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May 2009

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General Manager

Mayor

A1. REPRIORITISING THE STANDARD LOCAL ENVIRONMENTAL PLAN (LEP) PROGRAM
Staff Report to the 19 May 2009 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco on 4 May 2009

During the recent Councillor presentation concerning the new LEP, the Planning Consultant made a brief reference to a letter received by all Councils in NSW from the NSW Department of Planning (DoP) concerning the prioritisation of the Standard LEP Program.

A copy of the letter from the NSW DoP is attached (***Attachment A1***).

Summary of Letter

When the Standard Instrument (Local Environmental Plans) Order 2006 was gazetted, a timetable was set to require all 152 NSW Councils to have a Standard Instrument LEP by 2011. The first 92 LEP's were due in March 2009 and only two have been gazetted to date.

The DoP initially assumed that the process would not be complicated, however due to the fact that the new LEP's are required to give effect to strategic planning and policy changes that require extensive community consultation, the process has placed increased demands on the resources of Councils, Consultants, the DoP and Parliamentary Counsel that were not foreseen by the DoP.

Therefore, the DoP will be establishing a list of priority LEP's which can proceed to gazettal over the next two years, based on the following criteria:

- a) Whether the LEP is already substantially progressed, in particular, whether a Section 65 Certificate has been issued or is imminent or the LEP is significantly advanced.
- b) Whether the LEP relates to a high growth area of the State with significant development pressures.
- c) Whether the LEP is strategically important in meeting housing or employment targets set by the Metropolitan Strategy, Regional Strategy or Subregional Strategy.
- d) Whether the current planning controls are outdated and creating significant planning issues.

If an LEP is not placed on the two year priority list, the DoP will suspend work on that LEP so that resources can be devoted to the LEP's that make the list.

Staff and the Consultant have completed the questionnaire attached to the DoP letter and it has been forwarded to the DoP.

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General Manager

Mayor

Council will be kept informed of the result of the application to include the Oberon LEP process on the two year priority list.

Recommendation:

That the information be received and noted.

A2. CERTIFICATION OF DRAFT STANDARD INSTRUMENT LOCAL ENVIRONMENTAL PLANS FOR PUBLIC EXHIBITION
Staff Report to the 19 May 2009 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco on 4 May 2009

The NSW Department of Planning (DoP) has released Planning Circular PS09-011 regarding the above matter. The main aim of the circular is to advise Councils of the process they must follow to ensure that draft LEP's can be finalised as quickly as possible following public consultation.

Once a draft LEP is exhibited, it becomes a statutory consideration when staff assess a development application under S79C of the Environmental Planning and Assessment Act 1979 (EPA Act).

In order to speed up the process of gazettal, draft LEP's will now not be referred to Parliamentary Counsel for review prior to certification, unless authorised by the DoP in exceptional circumstances.

By the time Council formally submits its draft LEP under Section 64 of the EPA Act, the draft should already be supported by the DoP.

The DoP will require mandatory pre-submission meetings between Council staff and DoP staff prior to formal Section 64 submission to the DoP. This pre-submission meeting is to occur;

- a) when any major policy issues with the draft LEP have been resolved, and
- b) before Council resolves to endorse the draft LEP for public exhibition.

If all documentation (including maps) is submitted in the correct format and consultation has occurred with the Regional Office of the DoP, a Section 65 Certificate will be issued to enable the draft LEP to be publicly exhibited.

Other matters that Council can do to help reduce the time for certification of draft LEP's for exhibition include:

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General Manager

Mayor

- a) Use "model" clauses that have been previously agreed by Parliamentary Counsel wherever possible in drafting local provisions.
- b) Ensuring that the LEP maps meet the standard technical requirements.
- c) Providing a fully completed land use matrix at the same time as the draft LEP is submitted.

Recommendation:

That the information be received and noted.

A3. SMALL BUSINESSES IN RESIDENTIAL AREAS – NEW LOCAL ENVIRONMENTAL PLAN

Staff Report to the 19 May 2009 Ordinary Meeting

File No. D52.1

Prepared by Ralph Tambasco on 11 May 2009

At its 21 April 2009 Ordinary Meeting, Council resolved as follows:

That a letter be written to the Minister for Planning requesting that a clause may be included in the new LEP allowing suitable small businesses that wish to be set up in a residential area and outside the commercial zone be subject to council approval as these would be considered not to be cottage industries.

It is considered that a letter to the Minister for Planning is not necessary as staff will ensure that the permissibility of professional offices and similar developments is included in the new Local Environmental Plan (LEP).

