

A1.2.1 LR:SS

July 2010

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General Manager

Mayor

A1. REVIEW OF JOINT REGIONAL PLANNING PANEL OPERATIONS
Staff Report to the 20 July 2010 Ordinary Meeting
File No. D52.1
Prepared by Ralph Tambasco 6 July on 2010

As Council would be aware, Joint Regional Planning Panels' (JRPP's) came into operation on 1 July 2009. Councillors Hooper and McCarthy are Councils representatives on the JRPP. There are also three Government representatives.

Development Applications which are of "regional significance" are referred to the Panel for determination. The referral is accompanied by a report and recommendation from Council's Director of Development.

The Department of Planning (DoP) has undertaken a review of the operation of the Panel and has recommended to the Government that a number of reforms be implemented. These are discussed in detail below. A copy of the letter from the Ministers Office is attached (**Attachment A1**).

Councillors should note that all the proposed Delegations mentioned below are all prefaced on the basis that applications of "regional significance" are to be determined by a Senior Council Officer and not referred to Council for its determination.

The modifications involve the following:

- a) Modification of Development Applications pursuant to Section 96 (1A) of the EPA Act 1979.

Comment: This in effect means Senior Council Staff can modify a Development Application previously approved by the JRPP.

- b) Proposed Delegations.

The proposal is that the Panel Chair will have the authority to delegate back to Council certain JRPP applications. The circumstances whereby the Panel Chair will delegate back to Councils are outlined under the following headings in the attachment.

- Straight forward Applications: An example would be an application that triggered the JRPP determination but no submissions were received from the public.
- Designated Development: This proposed delegation back to Council will enable Council to determine an application for designated development with a capital investment value (CIV) of \$5 million or less. The proposed delegation will apply regardless of whether a submission from the public is received or not and only if the Staff recommend approval. Should Staff recommend refusal, the application will be referred back to the Panel for final determination.

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- Areas and Precincts: This proposed delegation will enable Council to determine regionally significant applications in particular areas provided it is in compliance with Council's strategic planning objectives. It should be noted that no such areas exist in the Oberon Council area.

c) Delegation to Officer Level.

Comment: The delegation of the authority back to Council is predicated on the determination being made at officer level rather than at Council level. In the absence of the authority, the delegation will remain with the JRPP. Council Staff already have extensive delegation in place so there is no issue with meeting the criteria. The aim of delegations to officer level is to depoliticise the planning system and help improve determination times. Delegations will only apply to Council's who have delegated the authority to determine these types of applications to their Planning Staff.

d) Determination.

Comment: This paragraph from the Ministers Office is self explanatory and needs no expansion.

An issue could arise whereby an application of regional significance is lodged in an area and it fails to comply with a Council Policy or a State Environmental Planning Policy No. 1 objection is received. In this instance, the chair of the JRPP could delegate to Council for it to determine the application but the application is contrary to a Council Policy or below a minimum standard and requires a SEPP 1 objection to be lodged.

The above situation creates a conflict between the Senior Officer involved and a Council Policy. There needs to be a mechanism whereby if such a situation arises, Council can advise the JRPP to revoke its delegation.

e) Trial Period.

Comment: The proposed delegations are going to be trialled for a period of 12 months.

f) Implementation.

Comment: Council is to give a written commitment to the Ministers Office that it is supportive of the above proposed delegations within 21 days of the date of the letter.

The Ministers Office has been advised that this is not possible due to the Council Meeting schedule.

Conclusion

Council, over a period of time, has been opposed to the implementation of JRPP's for the determination of Development Applications of regional significance. Regardless of this, the system came into operation on 1 July 2009. After a trial period of 12 months, the Ministers Office is now reviewing its operation and attempting to streamline the process whilst removing the potential for political decisions as opposed to merit based decisions.

This is Page No. 3 of the Staff Report as presented to the duly convened Ordinary Meeting of Oberon Council to be held at the Council Chambers, Oberon on Tuesday, 20 July 2010 commencing at 5.30 pm.

General Manager

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Council has always had extensive delegations in place for dealing with the majority of Development Applications. The above proposed delegations are at least a step in the right direction in that certain regionally significant Development Applications will come back to Council for determination.

