the dwelling location is actually approximately 1 km away from the extraction site at the time of determination. (applicant: Australian Feldspar P/L)
- No dwellings have been approved within the mineral resource area since the Section 117 direction indicating its existence. A subdivision was approved in 2004 for an excised lot within the resource area, outside the extractive industry buffer. (applicant K. Richardson for Luss P/L)
- No dwelling has been approved within the 35dba noise contour since the drafting of the Environmental Assessment in September 2007. A dwelling was approved in October 2006 inside the noise contour. (applicant: Sutfol P/L)

Further conjecture has also been raised as to the similarities of this application to that of Oberon Shire Council and Hynes Urban Planners in the proceedings at the Land and Environment Court in 2001 concerning Nodtronics Pty Ltd. In this case the dwelling was located Approx. 400 metres from the quarry. In this case, due to the marginal variation in the buffer setback distance of the dwelling to the quarry the acoustic engineer estimated the noise impact to be minimal, approximately 1 or 2 dBL due to the distance and topographic shielding. This case has minimal similarities to the development application currently for determination for Webb.

The Oberon Local Environmental Plan, within the aims and objectives, also requires Council to:

“(b) To encourage the proper management, development and conservation of natural and built resources within the Oberon local government area by protecting, enhancing or conserving:

(ii) Timber, minerals, soil, water and other natural resources, and..”

Furthermore the Rural 1 (a) Zone objectives require *“...the proper management and utilisation of resources by:*

(a) Protecting, enhancing and conserving:

(iii) Forests of existing and potential commercial value for timber production, and valuable deposits of minerals, coal, petroleum and extractive materials, by controlling the location of development in order to ensure the efficient extraction of those deposits, ..”

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General Manager

Mayor

Part 3 Special Provisions of OLEP Clause 10 – “*General considerations for development within rural zones*”, requires

“(1) The Council must not consent to development on land within Zone No 1 (a), 1 (c) or 1 (e) unless it has taken into consideration, if relevant, the effect of the carrying out of the proposed development on:

(c) The future recovery from known or prospective areas of valuable deposits of minerals, coal, petroleum, sand, gravel or other extractive minerals,..”

Section 79C of the Environmental Planning and Assessment Act also requires Council to consider:

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

(c) The suitability of the site for the development,

(d) Any submissions made in accordance with this Act or the regulations,

(e) The public interest.”

Council staff in the preparation of this report have given consideration to the impact of the construction of a dwelling in close proximity to an existing extractive industry in light of the above legislation.

Lot 12 in DP 603429 has been identified as a concessional lot created under the Oberon Interim Development Order and, as such, the permissibility of a dwelling under clause 18 of the Oberon Local Environmental Plan 1998 is not being argued. As such, Council staff have also taken into serious consideration the options presented by the Mudgee Stone Company in their proposal to alternative building locations.

Unfortunately the information provided by the applicant and owner in their submissions does not adequately address the information required for Council staff to consider their development to have minimal impact on the existing development or the recovery of future resources. Accordingly, Council staff have made the following recommendation.

Recommendation:

That Development Application 23/09 for the construction of a dwelling at Lot 12 in DP 603429, 173 Titania Road, Oberon be refused for the following reasons:

- 1) Council is not satisfied that the development complies with the objectives of the Rural 1(a) Zone in the Oberon Local Environmental Plan 1998;
- 2) The application does not disclose information which enables Council to form the opinion that the carrying out of the development is consistent with the objectives of the Oberon Local Environmental Plan 1998;

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General Manager

Mayor

- 3) The application does not disclose sufficient information that enables Council to take properly into consideration the effect of carrying out of the proposed development on the future recovery from known prospective areas of minerals, pursuant to State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 – Clause 13.
- 4) Council cannot be satisfied that the proposed location of the dwelling is suitable, having regard to adjoining land uses and, in particular, the existing and future operations of the quarry in the locality.
- 5) The proposed dwelling is located within the 500 metre buffer zone of the Oberon White Granite Quarry, contrary to clause A.2.6 of Development Control Plan 2001.

