

137-139 Oberon Street  
PO Box 84  
Oberon NSW 2787

Telephone: (02) 6329 8100  
Fax: (02) 6329 8142  
Email: [Council@oberon.nsw.gov.au](mailto:Council@oberon.nsw.gov.au)



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**OBERON COUNCIL**

## LATE REPORTS

Oberon Council Ordinary Meeting  
Tuesday 19 July 2017

Commencing at 5.30pm  
at the Council Chambers

# Agenda Items

page

- 13.02 LATE REPORT - DEVELOPMENT APPLICATION 10.2015.81.1 – 24 HOUR SERVICE STATION..... **Error! Bookmark not defined.**

**13.02 LATE REPORT - DEVELOPMENT APPLICATION 10.2015.81.1 – 24 HOUR SERVICE STATION**

File No: P029-1

Author: Jaclyn Burns, Acting Planning and Development Director

**Summary**

An application for a 24 hour Service Station, Managers Studio and associated Boundary Adjustment has been submitted to Council for determination on Lot 8 and 9 in DP 248152, being known as 1 Horace Street, Oberon and is referred to Council for determination in accordance with Part H.3.10 of the Development Control Plan (DCP) 2001. Part H.3.10 of the DCP requires:

*“In determining applications Council and/or delegated officers of Council, will consider all submissions before the application is determined.”*

During the notification period a submission was received from an adjoining land owner.

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**Recommendation:**

That:

1. Council approve Development Application 10.2015.81.1 for a 24 hour Service Station, Managers Studio and associated Boundary Adjustment on Lot 8 and 9 in DP 248152, being known as 1 Horace Street, Oberon in accordance with the 79C Assessment and conditions contained within this report.
1. A division be called in accordance with Section 375A of The Local Government Act 1993.

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**Comment:**

FOLLOWING is a copy of the proposed plans and Statement of Environmental Effects (SoEE) associated to the proposed development.

**EXISTING CONSENTS THAT RELATE TO THE LAND:**

The following Development Consents relate to the land:

- Development Application 200/02 for landfill and was approved on 19 December 2002.

**PROPOSED DEVELOPMENT**

The proposed development consists of:

1. One 60,000L diesel underground storage tank;
2. One 30,000L unleaded underground storage tank;
3. One 20,000L premium unleaded underground storage tank;
4. One 10,000L Ad blue (diesel additive) underground storage tank;
5. Associated bowsers, covered forecourt, convenience store and 15 sqm managers studio and on site customer parking.
6. Boundary adjustment subdivision incorporating approximately 420 square metres of Lot 9 in DP: 248152.

Access to the proposed development is proposed to be via Horace Street with egress off Albion Street.

The proposed operating hours of the service station will be 24 hours a day.

The development site comprises two commercial lots (subject to boundary adjustment) with a combined area of 1445m<sup>2</sup> with approximately 32m frontage to Horace Street and 32m frontage to Albion Street. The site is currently vacant. The applicant proposes to develop the site with a service station which includes a convenience store measuring 6.9m x 12m x 3.9m high and a canopy over the forecourt area, car parking spaces, landscaping and signage (including a 7m high x 3m wide illuminated pylon sign). Refer to Attachments for plans.



**Figure 1 the development site**

**SECTION 79C ASSESSMENT:**

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

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

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

1. SEPP (Infrastructure) 2007
2. SEPP – Hazardous and Offensive Development
3. SEPP No. 55 – Remediation of Land
4. SEPP No. 64 – Advertising and Signage
5. Oberon Local Environmental Plan 2013

A number of State Environmental Planning Policies (SEPP) and the Oberon Local Environmental Plan 2013 apply to land in the LGA. There are no SEPP's which are specific to the development of the site for a Service Station.

SEPP (Infrastructure) 2007

Clause 45 Determination of development applications—other development

Not applicable – the building is not to be within 5m of an overhead powerline

Clause 101 Development with frontage to classified road.

The development was initially referred to the NSW Roads and Maritime Service (RMS) as it was advised that Albion Street was a Classified Road and as such under the provisions of the Infrastructure SEPP that their concurrence was not required to the making of this application. Councils Engineering Staff also had considerable concerns relating to the design of the service station and access and egress from the site in relation to truck turning paths of B Doubles. Whilst the RMS advised that their concurrence was not required they agreed that the site had significant design issues in relation to safe truck access and egress off the site.

This issue is discussed in more detail further in the report.

SEPP 33 – Hazardous and Offensive Development

The proposed service station is a potentially hazardous industry and as such SEPP 33 is applicable. This is due to the potential for liquid fuel leaks and spills and their potential to cause fire and explosions. There is also the potential for hazard from filling from the gas tank. The applicant will be required to submit a preliminary hazard assessment which indicates that the development as proposed satisfies the screening tests for each of the potential hazardous material to be stored and dispensed on the site.

SEPP No. 55 – Remediation of Land

The development site has been identified as containing landfill. Development consent was obtained (200/02) however no details were supplied to Council as to the source of fill provided to site. It was also observed during the site inspection that a portion of the allotment was stained by oil and/or fuel associated to the storage of equipment associated to the Moorhead Engineering business.

As the development is outside the scope of the provisions of SEPP 55 the preliminary site assessment provided by the applicant enables council to proceed on the determination of the application on the basis that the site will need some minor remediation.

SEPP No. 64 – Advertising and Signage

SEPP 64 deals with signage to ensure it (i) is compatible with the desired amenity and visual character of an area, and (ii) provides effective communication in suitable locations, and (iii) is of high quality design and finish.

The service station proposes a range of signage including a number of flush wall signs on the convenience shop building ("Pit Stop Fuel") on the Street (north) elevation and on the north, south and western elevation of the canopy over the hard stand area. These signs are business identification signs and therefore not covered by the SEPP.

The development includes one 7m high x 2.4m wide pylon sign with Pit Stop Fuel logo and fuel pricing display. The signage has been considered in relation to the SEPP assessment criteria. The proposed illuminated sign complies with the Provision of SEPP 64, however a further condition is proposed in relation to the illumination of the signage.

**OBERON LOCAL ENVIRONMENTAL PLAN 2013**

Figure 2 shows the zone and surrounding zones and it is noted that the site is surrounded by land Zoned RU1. The objectives of the zone focus predominately on the protection of primary industry. The RU1 land use table is the most restrictive of the rural zones in the LEP limiting the number and type of land use activities to those which can be established having regard to the agricultural objectives. These objectives reflect the importance of managing land use conflict, preserving land for agriculture and encouraging diversity.