It would be prudent for Council to support the proposed reforms, but continue to support other organisations and Councils in lobbying for the abolition of JRPP's, or at the very minimum have the trigger thresholds for regionally significant applications to be lifted. The alternative for Council is if it doesn't support the above reforms, it would be shut out of the process totally, as is presently the situation. It will therefore be recommended that Council support the reforms for the trial period of 12 months.

Recommendation:

That Council advise the Minister for Planning that it is supportive of the proposed reforms for the trial period of 12 months following which it will make further representation with respect to the operation of the Joint Regional Planning Panel.

A2. DEVELOPMENT APPLICATION 10.2009.223.1 NEW SUBDIVISION FOR AGRICULTURE UNDER CLAUSE 12 OF LOCAL ENVIRONMENTAL PLAN 1998 Staff Report to the 20 July 2010 Ordinary Meeting File No. PR7.158 Prepared by Janet Bailey on 7 July 2010

Applicant: AirSurv Pty Ltd
Property: 158 Purdon's Lane O'Connell
Owner: Richard James Brennan and Barbara Stewart Brennan

Reason for Submission to Council

Council staff has received a request to attach Council Seal to an 88B Instrument.

Proposed Terms

On the 15 December 2009 Council Staff approved a subdivision for agriculture under Clause 12 of LEP 1998 on Lot 40 in DP 1100948. A copy of the Plan of Subdivision is attached (**Attachment A2a**).

In approving the Subdivision a number of conditions were imposed including Condition (3) **Restriction to User** and Condition (6) **Restriction as to the Use of the Land** which states as follows:

(3) Restriction to User

A draft of the proposed terms of a Restriction to User under Section 88B of the Conveyancing Act, for the proposed Agricultural lot (proposed Lot 401) signed by the owners, shall be submitted to Council with the Subdivision Certificate application.

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Mayor

Reason: To finalise the terms and approve the proposed restrictions prior to the registration of the Subdivision.

(6) Restriction as to the Use of Land

The provision of a public positive covenant/restriction as to user with Council as nominee in accordance with Section 88B of the Conveyancing Act placing restriction on user relative to proposed Lot 401 that:

- a) *No dwelling house, cottage, other erection or construction or otherwise for the purpose of or capable of use for habitation purposes shall be erected, maintained or allowed to remain upon the land hereby burdened.*

Reason: To ensure that suitable notice is provided to indicate that no dwelling entitlement exists on proposed Lot 401 which has been created for agricultural purposes only.

Council received a copy of the Section 88B instrument and Council Staff have reviewed the document and found it to be in order (**Attachment A2b**).

Recommendation:

That the Common Seal of Oberon Council be affixed to the 88B Instrument for Mr & Mrs Brennan in relation to Development Application 10.2009.223.1 for a New Subdivision for the purpose of agriculture under Clause 12 of Local Environmental Plan 1998 of Lot 40 in DP 1100948, 158 Purdon's Lane O'Connell .

**A3. DEVELOPMENT APPLICATION 10.2010.24.1 PROPOSED NEW MACHINERY SHED AND DWELLING, LOT 23 IN DP 1135464, 17 FAUGHA BALLAUGHA ROAD, OBERON
Staff Report to the 20 July 2010 Ordinary Meeting
File No. PR24.170
Prepared by Mark Dicker on 7 July 2010**

Applicant: Mr KW & Ms U Behrendt
Proposal: Construction of New Machinery Shed and Dwelling
Zone: Rural 1 (a)

Reason for the Submission to Council

The applicant wishes to construct a machinery shed and dwelling contrary to the requirements of the Oberon Development Control Plan 2001 (DCP). Clause B.14.12.9 states; "A 150m buffer must be provided between the nearest external wall of the dwelling and the boundary of an adjoining or adjacent lot, allotment, portion or parcel of land comprising state or private forest activities".

The applicant proposes to construct the dwelling 60m off the eastern property boundary which on the adjoining property there is a small private pine plantation.

A Copy of the site plan of the proposed development and satellite image of the area is attached. (**Attachment A3a**)

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General Manager

Mayor

Timeline

A brief timeline of Lot 23 in DP 1135464 and the emergence of the “150m buffer” can be summarised as:

- **2002** – Council approved Development Application 138/02 for the excision of 1 lot for the purpose of a dwelling,
- **2005** - At Councils Planning Meeting on 24 January 2005 it resolved; *“That a 150 metre setback from pine plantations for the construction of dwellings be adopted”* to apply to the whole Oberon Local Government Area. As such Clause B.14.12.9 of the Oberon Development Control Plan 2001, was amended to reflect Councils resolution.
- **2008** - Council approved a boundary adjustment to enlarge the allotment created in 2002.