B1. POLICY REVIEWS

Staff Report to the 20 January 2009 Ordinary Meeting

File No. A1.2.7

Prepared by Toni Dwyer on 10 December 2008

Council last reviewed its Financial Assistance Policy (**Attachment B1**) at its 8 July, 2008 Ordinary Meeting and it was advertised accordingly. It has not yet been formally adopted as further changes were imminent. Since this policy was advertised further financial assistance has been given to the Oberon RSL Sub-Branch (October Ordinary Meeting) and on review it has become apparent that other financial assistance measures in place should be included in this policy.

On the horizon are further potential changes to this policy. The policy provides that The Oberon Rugby League Club will be financially assisted annually to maintain grounds. It is assumed that this will be Council's responsibility if the property is purchased and this can then be deleted from the policy.

Council is often requested for financial assistance of varying degrees. Fundamentally this policy communicates criteria of when financial assistance can be granted so that this is an equitable and transparent process. Decisions to grant financial assistance granted outside the parameters of the program outlined in this policy are still possible but must be subject to a twenty eight day period of public notice.

Council is reminded that when it resolves to grant financial assistance it should ensure that its policy is followed or amended accordingly. The policy contains relevant criteria for assessment and details programmed assistances. This policy is included in Council's Management Plan each year.

It is a statutory requirement that changes to this policy are advertised.

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General Manager

Mayor

Recommendation: That:

1. Public notice of the draft Policy 2209 Financial Assistance (**Attachment B1**) be given for 28 days.
2. The reference to financial assistance to the Oberon Rugby League Club be retained in the policy until final and legal property settlement occurs.
3. The draft Policy 2209 Financial Assistance (**Attachment B1**) be made publicly available at the Council Chambers and on Council's web-site.
4. Submissions received after the public exhibition period be reviewed prior to adopting the revised policy.

B2. 2009 E DIVISION MEETING OF THE SHIRES ASSOCIATION OF NSW
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A1.4.3
Prepared by Bruce Fitzpatrick on 5 January 2009

Advice has been received from the E Division of the Shires Association of NSW that its Divisional Meeting will be held at Blayney on Friday, 6th February 2009 in a similar format to previous years where presentations are made and consideration of motions are undertaken.

If the Council wishes to submit motions to the E Division Conference for consideration then items need to be raised so that a notice of motion may be put in the required format.

Recommendation

Submitted for the Council's consideration.

B3. COUNCILLOR TRAINING IN NATURAL RESOURCE MANAGEMENT
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A1.4.1 and D51.9
Prepared by Bruce Fitzpatrick on 6 January 2009

The Local Government and Shires Association of NSW and the Central West Catchment Management Authority would like to invite Councillors to participate in a free introductory training session on Natural Resource Management (NRM) on Friday 27th February 2009.

A copy of the Invitation and Project Brochure is attached for information (**Attachment B3**).

The training session is mainly for newly elected Councillors and/or Councillors with limited knowledge in NRM. The program is part of a project aimed at increasing the NRM skills, knowledge and engagement of local Councils within rural NSW.

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Council is also advised that a similar training session is being planned for Councils within the Lachlan Catchment Area to be held on Wednesday, 11th March 2009. Councils located within both catchment areas can choose to attend either training session.

Recommendation

Submitted for the Council's consideration.

B4. MOUNT VICTORIA – LITHGOW GREAT WESTERN HIGHWAY UPGRADE
Staff Report to the 20 January 2009 Ordinary Meeting
File No. E31.1
Prepared by Leigh Robins on 9 January 2009

The Roads and Traffic Authority have requested community input for this project.

A plan of the area (**Attachment B4**) shows the alternatives being considered.

CENTROC has previously supported the Newnes Plateau proposal.

Recommendation

That the Newnes Plateau route be endorsed as Council's preferred option for the Mt Victoria to Lithgow upgrade.

B5. VEHICLE LEASING
Staff Report to the 20 January 2009 Ordinary Meeting
File No. E37.5.1
Prepared by Leigh Robins on 9 January 2009

Council deferred consideration of a report on vehicle leasing at the December 2008 Ordinary Council Meeting pending additional information.