**Figure 2 IN1 and R1 Zone**

**PERMISSIBILITY:**

The Land is Zoned IN 1, the development is permissible with Development Consent. The zone table and objectives are as follows:

**Zone IN1 General Industrial**

**1 Objectives of zone**

- To provide a wide range of industrial and warehouse land uses
- To encourage employment opportunities
- To minimise any adverse effect of industry on other land uses
- To support and protect industrial land for industrial uses

**2 Permitted without consent**

Environmental protection works; flood mitigation works; water reticulation systems; water treatment facilities; wharf or boating facilities

### **3 Permitted with consent**

Depots; freight transport facilities; funeral homes; garden centres; general industries; hardware and building supplies; industrial training facilities; kiosks; landscaping material supplies; light industries; liquid fuel depots; neighbourhood shops; places of public worship; plant nurseries; roads; rural supplies; take away food and drink premises; timber yards; vehicle sales or hire premises; warehouse or distribution centres; any other development not specified in item 2 or 4.

### **4 Prohibited**

Agriculture; air transport facilities; airstrips; amusement centres; camping grounds; caravan parks; cemeteries; commercial premises; community facilities; correctional centres; eco-tourist facilities; entertainment facilities; exhibition homes; exhibition villages; farm buildings; forestry; function centres; heavy industrial storage establishments; home-based child care; home businesses; home occupations; marinas; mooring pens; moorings; open cut mining; registered clubs; research stations; residential accommodation; tourist and visitor accommodation.

The land is zoned IN1 in accordance with Councils current Local Planning Instrument, being Local Environmental Plan (LEP) 2013. The development is permissible within the zone as a *service station*, as defined as, a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles
- (b) the cleaning of motor vehicles
- (c) installation of accessories
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting, or chassis restoration)
- (e) the ancillary retail selling or hiring of general merchandise or services or both

### **6.4 Essential services**

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:*

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

The site is serviced by sewer, water and stormwater infrastructure. Electricity infrastructure is available in the street. There is direct vehicular access from public roads (Albion Street and Horace Street). The requirements for a suitable vehicular access are discussed in further detail.

POLICY IMPLICATIONS (OTHER THAN DCP's) - Nil.

FINANCIAL IMPLICATIONS (e.g. Section 94)

For the purpose of this Plan the application of contribution will be made to each of the following events (with the exception of those events which are identified as "exempt developments" in accordance with the Oberon Council Development Control Plan – Exempt Development):

- to the establishment of any new commercial or industrial activities, or the expansion of and/or addition to an existing commercial or industrial operations where no contribution has previously been made or determined.

Section 94 contributions are applicable to this development and have been included as a condition of development consent.

**LEGAL IMPLICATIONS:**

**Any Environmental Planning Instrument**

No Regional Environmental Plans are applicable to the proposed development. SEPP's and LEP have been discussed above.

**Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority:**

There are no draft environmental planning instruments that have been publicly exhibited and applicable to the development site.

**Any Development Control Plan:**

The DCP does not provide any guidelines specific to development for the purpose of a service station. The DCP does include the notification guidelines and general commercial development guidelines in which the development complies. The development application has been notified generally in accordance with the DCP. It is considered that given the information supplied and Councils assessment of the development is consistent with the DCP. It is important to note that commercial developments within the existing industrial area are not required to be advertised.

**Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?**

Nil

**Any matters prescribed by the regulations that apply to the land:**

A Development Application has been submitted for the development of the land only. No Construction Certificate has been submitted at this stage for determination.

**The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality:**

LIKELY IMPACTS OF THE DEVELOPMENT

**Context and Setting**

The development is considered compatible with the character of the area being the industrial area of the Oberon township. However the bulk and scale of the development will have an impact on the streetscape and visual appeal of the area. The applicant is proposing to incorporate landscaping over the site and the convenience store is set back well within the site.

**Built Form**

The proposed service station will be constructed of lightweight materials with a high forecourt to accommodate trucks and to cover the bowsers. The colour scheme will be in accordance with the convenience store branding and is demonstrated in the isometric plans provided by the applicant.

**Potential Impact on Adjacent Properties**

The adjoining and adjacent properties are of a commercial or industrial nature and even though the General Residential zone adjoins the property to the South of Albion Street these businesses are generally commercial or industrial in nature.

The closest residential type use is that of the Albion Street Caravan Park where the managers residence is approximately 43m from the closest boundary of Lot 8.

### **Access, Transport and Traffic**

The proposed service station will be accessed from Horace Street as the access to the site with egress provided on to Albion Street. The plans provided with the report include the swept paths associated B Double truck movements. These plans have been approved by the Director of Works and Engineering subject to a number of proposed conditions of consent that are included in this report.

There were initial concerns regarding the design of the service station and the safety aspect associated to the use of the site by B doubles. These issues have been addressed by the applicant to the satisfaction of the Director of Engineering.

### **Utilities**

The Council's sewer main is located along the eastern boundary of the site. The development proposes to create a level platform for the development.

The water mains are located along the western boundary of the site. The development also involves the erection of a 7m high pylon sign in close proximity to the water and sewer mains. It is recommended that a condition of consent be imposed that requires the sign footings to be engineered such that there is no impact on the water and sewer mains.

### **Water**

The development is likely to generate stormwater from roof areas and hardstand surfaces. The applicant has provided a stormwater plan that shows that stormwater will be piped from these surfaces to Albion Street.

The development has the potential to cause land and water pollution through the runoff of water containing fuel residues or spillages. The applicant has provided a plan of the forecourt showing there will be a bunded area around the fuel dispensers draining to a 'sump to tank collection', however no information is provided about the overall design, operation and maintenance of the forecourt. To address this deficiency it is recommended that prior to the issue of a Construction Certificate an Operational Environmental Management Plan demonstrating how the service station complies with best practice for forecourt design, operation and maintenance, is submitted to Council for approval.

### **Soils**

Erosion and sedimentation are likely to occur during the construction stage of the development. This could have an adverse impact on infrastructure and watercourses. In this regard it is recommended that a condition to be placed on the consent that requires the installation of erosion and sediment control measures during construction and until such time that the site is appropriately rehabilitated.

### **Air/Microclimate**

As a service station the development has the potential to generate emissions of vapours, gases and fumes associated with the storage and dispensing of fuels. There is also the potential for residual odour from fuel spills from customers. The location of the proposed development adjacent to existing truck depots and located on a heavy vehicle by pass these impacts would not increase to a significant level.

### **Waste**

The development has the potential to generate waste during the demolition/construction stage and the operational stage. The applicant has not provided information about waste management and disposal during the demolition and construction stage. It is recommended that a condition of consent be placed on the development requiring the submission of a Waste Management Plan to Council prior to the issue of a Construction Certificate.