The method to achieve this will be as follows:

- a) The new LEP will contain a zone known as Zone R1 General Residential.
- b) The Standard LEP template lists three dot point criteria that must be included under the heading of "Objectives of Zone".
- c) Council can add as many other objectives as it wants over and above the three compulsory objectives.
- d) I have formulated an objective that can be added to proposed Zone R1 objectives that would relate to office/business developments, as follows:

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General Manager

Mayor

“To limit the scale of retail and office/business developments so that the type of development is compatible with the amenity of the surrounding residential area and does not prejudice the status and viability of the Oberon Central Business District as the retail, commercial and administrative centre of Oberon.”

- e) The next step is to include in the “Permitted with Consent” section of the Zone R1 General Residential Land Use Table, the following words after the compulsory land uses:

“...and any other development not otherwise specified in Item 2 or 4.”

- f) Therefore, if development such as office/business and even minor retail is not specified in the “Permitted without Consent” section or the “Prohibited” section of the Land Use Table, then it automatically reverts to “Permitted with Consent”.
- g) If development is “Permitted with Consent”, a subsequent Development Application can be submitted to Council for the proposed development and it will then be considered on its individual merits.

Other Matters to Consider

These types of developments should be limited to a certain floor area and number of storeys. Staff consider that a maximum floor area of 250 m² and a maximum rise in storeys to two is appropriate for these types of developments.

The reason for this is so that permissible developments are of a size and bulk that is typical of a single or two storey dwelling, thereby “fitting in” with existing residential development that is typical in these land use zones.

A similar process can be used to ensure that these types of office/business developments will also be permissible in the proposed RU5 (Village) Zones of the new LEP.

Recommendation:

That the information be received and noted.

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A4. VARIATION TO DEVELOPMENT CONTROL PLAN 2001 – DEVELOPMENT APPLICATION 128/09 – 88 BED RESIDENTIAL CARE FACILITY FOR THE AGED
Staff Report to the 19 May 2009 Ordinary Meeting
File No. PO2.95
Prepared by Ralph Tambasco on 11 May 2009

The Director of Development is currently processing the following Development Applications in respect to the above proposal:

- a) Development Application 120/09 – 3 lot subdivision of Lot 44 in DP 846942, 95 Albion Street, Oberon (**Attachment A4a**).
- b) Development Application 128/09 – 88 Bed Residential Care Facility (RCF) for the aged on proposed Lot 3 of DA 120/09 (**Attachment A4b**).

Development Application 120/09 – 3 Lot Subdivision

At the time of writing this report, I am awaiting correspondence from the Roads and Traffic Authority (RTA) in respect to the feasibility of the proposed access off Albion Street to proposed Lot 2, which is the residue lot resulting from the subdivision.

Any comments received from the RTA in respect to this proposed access will also be applicable to DA 128/09 for the 88 bed RCF.

Approximately two weeks ago I received a phone call from the RTA in respect to the proposed access to Lot 2. As Council would be aware, Albion Street is a Regional Road and therefore any Development Applications must be referred to the Traffic Committee for their comments.

Should the Traffic Committee / RTA not approve of the location of the access to proposed Lot 2 and Council agree with the recommendation from the RTA / Traffic Committee, access from this lot will be able to be achieved from Tarana Road utilising the proposed separate entry / exit point for the proposed RCF.

The access to proposed Lot 2 would therefore be obtained through the car parking / manoeuvring area of the RCF.

However, to enable this to occur, the proposed RCF will need to be relocated at least 2 metres closer to the Albion Street (Northern) boundary. This will enable an 8 metre wide road to be constructed and to traverse in an East/West direction along the Southern boundary of the property to proposed Lot 2.

From a planning perspective, staff would prefer the proposed RCF to be located as far away from Albion Street as possible. Also, notwithstanding that Albion Street is a heavy traffic bypass, staff would prefer that the access to proposed Lot 2 be from Albion Street rather than from

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Tarana Road, which is located nearer to a typical urban residential area than the proposed Albion Street access.

Should proposed Lot 2 be developed in the future for further aged care facilities, an access off Albion Street will enable better entry / exit traffic distribution rather than all traffic being congested onto Tarana Road.

At the end of the submission period for the subdivision application (28 April 2009), one letter of support for the subdivision was received.

Should Council receive the response letter from the RTA, it will be tabled at the meeting.