The Application

Development Application 10.2010.24.1 was received by Council on 13 April 2010 for the proposed construction of a Machinery Shed and Dwelling. After lodgement of the application Council informed the applicant that the proposal was not in accordance with the Oberon DCP, and as such was advised to either amend the proposal or submit substantial justification for council to consider varying the DCP.

On 3 June 2010 Council received correspondence from the applicant seeking to vary Clause B.14.12.9 of the DCP.

A copy of the applicant’s letter requesting Council vary the DCP is attached (**Attachment A3b**).

The applicant’s justification can be summarised as follows:

- That a house envelope 60m off the eastern boundary was approved as part of the 2002 Subdivision.
- That a house envelope 60m off the eastern boundary was approved as part of the 2008 modification of the 2002 Development Consent.
- The adjoining pine plantation is only 4 hectares in size.
- The adjoining pine forest was recently thinned and there was minimal impact upon the proposed house location.
- If the dwelling is required to be constructed further west it would be closer to gullies/watercourses.

The adjoining property owner on which the private pine plantation is located was notified and no submission was received.

It is noted from the Minutes of the Planning Meeting held on 24 January 2010 that the main reason for the creation of the 150m buffer was, *“more people and more chance of fires”*. However although not stipulated in the Minutes, another reason this particular buffer was established was to minimise land use conflicts that could be created from locating residential dwelling houses in close proximity to pine forests, particularly when harvesting is taking place.

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Mayor

Having considered the applicants justification and the merits of the proposal the following points are important to note:

- The original allotment was created in 2002, three years prior to Council amending the DCP to incorporate a minimum of 150m and as such the applicant was unaware of any setback requirement.
- The original allotment was created in 2002, under which the applicant had assumed the proposed dwellings' location was approved and as such has located services to the site to reflect this approved location.
- There was no mention of a buffer in either the 2002 approval or the 2008 Modification approval.
- The pine plantation is a small private pine plantation and only 4 hectares in size.
- The adjoining land owner of the pine plantation was notified and no submission was received.
- The proposed dwelling will be constructed to a "level 1 construction standard" in accordance with Planning for Bushfire Protection 2006.
- The property is significantly affected by buffer limitations, including;
 - 150m setback from forests to the East and North
 - 150m setback from class 3 agricultural land to the West (although this could be reduced to 50m with the implementation of a Buffer Management Plan)
 - 40m from two dams and two watercourses

For the abovementioned reasons in particular the buffer limitations that exist on this property it is felt that in this particular case the application to vary Clause B.14.12.9 Oberon Development Control Plan 2001 should be approved.

Recommendation:

That Clause B.14.12.9 "Dwelling Setbacks and Buffers" of Part B of the Development Control Plan 2001 be varied to allow the construction of dwelling at Lot 23 in DP 1135464, 170 Faugha Ballaugh Road, Oberon, 60m off the eastern property boundary.

**A4. DEVELOPMENT APPLICATION 10.2010.31.1 PROPOSED NEW GARAGE, LOT 4
IN DP 1063995, 37 SCOTIA AVENUE, OBERON
Staff Report to the 20 July 2010 Ordinary Meeting
File No. PO49.37
Prepared by Mark Dicker on 7 July 2010**

Applicant: M Bolton & K Bolton
Proposal: Construction of New Garage
Zone: Village 2 (v)

Reason for the Submission to Council

The proposed garage in its current form does not comply with the following clauses of the Development Control Plan 2001 (DCP):

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- **C.5.3 – Height of Buildings**

The DCP states that no building shall be more than 5.5m in height. The proposed garage is 5.8m in height, thus being 0.3m higher than the DCP permits.

- **C.5.5 – Building Height Planes**

Building Height Plane is “the plane projected at an angle of 45° from a distance of 1.5m above natural ground level at the boundary of the site”. The attached drawing shows the non compliance of the proposed garage.

- **C.6.4 – Carports and Garages**

The DCP states that the maximum total floor area of garages and or carports is to be 60m². The garage proposed is 157.5m².