This should include details regarding:

- the location of waste management facilities proposed both during construction and for ongoing operation
- volume and type of waste and recyclables to be generated
- storage and treatment of waste and recyclables on site
- disposal of residual waste and recyclables
- operational procedures for ongoing waste management once the development is complete

### **Noise & Vibration**

The service station has the potential to generate noise impacts that could affect residents of surrounding premises. The development is within the industrial zone and is predominantly surrounded by commercial and industrial land use. There is a long term Caravan Park off Albion Street, however the location of the service station on a heavy vehicle by-pass will not significantly increase the potential impacts that exist within the area.

The Environmental Protection Authority (EPA) regulates noise from scheduled uses in the Protection of the Environment Operations Act (POEO) and outside of that offensive noise resulting from a specific land use activity approval (such as a development consent) that is not regulated by specific limits has to rely on notices served by local councils or noise abatement orders initiated by the complainant.

The definition of offensive noise in the POEO Act is noise:

- (a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
  - (i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
  - (ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
- (b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

The NSW Industrial Noise Policy (Environment Protection Authority, 2000)(INP) sets a framework for the assessment of noise for use by consent authorities. The policy aims to balance the economic considerations with the desire for quiet in the community and provides a framework for deriving noise limit conditions for consents which will then allow Council, in the case of local development, to adequately regulate noise to preserve amenity and ensure compliance with noise conditions.

Intrusiveness of the industrial noise is generally considered acceptable if the equivalent continuous (energy-average) A-weighted level of noise from the source (LAeq), measured over a 15 minute period, does not exceed the background noise level by more than 5 dB.

### **Safety, Security & Crime Prevention**

Service stations have the potential to attract crime in the form of theft and property damage. The applicant advises that the development has been assessed under the Crime Prevention through Environmental Design (CPTED) Guidelines. These guidelines establish the principles of surveillance, access control, territorial reinforcement and space management to be designed into development to minimise the ability for crime to occur.

### **Construction**

The construction stage has the potential to generate noise, dust, erosion and sedimentation and waste. It is recommended that conditions in relation to building material on footpath, erosion and sediment control and noise control are placed on the development consent.

### **Contamination**

The site has a long history of agriculture. The SOEE supports the use of the land as extensive agriculture the State Environmental Planning Policy No. 55 (Remediation of Land) and states the potential for contamination appears minimal.

### **The Suitability of the site for the development:**

The site is considered to be suitable for the development. The development is permissible in the zone and is consistent with the aims and objectives of the General Industrial Zone within the current Oberon Local Environmental Plan 2013.

There are no human or natural hazards that would consider the proposal to not be considered. As such the application is considered to be suitable for the site subject to compliance with conditions of development consent.

### **Any submissions made in accordance with this Act or the Regulations:**

During the assessment process the proposed development was notified to the adjoining and adjacent land owners on two separate occasions, and in response to the notification process 3 submissions were received within the combined notification periods.

A summary of the submissions were provided to the applicant for information and comment.

During the first notification period one (1) submission was received from an adjoining land owner and raised the following concerns regarding the development:

- Inadequate detail on how the filled portion of the block will be retained in association to the property boundary;
- Inadequate detail regarding the existing sewer line being built over by a retaining wall as the existing sewer line follows the boundary;
- Inadequate information associated to planning requirements for setbacks for the buildings proposed and the materials used in these structures;
- No indication on how fire can be prevented from spreading across the boundary from the above ground fuel storage tanks;
- Inadequate information on surface water runoff impacts and storm water connection associated to the development.

A copy of the issues raised within the submission was forwarded to the applicant to enable a response to be provided. The applicant advised in response to the submission that:

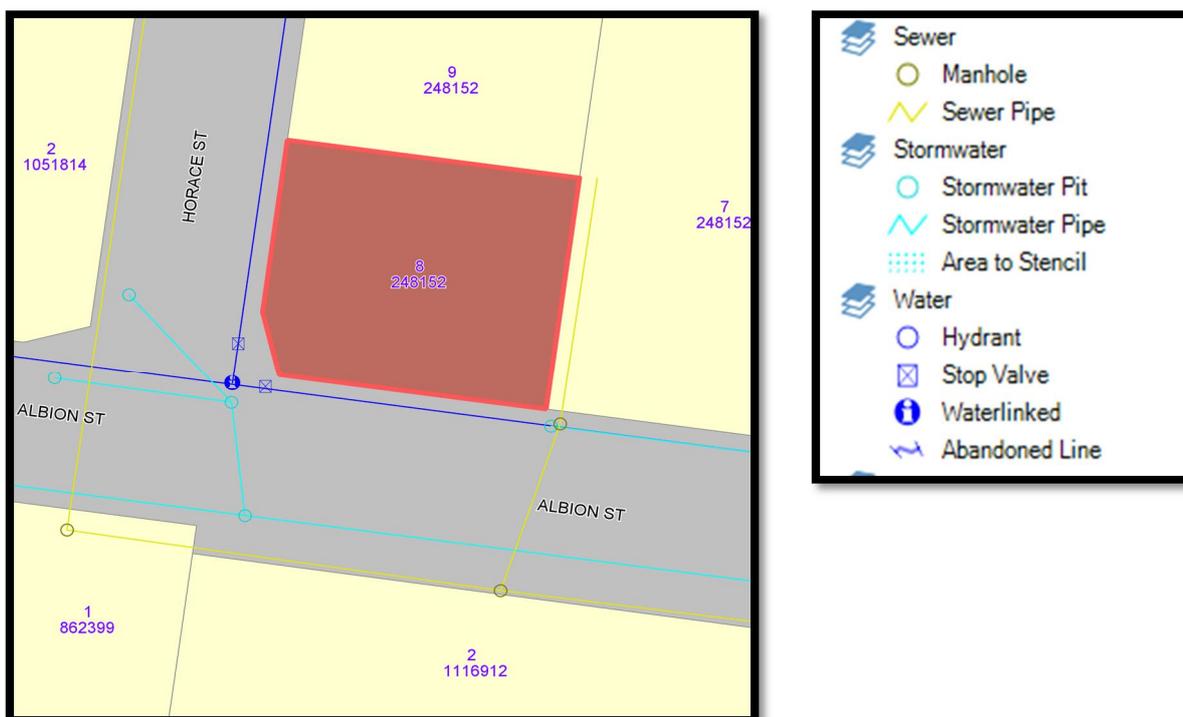
*“With respect to the concerns raised by the adjoining neighbour, they will all be dealt with at the CC stage, I understand the neighbour has concerns, they are valid and will be dealt with by the appropriate consultant at CC, I wish to reply as follows;*

1. *Retaining walls is a matter that will be dealt with by our engineer at the CC stage, we can ensure there will be no impact on the adjoining lots,*
2. *Sewer line and building near it or over it will be dealt with at the CC stage when we know Council is happy with the initial concept (DA) first,*
3. *Setbacks, this is a commercial site I understand you can build up to the boundary,*
4. *In order for the aboveground fuel tanks to meet the requirements of AS1940 they will need to fire rated, these details will be dealt with at the CC stage and could be fire rated by the manufacturer and delivered to site compliant, I have spoken extensively to WorkCover and they are satisfied with what has been proposed in principle on the basis that AS1940 is complied with,*
5. *Our stormwater will be captured and diverted to the existing pits in the street, this is a matter that will be dealt with at the CC stage?”*

The applicant has also revised the proposed plans by relocating the development further from the boundary and changing the orientation of the buildings onsite to facilitate more efficient operation of the site. As well as relocating buildings further from the boundaries of the site. The applicant has also provided underground storage tanks as opposed to the original proposal of fully bunded aboveground tanks.

