

OBERON LOCAL TRAFFIC COMMITTEE MEETING – 30/4/14

Item 3.A. General Manager Report

i. Community Precinct Parking

On 27 February 2014 I received an email from Mr Ian Tucker, Works Manager Oberon Shire Council with concerns about proposed changes to the existing parking arrangements in sections of Dart and Fleming Streets, Oberon. Briefly, the changes involved removal of the existing parallel parking on the southern side of Dart St. and eastern side of Fleming St. and replace it with angle parking.

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As a result I provided Mr Tucker with the following information;

- The issues raised involved the use of, a change of and removal of traffic control devices i.e. linear parking restrictions.
- Council must follow due process and seek the advice of the Local Traffic Committee as delegated under Section 50 of the Transport Administration Act 1988.
- Further, Council is a delegate under Schedule 2 of the delegation and if it acts outside of the delegation **it is in breach of the Act.**
- Further, if Council acts outside the delegation and uses, changes and removes a traffic control device **Council is in breach** of several offences under the Road Transport Act 2013. These offences deal with the authority to use, remove and alter prescribed traffic control devices.
- I advised if Council did follow due process and went against the LTC recommendation it would not reflect good practice, is poor traffic management and reduces safety. Further, Council would be responsible for any negative impacts which could leave them open to civil jurisdiction as a consequence.
- Regardless of the information provided the General Manager, Oberon Shire Council issued instructions to install the parking changes and to have the matter raised with the LTC at a later date.

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THIS RAISES SEVERAL ISSUES

- Oberon Shire Council is not a Traffic Authority and does NOT have the authority to implement any changes relating to traffic control devices. To do this it is required to exercise the delegation as a Delegate under Schedule 2 in line with Section 50 of the Transport Administration Act 1988. This delegation is conferred by RMS which is the traffic authority in NSW.
- The ONLY means by which Council can exercise its Delegation is to seek advice from the Police and RMS and the vehicle for this is the LTC.
- The matter must then go before the elected Council for determination.
- If Council agrees with the LTC recommendation the works can proceed.
- If Council votes against the recommendation Council MUST notify the Police and RMS Representative in writing. Council cannot take any action until the Police and RMS have considered lodging an appeal. If an appeal is triggered the matter proceeds to the Regional Traffic Committee for determination.

It will be noted the Local Traffic Committee is NOT a Committee of Council as constituted under the Local Government Act 1993. The LTC is independent technical advisory committee which consider matters outside the influence of persons in positions of authority.

Therefore, acting outside the LTC process can be seen as a deliberate and undermining means of negating the function of the LTC and the appeals process.

-It is noted Oberon Shire Council or persons responsible have intentionally acted outside its delegated authority under Section 50 of the Transport Administration Act 1988.

-Further, Oberon Shire Council or persons responsible, without such authority, have contravened several sections under Part 5.3, Division 2 of the Road Transport Act 2013.

-Further, Oberon Shire Council or persons responsible have circumvented its obligations and responsibilities to follow due process in this matter.

-Outside the scope of the LTC and notwithstanding the preceding, Oberon Shire Council or persons concerned may have acted contrary to Council's Model Code of Conduct under Part 1. Key Principles relating to Accountability and Openness.

Any further breach or departure from Council's responsibility to follow due process in relation to RMS Delegation Section 50 of the Transport Administration Act 1988 will be reported through the appropriate channels and this includes the Department of Local Government.