Development Application 128/09 – 88 Bed RCF

As most Councillors would be aware Clause 5.4 “Buffer Zones” of Part C – Residential Development – 2(v) Zone of Development Control Plan 2001 (DCP 2001) states, inter alia, that residential development is to be located a minimum of 50 metres from Albion Street *“in order to minimise land use conflicts and avoid undue interference with the living amenity of residents”*.

The site plan for the proposed RCF indicates that the building line (building setback) of the proposed RCF to Albion Street varies from 11 metres to 12 metres.

However, in this case, the whole of the development has been designed to comply with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. Therefore, the requirement of the SEPP overrides the Oberon Local Environmental Plan 1998 and Development Control Plan 2001, based on planning hierarchy of Environmental Planning Instruments.

At the end of the submission period in respect to this application (8 May 2009), one submission was received. A copy of this submission is attached (**Attachment A4c**).

The matter the subject of the submission was discussed with Architect Mark Boffa. Any future Construction Certificate Application will be accompanied by a hydraulic design, which will include roof water disposal and surface water disposal from all hard stand areas. There will be no runoff of roof water or hard-stand area surface water onto adjoining premises. This requirement will be attached as a condition of approval of Development Application 128/09. Therefore the concerns of the complainant regarding the possibility of surface water drainage flowing from the site to properties in Brennan Crescent can be satisfactorily addressed at Construction Certificate stage.

Recommendation:

That the information be received and noted.

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General Manager

Mayor

B1. POLICY REVIEWS
Staff Report to the 19 May 2009 Ordinary Meeting
File No. A1.2.7
Prepared by John Chapman on 21 April 2009

A Draft Equal Employment Opportunity (EEO) Policy has been developed in consultation with Council's Consultative Committee.

The intent of the policy is to eliminate and ensure the absence of discrimination in employment on the grounds of sex, pregnancy, race or ethno-religious background, marital status, disability, homosexuality, transgender, parental status and/or age and the policy has been developed in line with this aim.

A copy of the draft policy is included at **Attachment B1**.

Recommendation:

That the Draft Equal Employment Opportunity Policy be adopted as presented in **Attachment B1**.

B2. BLUE MOUNTAINS TOURISM LIMITED – REPRESENTATIVE REPORT
Staff Report to the 19 May 2009 Ordinary Meeting
File No. P73.1
Prepared by Bruce Fitzpatrick on 4 May 2009

A report has been provided by Mr Wayne Cooper, Oberon Council's elected representative on the Board of Blue Mountains Tourism Limited (BMTL) (**Attachment B2**).

Mr Cooper has been elected as Chair of the Destination Development Task Force. This is a key advisory group to the BMTL Board. The role of the task force is to monitor quantitative and qualitative tourism-related market research and keep members updated on trends and consumer demands. The task force will focus on providing guidance to the Board as to how best to prepare and respond to changes in tourism as a result of the global economic downturn.

The BMTL Board is reviewing the structure of the organisation, including the possible formation of a separate RTO. The board is currently awaiting a report by a consultant, John King, regarding the possible structure. Oberon has had input into this process.

Recommendation:

That the information be received and noted.

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General Manager

Mayor

B3. QUARTERLY BUDGET REVIEW AS AT 31 DECEMBER 2008
Staff Report to the 19 May 2009 Ordinary Meeting
File No. C15.3
Prepared by John Chapman on 11 May 2009

The Quarterly Budget Review Statements for the third quarter to 31 March 2009 have been distributed as a separate document.

All items in respect of which there are variations are noted on the detailed statements with brief comments. A summary of major variations is also provided with the statements.

Recommendation:

That the Quarter 3 Budget Review Statements for 2008/2009 be received and noted.

B4. REVIEW OF MANAGEMENT PLAN – QUARTER 3, 2008/09
Staff Report to the 11 May 2009 Ordinary Meeting
File No. C15.5
Prepared by John Chapman on 11 May 2009

In accordance with the provisions of the Local Government Act 1993, a report is being distributed as a separate document on the progress made to 31 March 2009 with Council's Management Plan for the 2008/09 year.

Recommendation:

That the Quarter 3 Management Plan review for 2008/2009 be received and noted.

B5. COMMUNITY CENTRE/LIBRARY RE-DEVELOPMENT
Staff Report to the 19 May 2009 Ordinary Council Meeting
File No. A3.11
Prepared by Manex on 11 May 2009

Council resolved on 21st April 2009 "*That the major capital projects including the community centre and other projects be reviewed at a date to be set following the estimates meeting.*"

This report seeks to recommend to Council actions considered appropriate in respect of the re-development of the Community Centre/ Library.