Should a consent be considered to the proposed development appropriate conditions of consent will need to be imposed requiring compliance with relevant Australian Standards regarding the installation and operation of these proposed fuel tanks.

Councils Works and Engineering Department have reviewed the proposed development and considered the location of these services acceptable. Furthermore the Works and Engineering Department does not consider that the proposal will hinder the adjoining land owner in respect to the connection of services.



Any works associated to the connection of services requires consent from Council for connection of a water supply, sewer service connection as well as the installation of any internal drainage works including trade waste and the installation and connection of stormwater. The location, installation and connection of these services will require the separate submission of a Section 68 Application under the provisions of the Local Government Act 1993.

Furthermore any retaining walls associated to the development will require consent from Council, or a private certifier, and will be required to be undertaken within the applicants property.

In accordance with the requirements of Part H.3.10 of the DCP council has considered the submission received to Development Application 10.2015.81.1 and consider that the issues raised in the submission can be addressed by virtue of the submission and determination of a subsequent Section 68 application associated to water, sewer or stormwater connection and a Construction Certificate Application in association to the construction of the proposed service station.

A report was prepared to the 3 March 2016 Ordinary Meeting of Council on this basis and it was resolved:

That:

1. Council delegate determination Development Application 10.2015.81.1 for a 24 Hour Service Station and associated Managers Studio on Lot 8 in DP: 248152, 1 Horace Street, Oberon subject to concurrence being received from the New South Wales Roads and Maritime Service for the development in accordance with the requirements of the State Environment Planning Policy (infrastructure) 2007, and appropriate conditions.
2. A division be called in accordance with Section 375A of The Local Government Act 1993.

During the negotiations with the applicant to resolve the issues associated with vehicle access and egress from the site the development was significantly alter to reflect the plans proposed currently. As such the application was renotified once again to the adjoining and adjacent land owners. During this notification period three submissions were received, as follows:

Objection number	Issues identified
1	<ul style="list-style-type: none"> <li>· The site is not a prominent truck stop site due to lesser dimensional area as per standard requirements for trucks to stop, park and accommodate.</li> <li>· Once the DA is approved the owner will sell the land with an added advantage. Community welfare is not considered.</li> <li>· The company who will lease the service station have other service stations leased in Oberon.</li> <li>· There is an existing strong presence of service stations in Oberon. The addition of another proposed truck stop would disadvantage the local businesses and add stain on the local community.</li> <li>· We do not feel that this type of business would enhance neighbouring properties.</li> </ul>
2	<ul style="list-style-type: none"> <li>· No detail on how the filled portion of the block will be retained.</li> <li>· No apparent consideration for the existing sewer line and the easement that will be built over by this development.</li> <li>· Seemingly no consideration of planning requirement setbacks for the sales outlet and the materials used fir this structure meeting the BCA requirements.</li> <li>· At present surface water runoff from 1 Horace Street and others on my western and northern boundaries is managed by a Council stormwater outfall that is shared across our boundaries and connects to Albion Street stormwater network. Any blocking of this outfall by this development will result in storm water flooding. Provision of a stormwater management plan would be advantageous.</li> <li>· The documents provided give no apparent length of the proposed medium strip on Albion Street. Any obstruction to my premises by a medium strip will be detrimental to access and egress.</li> <li>· An advertisement for the sale of this property indicates the facility has been approved.</li> </ul>
3	<ul style="list-style-type: none"> <li>· Concerned about the 350mm traffic island in Albion Street. We have our trucks in the main turning right on Albion Street into our yard, we wonder how far this traffic island will come towards our gateway, hoping it would not prevent our trucks from turning in.</li> </ul>

The majority of these issues have been specifically addressed in the body of this report. The engineering issues raised have been addressed by Councils Director of Works and Engineering as being compliant.

The applicant was advised in writing that it had received submissions objecting to the proposal and was supplied with a comprehensive summary of the submissions for their information. Additional concessions were made in the applicants response which FOLLOWS this report.

### **The Public Interest:**

The development has been assessed having regard to public interest in particular in relation to managing the economic, social and environmental impacts. Council is mindful of the need to ensure that development occurs in a manner that is consistent and regulated by clear and measurable conditions of consent in accordance with the local planning framework and both local and state principles and guidelines.

The development proposal provide additional employment opportunities, generate additional income for the local economy and provide local motorists and travellers with an additional service. The proposal is consistent with the objectives of the zone and will not have an unreasonable impact on the neighbouring properties.

Council is further mindful of the need to assess all development applications individually and on merit, addressing the issues and avoiding emotive responses. Apart from those interests mentioned above no other public interest impacts are perceived.

### **RISK IMPLICATIONS**

Council determinations of development applications in relation to local development can be appealed by a third party in the Land and Environment Court in circumstances where incorrect legal process has been applied. In the case of this development application the relevant considerations under the Environmental Planning and Assessment Act 1979 have been made.

### **OTHER IMPLICATIONS**

There are a number of issues related to the development of a service station on the site that pose risks to the environment and adjoining/adjacent residents. These issues include: vibrations causing damage (from excavation and construction), stormwater runoff, land and water pollution, noise (from excavation and operation), trading hours, lighting from signage, increased traffic movement and increased crime. These issues have been addressed either as part of the development application or through conditions of consent.

### **DISCUSSION AND CONCLUSIONS:**

The application has been assessed as satisfactory against Section 79C of the Environmental Planning and Assessment Act 1979, Oberon Local Environmental Plan 2013 and the Oberon Development Control Plan 2001.

The proposed development meets the objectives of the zone, is a permissible land use, is considered to achieve the orderly and economic use and development of land (consistent with the objects of the *Environmental Planning and Assessment Act 1979*).