Consultants specialising in plant and vehicle management can provide independent information on the lease fees for \$1,500 or a comprehensive review for \$3,500 as follows:

The review shall address the following issues:

- Review current light vehicle changeover policy and make recommendations on optimum changeover

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General Manager

Mayor

- Provide information on average annual vehicle costs for use in:
 - Tender assessment
 - Vehicle values in staff total employment packages

- Comment on
 - The appropriateness of current vehicle models and mix of models and make recommendations for change to suit the Council's operational and staff retention/attraction needs
 - The value or otherwise of optional extras
 - Various fuel options
 - HR impacts of any proposed change in policy, procedure or cost to staff

- Provide:
 - Information on options to provide vehicle benefits to assist in attracting and retaining Council staff
 - A strategy to minimise FBT liabilities
 - Information on environmental considerations in light vehicle selection
 - A methodology for assessing environmental, safety and social issues in vehicle selection.

Recommendation

That an allocation of \$3,500 be provided to review Council's light vehicle fleet.

B6. REGIONAL AND LOCAL COMMUNITY INFRASTRUCTURE PROGRAM
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A5.3
Prepared by Bruce Fitzpatrick on 7 January 2009

At the last Council meeting it was resolved that:

- a) *Staff make an application for funding under the Federal Government Regional and Local Community Infrastructure Program for the Multi Purpose Sport and Recreation Centre for the full value of the project; and*

- b) *Staff be asked to prepare a list of projects to be presented to the January 2009 Ordinary Meeting for the provision of facilities in recreational centres and community centres in the Oberon local government area to the value of \$267,000.*

In respect to the first part of the above resolution, staff had five days to prepare and complete the application prior to the deadline date of the 23rd December 2008 and I am pleased to advise that the staff were successful in having the application submitted within the very restrictive

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 General Manager

 Mayor

timeline. A copy of the completed application form and a detailed business plan is attached for information (**Attachment B6**).

In respect to the second part of the above resolution, staff are now inspecting various existing infrastructure facilities at Burruga, Black Springs, and Oberon with a view to identifying suitable projects for the \$267,000 provided to the Council by the Federal Government.

Contact was made with Charles Lamburn from Burruga regarding the needs of that local community and after consultation he considered that the two projects which needed priority were the upgrading of the toilet facilities adjoining the public hall incorporating the provision of shower facilities, and the installation of an entry to the kitchen in the public hall which is a major safety issue as there is only one exit and if a fire starts in the kitchen, people may be trapped. Cost estimate excluding the shower facilities is \$25,000.

Peter Dove from the Black Springs community was consulted to identify that community's main issues and he indicated that improvements to the Black Springs Cemetery was its major priority. Estimated cost \$15,000.

An inspection of the public toilet facilities in the Oberon township area identified that upgrades are needed to the following toilet facilities to make them safer and to beautify the external components of the building to reduce the incidence of graffiti and make them more attractive like the toilet facilities in Cook Park. These include:

- Apex Park toilets,
- The toilets at the netball courts,
- Miss Wilson Park, and
- The recreation reserve toilets.

It is intended that this would incorporate the painting of murals with the assistance of schools in the area so that young people can claim ownership of the artworks. Estimated cost \$100,000.

As a part of the continuing development of The Common area, it was proposed that an adventure playground be installed, an additional barbeque facility to accommodate multiple users, and the completion of the water course development from The Common to the Chain of Ponds downstream. Estimated cost is \$127,000.

Recommendation

Submitted for consideration of these and any other projects Councillors may wish to consider.

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General Manager

Mayor

B7. GREATER WESTERN AREA HEALTH ADVISORY COUNCIL - VACANCY
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A3.6.1
Prepared by Bruce Fitzpatrick on 7 January 2009

The Greater Western Area Health Service, by letter dated 18 December 2008, advised that it has a vacancy on the Advisory Council and it is seeking the Council's assistance in distributing information relating to this vacancy. A copy of the letter is attached together with an Expression of Interest form (**Attachment B7**). The closing date for nominations is the 23rd January 2009.