The Social Community Plan includes the following provision in relation to the Community Centre and Library:

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Investigate expanding existing buildings and sites into a distinctive Community Centre/Co-located Facility for passive activities.

Recommended Sites: 1. *Library/Community Centre/Old Dentist Building*
 2. *Schools*

Strategy: 1. *Develop a concept plan*
 2. *Seek funding sources*

After allocation by Council of funds to engage a consultant and subsequent considerable community consultation with the consultant (Ms Sue McGregor of McGregor Projects) via the Multi-Purpose Community Centre Working Group, a draft concept plan providing for co-location on the current site of the Library/Community Centre/Dental Surgery was recommended to Council on 21st October 2008.

Generally, the criteria for grant funding for projects of this magnitude require that the council or the constructing authority needs to have adopted final concept plans and determined the appropriate site for the project. Council has yet to determine:

- That it intends to proceed with the multi-purpose community centre project;
- Final concept plans; and
- The location.

Staff have been advised that, until Council resolves these issues, applications for grant funding will generally be rejected.

As advised in the supplementary staff report to the Special Council Meeting on 7th May 2009 to consider the Draft Management Plan, if Council was to continue with plans to proceed with the construction of a Multi-Purpose Co-Located Community Centre in accordance with the most recent concept plans for a co-located facility, the estimated annual additional cost to ratepayers (including loan repayments) would be \$190,500 or an average of \$56 per ratepayer (based upon the assumption that a grant for 50% of the estimated total cost of \$2.8 million would be made available).

Council is reminded of the requirement by the Department of Local Government to prepare a Capital Expenditure Review for all community infrastructure projects exceeding \$1 million. Council is required also, before committing to any such capital expenditure project, to consult with the community in relation to the proposed method of funding and particularly the additional cost to the community. It is generally felt that, in the current economic climate, such consultation with the local community undoubtedly result in serious concerns in relation of the affordability by the community to bare the estimated additional burden through increased rates (which would, in any case, be subject to approval from the Minister for Local Government in accordance with current NSW rate pegging legislation).

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General Manager

Mayor

It is considered that, although Council has incurred considerable expense and carried out considerable community consultation with input from the Community Centre Community Committee, it may not be prudent to proceed to proceed with the \$2.8 million proposal at this stage due to:

1. The likelihood that the additional cost to be borne by ratepayers would not be generally accepted by the community, particularly in the current economic climate;
2. The fact that even if the community accepted the additional cost, an application to the Minister for Local Government to increase the rate levy above the rate-pegging limit may not be approved;
3. The availability of an alternative, more cost effective, solution for the expansion of the Library and improvements to the current Community Centre in the short term (any such extensions/improvements to provide for possible future further expansion and co-location).

Previous preliminary plans for extensions to the Library provided a number of options, but the preferred option would include:

1. Extensions to the north (Dart Street frontage) of the existing library building;
2. Enclose portico at front for reading room;
3. Internal improvements to provide a suitable staff kitchen area; and
4. Other internal adjustments and fixtures, fittings and shelving/furniture.

A preliminary estimate for this work is \$250,000.

The Draft Management Plan adopted by Council on 7th May 2009 provides the sum of \$17,900 to upgrade the current Community Centre with the funds raised by the former Community Centre Management Committee and currently held in the Trust Fund. While some minor furniture and computer acquisitions have taken place, it is considered that some major renovations are necessary. Renovations considered necessary include:

1. Floor coverings;
2. Improved and more efficient heating;
3. Access and facilities for the disabled;
4. Alterations to internal walls & fittings to provide more usable areas;
5. Glass/door area at rear.

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General Manager

Mayor

It would be appropriate to consult with the current main users to clarify the necessary renovations required. Should the estimated cost exceed the available funds (\$17,900), it may be necessary to identify additional sources of funding in conjunction with funding for Library extensions if Council wishes to proceed with that option.

Recommendation:

That:

1. Council determine that the proposed Library/Community Centre Co-located Facility be deferred pending a recovery from the current global economic crisis;
2. In the interim:
 - a. Preliminary plans be prepared for extensions to the existing Library to provide for:
 - i. Extensions to the north (Dart Street frontage) of the existing library building;
 - ii. Enclosed portico at front for reading room;
 - iii. Internal improvements to provide a suitable staff kitchen area;
 - iv. Other internal adjustments and fixtures, fittings and shelving/furniture; and
 - v. Possible future further expansion and co-location with the community centre.
 - b. Renovations to the existing Community Centre to include:
 - i. Floor coverings;
 - ii. Improved and more efficient heating;
 - iii. Access and facilities for the disabled;
 - iv. Alterations to internal walls & fittings to provide more usable areas; and
 - v. Glass/door area at rearsubject to consultation with the current main users to clarify the necessary renovations considered appropriate;
3. An estimate of costs be prepared for the proposed extensions and renovations; and
4. Funding options for the extensions and renovations be investigated.