A wide range of impacts have been identified in the assessment of the application and, where appropriate, suitable mitigating measures have been identified, through recommended consent conditions. The proposal is in keeping with the site context, is an appropriate form of development for the site and is unlikely to result in any significant adverse impacts. As such in considering all relevant matters under Section 79C of the *Environmental Planning and Assessment Act 1979*, the proposed development would be suitable for the subject site and approval of the application would be in the public interest.

Accordingly, it is recommended that the application be approved subject to appropriate conditions of consent.

**Acting General Manager’s Comment**

Guidelines have been issued under Section 23A of the Local Government Act 1993 titled ‘Council Decision making During Merger Proposal Periods’. Council must consider the guideline in relation to each decision they make during the proposal period. This matter is considered to comply with the guidelines.

**RECOMMENDED CONDITION OF CONSENT**

The application is recommended for approval subject to the following conditions:

**GENERAL CONDITIONS**

**Approved Plans**

1. The development is to be carried out in accordance with the approved stamped plans prepared by :

Document	Author	Date/reference
Statement of Environmental Effects	Mountain Design & Construction	Nil
Proposed plan of Subdivision – Boundary adjustment	Mountain Design & Construction	May 2016
Vehicle Turn Paths	Williams Consulting Engineers Australia	24 May, 2016
Proposed Plans	Mountain Design & Construction	May 2016
Preliminary Site Contamination report	Envirowest Consulting	12 July, 2016

Except as otherwise provided by the conditions of this determination.

Note: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.

*Reason: To confirm and clarify the terms of Council’s approval.*

**Copy of plans**

2. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

*Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council.*

**Underground Petroleum Storage System**

3. The person acting on this consent shall satisfy Underground Petroleum Storage System requirements as follows:

Prior to installation

i. The design, installation, commissioning and operation of the underground petroleum storage system shall meet the requirements of the NSW WorkCover Authority, the Code of Practice: Storage and handling of dangerous goods (NSW WorkCover Authority 2005), the Protection of the Environment Operations (Underground Storage Systems) Regulation 2014, Australian Standard AS4897-2008: Design, installation and operation of underground petroleum storage systems and Australian Standard AS1940-2004: Storage and handling of flammable and combustible liquids.

Prior to commissioning

ii. The underground petroleum storage system shall be designed by a 'duly qualified person' as defined by the Protection of the Environment Operations (Underground Storage Systems) Regulation 2014. The 'duly qualified person' shall provide a written list of industry standards that have been followed in connection with the design of the system and a copy of the design specifications for the system to Council for review prior to the installation of the system.

iii. The underground petroleum storage system shall not be commissioned unless it has been installed by a 'duly qualified person' as defined by the Protection of the Environment Operations (Underground Storage Systems) Regulation 2014. Prior to commissioning of the underground petroleum storage system, the 'duly qualified person' shall provide Council with a written list of industry standards that have been followed in connection with the installation of the system, a copy of the installation specifications for the system and as built drawings for the system which must include details of mandatory pollution protection equipment.

iv. Groundwater monitoring wells shall be designed and installed by a 'duly qualified person' as defined by the Protection of the Environment Operations (Underground Storage Systems) Regulation 2014 prior to the commissioning of the system. A groundwater monitoring well report must be provided to Council prior to the commissioning of the system, which states that the well's design, location and installation satisfy industry standards.

v. The underground petroleum storage system shall not be commissioned unless an integrity test of the system has been carried out in accordance with the written directions of a duly qualified person.

vi. The underground petroleum storage system shall be certified by the person whom the equipment integrity test was carried out as having satisfied the test. A certificate which is accompanied by the results of the test shall be provided to Council prior to the commissioning of the system.

vii. The underground petroleum storage system shall not be used unless an Environmental Protection Plan which compiles with the requirements of the Protection of the Environment Operations (Underground Storage Systems) Regulation 2014 has been developed and implemented for the site.

*Reason: To ensure compliance with regulatory controls.*

**PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**Land Contamination**

4. A Remediation Action Plan (RAP) is to be prepared that addresses the contamination identified in the report by Envirowest Consulting. The RAP must be prepared in accordance with the Managing Land Contamination Planning Guideline (1998), relevant EPA Guidelines and the Assessment of Site Contamination NEPM (1999 as amended 2013). Please note the requirements specified in Council's policy for consultant's reporting and for site audits.

A Site Audit statement stating that the land CAN BE MADE SUITABLE for the proposed development as a commercial development land use shall be provided to Council.

Any remediation carried out prior to commencement is subject to the requirements to either obtain consent or notify Council in accordance with SEPP 55 and Council's policy.

#### **Validation**

5. A validation report shall be provided to Council to confirm that the RAP has been carried out. The validation report must be prepared in accordance with Council's Contaminated Land Policy, the Managing Land Contamination Planning Guideline (1998), relevant EPA Guidelines and the Assessment of Site Contamination NEPM (1999 as amended 2013). Please note the requirements specified in Council's policy for consultants' reporting and for Site Audits.

Any recommendations identified in the validation report shall be binding on the development.

*Reason: to ensure the site is suitably rehabilitated in accordance with the findings of the report by Envirowest Consulting.*

#### **Long Service Levy**

6. Prior to the issue of a Construction Certificate, the applicant is to satisfy Council that the amount of the long service levy payable under Part 5 of the Building and Construction Industry Long Service Payments Act 1986 in respect of the erection of the building has been duly paid or, if the levy is to be paid by instalments pursuant to Section 43 of that Act, the first instalment of that long service levy has been duly paid.

*Reason – To comply with the relevant provision of the Building and Construction Industry Long Service Payments Act 1986. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.*

#### **Intersection Upgrade**

7. That the developer shall provide poly modified rubberised hot-mix AC20 – AR450 road overlay to a depth of 50mm. The hot-mix shall extend the full width of the Albion Street service along the full frontage of the service station. The same shall also apply for the intersection of Horace Street and shall extend the full width between kerbs to the most furthest side of the service station entrance in Horace Street.

The intersection shall be designed and constructed in accordance with Austroads Guide to Road Design 2010 (with Roads and Maritime supplements) and all other relevant guides, policies and standards, to the satisfaction of Council. The following requirements will apply to the intersection.

- The intersection shall be designed to accommodate the turning path of the largest design vehicle. A Geotechnical Report for pavement design of the proposed roadworks, including any work on the adjacent public road, prepared by a suitably qualified and practicing engineer must be submitted to Council for approval.
- Adequate sight distance shall be provided for vehicles entering and exiting the site.
- Any road widening/property acquisition required as a result of the intersection upgrade shall be provided at no cost to Oberon Council.
- Any necessary alterations to public utility installations shall be at full cost to the developer and to the requirements of Oberon Council and any other appropriate authorities.
- All work required to be carried out within a Public Road Reserve must be separately approved by Council under Section 138 of the Roads Act, 1993. Such works include

road openings, temporary work zones (which may involve use of parking spaces), road / kerb & gutter / footway and, driveway crossings.