Due to the short timeframe of the Council Meeting on the 20th January 2009, and the deadline date three days later, I will endeavour to place some information in the Oberon Review to seek expressions of interest.

Recommendation

Submitted for information and nomination of any person that the Council may consider appropriate for this position.

B8. COMMUNITY SAFETY PRECINCT COMMITTEE
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A3.5.1
Prepared by Bruce Fitzpatrick on 7 January 2009

The NSW Police Force, by letter dated the 16th December 2008, advised the Council of the official launch of the Chifley Local Area Command Community Safety Precinct Committee which was held at the Bathurst Council Chambers on the 24th November 2008. A copy of the letter is attached (**Attachment B8**).

The Community Safety Precinct Committee effectively replaces the former PACT Committee and quarterly meetings will be rotated between the four local government authorities of Bathurst, Lithgow, Oberon and Blayney each year.

Representatives from each local government area have been invited to participate on the committee.

Recommendation

That the Mayor and General Manager of the Oberon Council be appointed to the Community Safety Precinct Committee and expressions of interest be sought from members of the Oberon community to nominate their interest in participating on this committee.

This is Page No. 31 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor

B9. ROAD NAMING
Staff Report to the 20 January 2009 Ordinary Meeting
File No. E31.9
Prepared by Rebecca Burgess on 9 January 2009

As part of a subdivision by Mr J Kelleher and Vajazin Pty Ltd, a new road has been created. This will be a public road. The road runs west off Gingkin Road for 2.2 kilometres (**Attachment B9**).

This road provides access to several lots within the subdivision and requires naming.

Recommendation

That submissions be invited for road names for the new road 2.2 kilometres in length which runs west off Gingkin Road.

B10. HAZELGROVE PUBLIC SCHOOL RESERVE TRUST COMMITTEE
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A2.23
Prepared by John Chapman on 9 January 2009

In response to Council's advertisement seeking expressions of interest from members of the public to nominate for membership of committees, the attached letter (**Attachment B10**) has been received from Mr Graham Whittaker seeking to be appointed to the Hazelgrove Public School Reserve Trust Committee.

Current members of the committee are:

Council: Councillor Fitzpatrick
Community: Greg Fitzpatrick
Brett Fitzpatrick

Recommendation

That Mr Graham Whittaker be appointed to the Hazelgrove Public School Reserve Trust Committee.

This is Page No. 32 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor

B11. SPORTS FACILITY FLOORING
Staff Report to the 20 January 2009 Ordinary Meeting
File No. E34.9.1
Prepared by Leigh Robins on 9 January 2009

Council resolved at the December 2008 Ordinary Council Meeting to compare the cost for a sprung floor versus a concrete floor in the proposed multi purpose sport and recreation facility.

The following information is provided:

Floor	Earthworks	Construction	Total
Concrete	\$46,000	\$112,000	\$158,000
Sprung	\$12,000	\$250,000	\$262,000

In addition, a concrete floor would require surfacing dependent upon which sports are being catered for.

Recommendation

That the information be received and noted.

B12. OBERON DOG TRAINING CLUB
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A3.1
Prepared by Mike Massey on 12 January 2009

Discussions have been held between Council's Economic Development Officer Mike Massey and Mrs. Patricia Kewin regarding the possibility of establishing a Dog Training Club in Oberon. It is proposed that the Dog Training Club would meet weekly and be operated on a voluntary basis by Mrs. Patricia Kewin who is a certified dog handler and instructor.

In order to minimise the costs associated with establishing and running a Dog Training Club an appropriate location would need to be identified and consideration given to insurance issues.

To ensure the comfort and health of the whole community, dog owners must not allow their dogs to roam free in public places. Current records show an average of 6 dogs per month are found roaming the district and are seized and detained by Council. In regards to the NSW Companion Animals Act, tighter restrictions and new laws will be introduced by the NSW State Government early this year.