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General Manager

Mayor

B6. ALBION STREET LAND
Staff Report to the 19 May 2009 Ordinary Meeting
File No. E37.3
Prepared by Leigh Robins on 11 May 2009

A proposal to purchase industrial estate land has been received. A plan of the location is included as **Attachment B6**. The land price Council has set is \$32 per m2 plus GST and the offer is \$29 per m2 plus GST.

Recommendation:

That the agent be advised that the price for land south of Maher Drive is \$32 per m2 plus GST.

B7. LOCAL GOVERNMENT CULTURAL AWARDS
Staff Report to the 19 May 2009 Ordinary Meeting
File No. A1.4.1
Prepared by Bruce Fitzpatrick on 12 May 2009

The Local Government Cultural Awards were announced at NSW Parliament House on Friday 1 May, with Oberon Council being announced as the winner of the Program and Partnership category (Division A) for 'Oberon Terrazzo Tapestries' in the Common.

The Oberon Terrazzo Tapestries Project is a community public art project involving community consultation and participation. The project was undertaken in 2008 to enhance Oberon's public spaces with permanent artworks. The project was the reinterpretation of the 1988 Bicentennial Communal Tapestries as Terrazzo Panels.

The project was initiated by the Oberon Arts Council and supported by the community in partnership with Oberon Council, Oberon Timber Complex, Regional Arts Fund, Regional Arts NSW, Country Energy and local businesses. President of the Arts Council, Fran Charge accepted the award on behalf of Council and the community.

Recommendation:

That a letter of congratulations be sent to the Oberon Arts Council for their efforts coordinating the Terrazzo Tapestries project on behalf of the community.

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General Manager

Mayor

B8. COUNCILLOR TRAINING
Staff Report to the 19 May 2009 Ordinary Meeting
File No. A1.3.3
Prepared by Bruce Fitzpatrick on 12 May 2009

Councillors were advised via memo on 20 April 2009 that Mr. Gerry Holmes had been contacted to undertake further Professional Development Training for Councillors. He had advised that he would be available on Saturday 23rd May 2009 to carry out a full day training session for Councillors, however unfortunately Mr. Holmes has now advised that due to other commitments he will not be available on that day.

Councillors have previously indicated that the preferred time for training to be conducted is on a Saturday. The LGSA conduct Councillor Professional Development Programs which can be tailored to suit Councils requirements and conducted in Oberon on a suitable weekend. A quote along with suitable dates can be obtained from the LGSA if Councillors wish to pursue this as a form of delivering Councillor Professional Development training. Identification of the modules to be delivered will be required in order to obtain a quote. Further information regarding the types of programs available can be found at **Attachment B8**.

Centroc has also advised that there are currently places available at a Meeting Procedures for Councillors course to be held in Bathurst on 27 May 2009. Councillors are request to advise the Executive Assistant if they are interested in attending this training course.

Professional Development for Councillors is strongly encouraged by the Department of Local Government and it is hoped that a suitable time and date can be established to enable all Councillors to attend training to assist them with carrying out their duties as elected members.

Recommendation:

That a suitable date and method of delivering Councillor Professional Development Training be identified.

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General Manager

Mayor

B9. GST CERTIFICATE OF CONFIRMATION
Staff Report to the 19 May 2009 Ordinary Meeting
File No. C17.3.2
Prepared by John Chapman on 13 May 2009

An annual Certificate of Confirmation (**Attachment B9**) is required to be submitted to the Department of Local Government by 31 May 2009.

The certificate is to be signed in accordance with a resolution of Council.

Each of the twelve BAS reports during this period were completed and remitted by Council by the due date.

The total amount of GST owed to Council from the Australian Taxation Office less the amount of GST payable during this period was \$358,726.

Recommendation

That the Goods and Services Tax Certificate for the payment of voluntary GST for the period from 1 May 2008 to 30 April 2009 to be submitted to the Department of Local Government.

Submitted,

Bruce Fitzpatrick
GENERAL MANAGER

This is Page No. 15 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, 19 May 2009 commencing at 5.30 pm.

General Manager

Mayor