- The existing driveway crossing must be reconstructed to Council's requirements. Prior to undertaking the works the applicant must contact Council for inspection to determine the extent of the works.
- A Traffic Control Plan (TCP) is to be prepared by a qualified person and submitted to Council. No works are to commence until the TCP has been received by Council.
- Council must be provided with photographic evidence of any existing damage to Council infrastructure fronting or adjacent to the development site. Otherwise any damage is assumed to be related to the development and must be rectified in accordance with Council's current standards at no cost to Council.

*Reason: To ensure works on the service station cannot commence until the intersection upgrade works have been completed.*

### **Construction Management Program**

8. A Construction Management Program must be prepared and submitted to, and approved in writing by the Council prior to the issue of any Construction Certificate. The program shall include such matters as:

- (a) a Safe Work Method Statement;
- (b) the proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (c) the proposed phases of construction works on the site, and the expected duration of each construction phase;
- (d) the proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (e) the proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- (f) the proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (g) the proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (h) the proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (i) the proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising structural engineer, or equivalent;
- (j) proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of hoardings where applicable.
- (k) proposed protection for Council and adjoining properties;
- (l) the location and operation of any on site crane;
- (m) location, identification, treatment and disposal of all hazardous materials on site.

All work and excavation, demolition or construction activities shall be undertaken in accordance with the approved Construction Management Program and any conditions attached to the approved plan.

A copy of the approved Construction Management Plan, and any conditions imposed on that plan, shall be kept on the site at all times and made available to any officer of Council upon request.

*Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community*

### **Waste Management Plan**

9. Prior to the issue of a Construction Certificate the person acting on this consent shall submit a Waste Management Plan to the Certifying Authority for approval.

The Waste Management Plan shall include details of the handling of waste materials generated from the construction and on-going operation regarding:

- the location of waste management facilities proposed both during construction and for ongoing operation
- volume and type of waste and recyclables to be generated
- storage and treatment of waste and recyclables on site
- disposal of residual waste and recyclables
- operational procedures for ongoing waste management once the development is complete

*Reason: To waste generated from the development is stored and disposed of in a way that does not impact on the environment.*

### **Operational Environmental Management Plan (OEMP)**

10. Prior to the issue of a Construction Certificate the person acting on this consent shall submit an Operational Environmental Management Plan (OEMP) to the Consent Authority for approval.

*Note: Council may require the applicant/person acting on the consent to amend the plans prior to any such approval.*

The OEMP shall:

- a) Provide the strategic framework for environmental management of the service station.
- b) Identify all statutory approvals that apply to the operation of the service station.
- c) Identify how the service station satisfies Environmental Actions for Service Stations: *Information Sheet 3 – Forecourt Design, Operation and Maintenance and any other relevant guidelines, industry codes of practice or Australian Standards.*
- d) Describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the service station.
- e) Provide an inspection and maintenance schedule of: stormwater drainage, grates, spill capture tank, litter and grounds, signage and electrical controls.
- f) Provide a methods statement for the inspections and maintenance (including details of the frequency of such inspections and maintenance).
- g) Include the pro-forma sheets for record-keeping of inspections and maintenance (*Note: Records must be maintained for the inspection and maintenance program and must be available for inspection by the consent authority or appropriate regulatory authority.*)

*Reason: To ensure adequate systems are in place to protect the environment.*

### **Off Street car parking**

11. A total of four (4) off-street car-parking spaces plus a dedicated disabled car parking space, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate.

Detailed drawings prepared and certified by an appropriately qualified and practising Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted to, and approved by the Certifying Authority prior to the release of the Construction Certificate.

*Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles.*

### **Concrete vehicle maneuvering areas**

12. The person acting on the consent shall provide concrete driveways (designed and constructed appropriate to the development) from the road formation of Albion and Horace Streets to the areas to be accessed by vehicles.

The internal area of the Service Station shall be constructed of concrete to a suitable depth to accommodate maximum loads of up to 55 tonne. The concrete will also require to be reinforced with suitable layer/s of adequate sized mesh i.e. F82 Plus.

A plan showing the profile of the driveways in relation to the road infrastructure shall be submitted to and approved by the Consent Authority prior to the release of the Construction Certificate.

*Reason: To ensure adequate vehicular access is provided to the development.*

### **Stormwater management**

13. Stormwater shall be managed as follows:

- a) All roof areas drained directly to the drainage outlet
- b) Stormwater drainage facilities are provided to intercept stormwater runoff from the carpark, hardstand areas.
- c) Gross pollutants are collected on-site

Full engineering details of the stormwater infrastructure are to be submitted to Council for approval via a Section 68 Application under the provisions of the Local Government Act, 1993, prior to the issue of a Construction Certificate.

*Reason: To ensure adequate measures are in place to for stormwater management.*

### **Developer Contributions**

Payment of contributions in accordance with the schedule applicable at the time of payment, as prescribed in Council's Annual Fees and Charges Schedule for the proposed commercial Development.

*Reason: To advise that any new commercial development attracts contributions. These contributions are charged at the rate when paid, set each year in Council's Management Plan. Council's Development Contributions Plan and Clause 146 (Environmental Protection and Assessment Act Regulations) require payment prior to release of Construction Certificates.*

### **Trade Waste Approval**

14. The Owner of the property shall enter into a trade waste agreement with Oberon Council for the disposal of all trade waste generated by the development. Documentary evidence

demonstrating compliance with this condition shall be submitted to, and approved by the Certifying Authority prior to the release of the Construction Certificate.

The Developer will be required to capture all on-site water from the hard standing areas and treat water in an appropriately approved EPA water treatment system prior to the release or discharge to Councils sewerage system.

*Note: This includes food premises which will require a grease trap or a grease arrestor.*

Reason To protect the environment from contamination

### **Access Management Plan**

15. An Access Management Plan must be provided by an Accredited Access Consultant prior to the issue of a Construction Certificate. Details of the Access Management Plan must include:
- Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia.
  - Conduct an assessment and identify any non-compliances with the Disability Standards 2010 and/or the Building Code of Australia where applicable and provide recommendations to achieve compliance with the relevant performance requirements.
  - Accessible car parking spaces should be provided, where applicable, in accordance with Part D3.5 of Building Code of Australia.

Reason: To confirm compliance with the requirements of Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development

### **Acoustic Report**

16. The proponent shall provide to all adjoining, adjacent and nearby residences a contact number that can be used to contact the manager in the event of a noise complaint. The proponent must also establish a protocol for recording any such complaint and the action taken.

Reason: To confirm compliance with the requirements of the NSW Industrial Noise Policy and to protect the adjoining residential amenity.