It is estimated that dog attacks on livestock cost farmers thousands of dollars each year in lost income which emphasises the importance that dog owners don't contribute to the problems that wild dogs cause by letting their own dogs roam free.

This is Page No. 33 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor

Recommendation: That:

1. An appropriate area of Council land be identified for use by The Oberon Dog Training Club.
2. The Oberon Dog Training Club be advised that the Council's insurance company precludes the Council from providing an indemnity to any other party for insurance purposes; therefore insurance cover is unable to be provided.

B13. FRIENDS OF THE OBERON LIBRARY
Staff Report to the 20 January 2009 Ordinary Meeting
File Nos. A2.1, C20.1
Prepared by John Chapman on 13 January 2009

In response to staff report item No B10 to Council's Ordinary Meeting in December (**Attachment B13a**) recommending support of the application by Oberon Friends of the Library to become an incorporated body, a motion was moved and seconded as follows:

"That:

1. *Council support the application by Oberon Friends of the Library to become an incorporated body,*
2. *The initial fees associated with the incorporation of Oberon Friends of the Library (totalling \$145) be met by Council,*
3. *The balance of funds held in trust for the Oberon Friends of the Library be transferred to the newly incorporated body and*
4. *Council consider the payment of the annual Public Liability Insurance premium for the Oberon Friends of the Library after further investigations into the cost have been completed."*

Following debate on the matter, the motion was put and lost.

The attached letter (**Attachment B13b**) enclosing a copy of the original letter dated 20/11/2008 (**Attachment B13c**) has been received from Friends of the Oberon Library offering to meet with Councillors and Library Committee members to discuss or clarify any perceived problems.

Recommendation: Submitted for consideration.

This is Page No. 34 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor

B14. LIBRARY COMMITTEE
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A2.8
Prepared by John Chapman on 13 January 2009

Letters have been received from Mrs Christine Parker (**Attachment B14a**) and community members of the Oberon Council Library Committee (**Attachment B14b**) expressing concern that Council may dissolve the Library Committee.

Mrs Parker has suggested that *“before a final decision is made the Council (both staff and Councillors) should meet with the current members of the Library committee to discuss the situation”*.

At the Special Meeting held on 24 September 2008 to elect the Mayor and Deputy Mayor and appoint delegates to committees, Council resolved *“that the Library Committee remains in place until a report on the function and activities of the library is presented to Council by Staff”*.

It is anticipated that the report on the function and activities of the library will be presented to the Library Committee at its meeting scheduled for 3 February 2009 for a recommendation to Council at the February Ordinary Meeting.

Recommendation

Submitted for consideration.

B15. COUNCIL COMMITTEES AND DELEGATES TO EXTERNAL ORGANISATIONS
Staff Report to the 20 January 2009 Ordinary Meeting
File Nos. A2.1
Prepared by John Chapman on 12 January 2009

The Mayor has requested this report to summarise Council's Committees and the current delegates appointed to those committees and external organisations as a number of Councillors have expressed a desire to review the committees and the current delegates. The following listing is submitted for Council's information.

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General Manager

Mayor

A. COUNCIL COMMITTEES

1. Cemetery Headstone Maintenance Committee

Council Delegate: Councillor McMahon
Staff Delegate: Engineering Administration Assistant (Rebecca Burgess)
Community Delegates: Lynne Agland
Marjorie Armstrong
Patricia Dwyer
Phillipa Gemmell-Smith
Kevin Ryan
Sr Marie Therese Slattery

Meets: As required

2. Consultative Committee

Council Delegate: Councillor Sullivan

3. Events Committee

Council Delegate: Councillor Sullivan
Staff Delegates: Director of Corporate Services
Jennifer Youman (Visitor Information Centre)
Community Delegates: Wayne Cooper
Pam Dellow
Jill Evans
Bronwyn Harvey
Brenda Lyon
Laurie McMahon
David McMurray
Christine Parker
Fiona Prentice
Jan Torner
Coral Watson
Eric Whalan