### **Construction Certificate**

17. In accordance with the provisions of Section 81A of the Environmental Planning and Assessment Act 1979 construction works approved by this consent must not commence until:
- A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the “Principal Certifying Authority.”
  - A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
  - At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

Reason: To ensure compliance with Section 81A of the Environmental Planning and Assessment Act 1979.

### **Commercial Kitchen**

18. The premises are to be designed, constructed and operated in accordance with the:

- Food Act 2003
- Food Regulation 2010
- Australia and New Zealand Food Standards Code
- Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
- Australian Standard AS 1668 Part 1 – 1998
- Australian Standard AS 1668 Part 2 – 2012; and
- Building Code of Australia
- Public Health Act 2010

Details demonstrating compliance with the requirements of this condition including the provision of a potable water supply are to be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate and include the following details:

- a) A hand washing basin that is of an adequate size to allow hands and arms to be easily cleaned must be installed in all parts of the premises where open food is handled. Small domestic type hand wash basins are not adequate in commercial situations. The hand wash basins must be in addition to any wash-up sinks.
- b) Hot and cold water to the hand wash basins must be delivered through a hands free mixer tap. The hand basins must be provided with liquid soap and single-use towels at all times.
- c) All cupboards, benches and shelving must be constructed of materials that are smooth, impervious to moisture and able to be easily cleaned. Particular attention must be made to the underside of the benches to ensure that they are constructed so they are impervious and can be easily cleaned.
- d) Ceiling, wall and floor finishes in the food premises must comply with Australian Standard AS 4674: Design, construction and fit-out of food premises.
- e) Ceiling lights must be either installed flush with the ceiling surface or designed free from any features (such as ledges) that would harbour dirt, dust or insects or make the fitting difficult to clean.
- f) Coving must be installed at the intersection of floors with walls in the food premises in accordance with Australian Standard AS 4674: Design, construction and fit-out of food premises. Coving must be integral to the surface finish of both floor and wall and installed in such a manner as to form a continuous uninterrupted surface.
- g) Either a floor waste with a solids trap and stand alone tap or a cleaners sink (sluice sink) must be provided. Cleaners sinks must be provided with an adequate supply of hot and cold water and be located away from food preparation areas.

*Reason: To ensure and demonstrate compliance with the Food Act and associated standards.*

### **PRIOR TO THE COMMENCEMENT OF WORKS**

#### **Notice of Commencement**

19. At least two (2) days prior to the commencement of building works, the applicant is required to submit to Council the attached “Notice of Commencement of Building or Subdivision Works and Appointment of Principal Certifying Authority”.

*Reason: To meet the requirements of Section 81A of the Environmental Planning and Assessment Act 1979.*

### **Erosion and sedimentation controls**

20. Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, adequate measures for erosion and sediment control shall be provided. As a minimum, control techniques are to be in accordance with The Blue Book published by Landcom provisions on Erosion and Sediment Control, or a suitable and effective alternative method.

All required erosion and sedimentation techniques are to be properly installed prior to the commencement of any site works and maintained in a functional and effective condition throughout the construction activities until the site is stabilised.

The installation is to be approved by the Principal Certifying Authority prior to further commencement of site works.

*Reason: To protect the environment from the effects of sedimentation and erosion from development sites*

### **Site facilities**

21. The following facilities are to be incorporated on site:

- (a) the work site is to be fully enclosed by a temporary security fence (or hoarding) before work commences. Any such hoarding or fence is to be removed when the work has been completed.
- (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians. If trees are present in the footpath the minimum width must be provided to one side of the trees.
- (c) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
- (d) Adequate toilet facilities must be provided on the work site. The provision of toilet facilities must be completed before any other work is commenced.

The installation of the site facilities shall be approved by the Principal Certifying Authority prior to further commencement of site works and prior to the first inspection.

*Reason: To ensure the health and safety of the community and workers on the site*

### **Site signage**

22. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;
- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

The installation is to be approved by the Principal Certifying Authority prior to further commencement of site works.

*Reason: Statutory requirement*

## **DURING CONSTRUCTION**

### **Hours of operation - Construction**

23. Any person acting on this consent shall ensure that:-
- (a) building construction activities are only carried out during the following hours:
    - ii. between Monday to Friday (inclusive)—7.00am to 5.00pm,
    - iii. on a Saturday—8.00am to 5.00pm.
  - (b) building construction activities must not be carried out on a Sunday or a public holiday unless
    - (a) prior approval has been obtained
    - (b) demolition and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.

*Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.*

### **Pedestrian Fencing**

24. That developer shall install appropriate pedestrian fencing in accordance with Australian Standards for traffic on the western side of Horace Street to protect pedestrians crossing at the intersection.

*Reason: To comply with relevant statutory requirements*

### **Concrete centre median island**

25. The developer shall construct an approved concrete centre median island along the frontage of the Service Station in Albion Street to prevent vehicle access directly off Albion Street entering the service station the wrong way. The median shall be painted white and also display the appropriate keep left signage on each end of the median.

*Reason: In the public interest that the design of that those aspects of the development comply with Council Guidelines. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.*

### **Overhead restrictive height device**

26. The developer shall install an overhead restrictive height device adjacent to entry to the fuelling bowser lanes reserved only for light motor vehicles.

*Reason: In the public interest that the design of that those aspects of the development comply with Council's Engineering Guidelines. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.*

### **Signage indicating the maximum permissible sized heavy vehicle**

27. The developer shall install signage indicating the maximum permissible sized heavy vehicle that can be accommodated into the service station. The signs shall be installed on all approach points to the service station, subject to consultation with Oberon Council's Engineers.

*Reason: In the public interest that the design of that those aspects of the development comply with Council's Engineering Guidelines. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.*

### **Section 68 Approval**

28. The developer will be required to connect grey water discharges and toilet facilities directly to Councils sewerage system, connection may be permissible by a licenced plumber in consultation with Oberon Councils Engineering Department. Section 68 Approval under the Local Government Act will be required to be obtained prior to the commencement of these works.

*Reason: Because that utility is required to serve the development and ensure these services are available to the site. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.*

### **Water Service**

29. The Developer will be required to purchase and connect an appropriate sized water service and meter to the service station to facilitate access to water and appropriately sized for fire fighting purposes. Section 68 Approval under the Local Government Act will be required to be obtained prior to the commencement of these works.

*Reason: Because that utility is required to serve the development and ensure these services are available to the site. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.*

## **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

### **Submission of a Final Fire Certificate**

30. Prior to the occupation of the building, the owner of the building shall submit to Council, a final fire certificate in relation to each essential fire safety measure specified in the fire safety schedule, attached to the construction certificate.

Such certificate shall state that each essential fire safety measure specified:

- (a) has been assessed by a properly qualified person, and
- (b) was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the certificate is issued.

### NOTES:

1. *As soon as practicable after a final fire safety certificate is issued the owner of the building to which it relates:*
2. *must cause a copy of the certificate (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and*
3. *must cause a further copy of the certificate (and current copy of the current fire safety schedule) to be prominently displayed in the building.*
4. *A "fire safety measure" is defined as any measure (including any item of equipment, form of construction or fire safety strategy) that is, or is proposed to be, implemented in the building to ensure the safety of persons using the building in the event of the fire.*

*Reason: To ensure compliance with Regulation 80E of the Environmental Planning and Assessment Regulation, 1994.*

### **Submission of an Annual Fire Safety Certificate**

31. The owner of any building in which fire safety measures are installed, must cause the Council to be given an annual fire safety statement, within 12 months after the last such statement or final fire safety certificate was issued.

The certificate shall certify:

- (a) That each essential fire safety measure has been assessed by a properly qualified person and was found, at the date of assessment, to be capable of performing to a standard not less than that required by the current fire safety schedule.
- (b) That a properly qualified person has inspected the building and has certified that, as at the date of inspection, the condition of the building did not disclose any grounds for a prosecution under Division C.

#### **NOTES:**

1. *As soon as practicable after an annual fire safety statement is issued, the owner of the building to which it relates:*
2. *Must cause a copy of the statement (and current fire safety schedule) to be given to the Commissioner of NSW Fire Brigades, and*
3. *Must cause a further copy of the statement (and current copy of the current fire safety schedule) to be prominently displayed in the building.*
4. *A "fire safety measure" is defined as any measure (including any item of equipment, form of construction or fire safety strategy) that is or is proposed to be, implemented in the building to ensure the safety of persons using the building in the event of fire.*

Reason: To ensure compliance with Regulations 80GA and 80GB of the Environmental Planning and Assessment Regulation, 1994.

### **Landscaping**

32. Prior to the release of any Occupation Certificate the landscaping shall be completed in accordance with the approved plan.

Reason: *To preserve/enhance the amenity of the streetscape.*

### **Occupation Certificate**

33. The building is not to be used or occupied until a final inspection has been carried out and any Occupation Certificate has been obtained from the Principal Certifying Authority / or Consent Authority.

Reason: *Prescribed - Statutory.*

### **Vehicle maneuvering areas**

34. All required parking areas, loading bays, driveways, internal access ways, vehicular ramps and turning areas shall fully constructed, sealed, line marked, sign posted, numbered and in accordance with the consent prior to the issue of any Occupation Certificate.

Reason: *To ensure that adequate facilities to service the development are provided on site.*

### **Driveways and footpaths**

35. Prior to the issue of any Occupation Certificate concrete driveways and footpaths shall be constructed in accordance with the approved plans.

Note: Approval under Section 138 of the Roads Act 1993 is required prior to the commencement of any works within the road reserve.

*Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic and to minimise the risk of pollution to waterways from the carrying of soil from the site onto the roadway.*

#### **Acoustic Report**

36. All sound producing plant, equipment, machinery, fittings, ducting, refrigeration systems associated with the development, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5dB(A) above the background level (LA90) during the day when measured at the nearest affected residence.

For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with EPA guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1 – 1989.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Certifying Authority demonstrating compliance with this condition prior to the issuing of an Occupation Certificate.

*Reason: To ensure that noise generated from the development does not result in offensive noise to any other party*

#### **Subdivision Certificate**

37. A Subdivision Certificate application will be required to be lodged and approved by Council together with seven (7) copies of the subdivision plan prior to the registration of your plan of subdivision. The conditions contained in this consent must be complied with prior to the issue of a Subdivision Certificate.

**Occupation Certificate for the service station development subject of this consent will not be issued unless the Subdivision Certificate has been registered and evidence of registration provided to Council.**

*Reason: To comply with the requirements of Section 109C of the Environmental Planning and Assessment Act.*

#### **CCTV Security**

38. Prior to the issue of any Occupation Certificate the CCTV shall be installed and operational to provide coverage of the forecourt.

*Reason: To facilitate the security of the service station.*

#### **CONDITIONS TO BE COMPLIED WITH AT ALL TIMES**

##### **Site Deliveries**

39. Deliveries must be restricted to following hours:

- Fuel and Liquid Petroleum Gas deliveries - 7:00am to 6:00pm daily
- All other deliveries - 7:00am to 10:00pm daily

*Reason: To ensure the acoustic amenity of surrounding properties.*

##### **Loading and unloading operations**

40. At all times all loading and unloading operations shall be carried out wholly within the confines of the site and within loading bays designated on the approved plans.

*Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity.*

### **External Lighting**

41. All external lighting shall be designed to minimise light spill into adjoining and nearby properties by complying with AS 4282.

*Reason: To minimise impacts on neighbouring properties.*

### **Signage**

42. Advertising signs shall be constructed entirely within private property and shall not encroach or overhang, into the road reserve.

Any proposed advertising sign must not have/use:

- Flashing lights or messages
- Electronically changeable messages, unless in accordance with the Department Planning's Transport Corridor Outdoor Advertising and Signage Guidelines (July 2007)
- Animated display, moving parts or simulated movement
- Complex displays that hold a driver's attention beyond "glance appreciation"
- Displays resembling traffic signs or signals, or giving instruction to traffic by using words such as 'halt' or 'stop'
- A method of illumination that distracts or dazzles

*Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity or the amenity of surrounding properties.*

### **Use of the Studio**

43. The studio building associated to the Service Station is not to be utilised as a dwelling for residential purposes without separate consent being obtained from Council for this purpose.

*Reason: Because development consent is for a studio not a residential dwelling. Section 79C(1)(a)(c) of the Environmental Planning and Assessment Act 1979, as amended.*

### **Retaining Walls**

44. If soil conditions require it:

- a) retaining walls associated with the erection/demolition of a building or other approved methods of preventing movement of soil must be provided, and
- b) adequate provision must be made for drainage.
- c) development consent and associated Construction Certificate approval may be required for the construction of retaining walls.

*Reason: Because it is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.*

### **PRESCRIBED CONDITIONS OF CONSENT**

The following conditions are known as "Prescribed Conditions" and are required by the Environmental Planning and Assessment Regulation 2000 to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council's Development Department who will be happy to advise you as to whether or not the conditions are relevant to your consent.

45. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).

*Reason:- So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulation 2000.*

**Advices:**

***The Commonwealth Disability Discrimination Act 1992, may apply to this particular proposal. Submission and/or approval of this application does not imply or confer compliance with this Act. Applicants should satisfy themselves and make their inquiries to the Human Rights and Equal Opportunity Commission.***