Meets: Each two months on the first Tuesday at 5.30pm

4. Finance Committee

Council Delegates: the whole Council
Meets: As required

5. Hazelgrove Public School Reserve Committee

Council Delegate: Councillor Fitzpatrick
Community Delegates: Greg Fitzpatrick
Brett Fitzpatrick

Meets: If and when required

This is Page No. 36 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

6. Heritage Committee

Council Delegates: Councillor McCarthy
Councillor Doney
Staff: Director of Development
Community Delegates: Ian Brady
Brenda Doney
Phillipa Gemmell-Smith
Susan Loudon
Ian McKenzie
Laurie McMahon
Iain McPherson (National Trust representative)
Peter Dove

Meets: Each second month on the first Monday at 5.00pm

7. Timber Heritage Walk Sub-Committee

Council Delegates: Councillor Sullivan
Community Delegates: Sue Loudon
Christo Aitken (Heritage Advisor)
Col Roberts
Stella Cotton
Bronwyn Harvey
June Evans
Keith Haslop
Judy Haslop
Mike Graham
Doug Cunynghame
Bruce Stevenson
Alan Sharp
Dietmar Torner
John Brien
Peter Harper
Ray McMahon
Laurie McMahon

Meets: Each second month on the first Monday at 4.00pm

8. Land Committee

Council Delegates: Councillor O'Bernier
Councillor Fitzpatrick
Councillor McCarthy
Councillor Sullivan

Meets: As required

This is Page No. 37 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

9. Library Committee

Council Delegate: Councillor Handelsmann
Staff Delegates: Library Manager (non-voting)
Director of Corporate Services
Community Delegates: Margaret Beilharz
Malcolm Graham
Marie Mitchell
Christine Parker
Shirley Turner

Meets: Each two months on the first Tuesday at 3.30pm

NOTE: Council resolved at the Special Meeting held on 24 September 2008 *“That the Library Committee remains in place until a report on the function and activities of the library is presented to Council by Staff”*.

10. Oberon Business Development Committee

Council Delegates: the whole Council

Meets: Monthly on the last Thursday of the month at 4.00pm

NOTE: It is recommended that the current meeting date be changed to the last Tuesday of the month at 4.00 pm due to conflict with the CENTROC meeting calendar.

11. Oberon Hazelgrove Rail Corridor Development Committee

Council Delegates: Councillor O’Bernier
Councillor Fitzpatrick
Staff Delegate: General Manager
Community Delegates: Aiden Clark (Tourism)
Wayne Cooper (Secretary)
Peter Hanrahan (Landowners)
Vacant (Timber Complex)
Ray McMahon (Museum)
Bill Muldoon (OTHR) – alternate: Bob Connors
Col Roberts (Walking)
Glen Sherlock (Cycling)

Meets: Each month on the first Thursday at 5.00pm

NOTE: It was noted at the Special Meeting held on 24 September 2008 that the Councillors nominated to the Oberon Hazelgrove Rail Corridor Development Committee be foreshadowed as the delegates on a Section 355 committee if expanded to include the railway station site.

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General Manager

Mayor

12. Oberon Promotions Committee

Council Delegates: Councillor Sullivan
Councillor O’Bernier
Staff Delegate: General Manager (or delegate)
Community Delegates: Peter Austen ((Jenolan Caves Reserve Trust)
Aiden Clark (OPTA)
Tim Charge (OPTA)
Wayne Cooper (OPTA)
Zsuzsanna Handelsmann (OBA)
Meets: Each two months on the first Thursday at 9.30am

13. Performance Review Committee

Council Delegates: the whole Council
Meets: As required

14. Works Committee

Council Delegates: the whole Council
Meets: Generally twice yearly

15. Senior Citizens Liaison Committee

Council Delegates: Councillor Sullivan
Councillor Hooper
Councillor McMahan
Councillor O’Bernier
Meets: As required

16. Self Care Units Tenants Panel

Council Delegates: Councillor O’Bernier
Councillor McCarthy (alternate delegate)
Staff Delegate: Barbara Phelan
Community Delegates: Dr Andrew Godden
Mary Behan
Meets: As required when a vacancy occurs or is imminent

Note: At Council’s Special Meeting held on 24 September 2008 it was noted that Councillor Doney requested that an **Environmental Issues Committee** be formed in the future.

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General Manager

Mayor

B. DELEGATES TO EXTERNAL ORGANISATIONS

1. Arts OutWest
 - No Council delegate currently appointed
 - Christine Parker – Oberon representative
2. Oberon Arts Council
 - No delegate to be appointed
3. Ben Chifley Catchment Management Steering Committee
 - Councillor McCarthy
4. Blue Mountains Tourism Association
 - Wayne Cooper
 - Councillor Sullivan (alternate delegate)
5. Catchment Management Committees (Lachlan, Macquarie and Sydney Water Catchment Management Authorities)
 - Councillor delegate deferred at this stage
 - Staff: Director of Development
6. Cox's River Catchment Management Authority
 - no delegate currently appointed
7. Lachlan Regional Transport Committee Incorporated
 - Councillor Handelsmann
8. Oberon Business Association
 - Councillor Handelsmann
9. Oberon Plateau Tourism Association
 - Councillor Handelsmann
10. Rural Fire Service Chifley Zone Liaison Committee
(Councillors also to represent Council on Brigade Captains' Meetings)
 - Councillor Francis
 - Councillor McCarthy
 - Staff: Director of Engineering (Leigh Robins)
Manager Corporate Services (Amanda McGrath)
11. Traffic Advisory Local Committee
 - Councillor McCarthy
 - Councillor Handelsmann (alternate delegate)
 - Staff: Works Manager (Chairman)
12. Upper Macquarie County Council
 - Councillor Francis
 - Councillor McMahon
13. Central NSW Area Consultative Committee – Strategic Regional Plan for 2007-10
 - Councillor Sullivan

NOTE: At Council's Special Meeting held on 24 September 2008 it was noted that Councillor Handelsmann advised that the Oberon Timber Complex Community Consultative Committee meets quarterly.

Recommendation: Submitted for consideration.

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General Manager

Mayor

B16. REQUEST FOR LONG SERVICE LEAVE
Staff Report to the 20 January 2009 Ordinary Meeting
File Nos. Personnel
Prepared by Bruce Fitzpatrick on 13 January 2009

In accordance with the Council's current policy regarding the taking of leave, I am required to take four weeks long service leave prior to the 30 June 2009. I therefore seek the Council's agreement to the taking of four weeks long service leave commencing on 6 April 2009 and finishing on 1 May 2009.

Recommended:

That approval be given for the General Manager to take four weeks long service leave commencing on 6 April 2009 and concluding on 1 May 2009.

B17. URINATING IN A PUBLIC PLACE
Staff Report to the 20 January 2009 Ordinary Meeting
File Nos. A3.1
Prepared by Bruce Fitzpatrick on 13 January 2009

A complaint has been received by Council staff regarding an incident that took place on Saturday 10 January 2009 during a cricket match being played at Cunynghame Oval.

During the course of the cricket match it has been alleged that several players urinated in the laneway behind Brennan Crescent, rather than walking to the toilet facilities provided in Miss Wilson Park. Local residents requested that this behaviour cease, and their request was ignored.

Recommendation: That:

1. Council staff ensure that the toilet facilities in Miss Wilson Park are appropriately sign posted, and that the facility is open, cleaned and maintained during cricket matches.
2. The appropriate authorities be notified of the incident that took place at Cunynghame Oval on Saturday 10 January 2009.

This is Page No. 41 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor

M1. BUSINESS DEVELOPMENT COMMITTEE MEETING MINUTES
Staff Report to the 20 January 2009 Ordinary Meeting
File No. A2.18.1
Prepared by Bruce Fitzpatrick on 13 January 2009

The minutes of the Meeting held on 18 December 2008 are attached. (*Attachment M1*)

Recommendation

That the information be received and noted.

Submitted,

Bruce Fitzpatrick
GENERAL MANAGER

This is Page No. 42 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 January 2009 commencing at 5.30 pm.

General Manager

Mayor