Copies of the site plan, elevations of the proposed building, elevation showing building height plane non compliances and photos of the site are attached. (**Attachment A4a**)

The Application

Development Application 10.2010.31.1 was received by Council on 19 May 2010 for the proposed construction of New Garage. After lodgement of the application Council informed the applicant that the proposal was not in compliance with the Oberon DCP, and as such was advised to either amend the proposal or submit substantial justification for council to consider approving a variation to the DCP.

On 8 June 2010 Council received correspondence from the applicant seeking to vary Clauses C.5.3, C.5.5 and C.6.4 of the DCP.

A copy of the applicant's justification letter requesting Council vary the Oberon DCP is attached. (**Attachment A4b**)

The applicant's justification can be summarised as follows;

- **C.5.3 – Height of Buildings & C.5.5 – Building Height Planes**

- The proposed garage is only 0.3m higher than the DCP allows,
- The height is required to enable parking of a caravan. If the garage cannot be constructed to this height the caravan would be either in the front or rear yard which itself would be more unsightly than the garage.
- The garage would be located approximately 45m from the nearest dwelling.
- The only view that would be affected is of the large blank wall of the timber mill to the north.
- This particular block was purchased so that the owners could drive down, turn and reverse in both the caravan and boat.
- If the distance of the garage is increased off the boundary there will be insufficient space to effectively maneuver the caravan or boat into the garage.
- The best position on the allotment is where it is proposed. The northern end of the block drops away, is boggy and could not be benched or filled as it

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Mayor

would interfere with the natural fall of the land and also cause water runoff problems.

- The neighbour on the southern side has several shrubs and trees at the rear of their property, so no view would be impeded.
- There is no visual impact of the garage from Scotia Ave as the block is L shaped and the garage would be out of sight.

- **C.6.4 – Carports and Garages**

- A large garage is required as the applicants own a large caravan, boat, trailer and ride on lawn mower amongst other things.
- There are only 3 bays for vehicle storage, two half bays as workshops and two half bays to be used as a verandah area for barbeques.

Two adjoining property owners have been notified and no written submissions have been received.

Having considered the applicants justification and the merits of the proposal the following points are noted;

- The applicant has justified the need for such a high and large garage to primarily store a large caravan,
- The proposed garage is only 0.3m higher than the DCP allows which equates to a 5% variation,
- Only 1.6m of the garage wall will be exposed above the existing 1.8m high colourbond fence currently erected on the boundary. The natural ground has been excavated approximately 600mm to level the site. This essentially lowers the proposed garage below natural ground level, thus reducing the height of the garage above natural ground level.
- The dwelling on the property to the west is approximately 37m away; however the proposed garage is not in the direct line of sight from this residence as the neighbours existing garage is in between the two.
- The proposed garage is only 1m off the property boundary to the west, however on this adjoining property to the west a garage exists approximately 3m off the boundary, thus reducing any perceived impact of the proposed garage.
- The dwelling on the property to the south is approximately 40m away. The proposed garage is 10m off the southern boundary, providing a large setback and reducing any perceived impact on the property to the south. The property to the south also has existing trees and shrubs on the property and this will reduce any perceived visual impact the garage could be considered as having.
- No written submissions were received by Council.

For the abovementioned reasons it is felt that in this particular case the application to vary Clauses C.5.3, C.5.5 and C.6.4 of the Oberon Development Control Plan 2001 should be approved.

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General Manager

Mayor

Recommendation:

1. That Part C.5.3 "*Height of Buildings*" of the Development Control Plan 2001 is varied to allow the construction of a new garage 5.8m in height at Lot 4 in DP 1063995, 37 Scotia Avenue, Oberon.
2. That Part C.5.5 "*Building Height Planes*" of the Development Control Plan 2001 is varied to allow the construction of a new garage 1m off the western boundary at Lot 4 in DP 1063995, 37 Scotia Avenue, Oberon.
3. That Part C.6.4 "*Carports and Garages*" of the Development Control Plan 2001 is varied to allow the construction of a new garage 157.5m² at Lot 4 in DP 1063995, 37 Scotia Avenue, Oberon.

**A5. DEVELOPMENT APPLICATION 10.2010.32.1 - PROPOSED NEW FACTORY, LOT 15 IN DP1141191, 58 ALBION STREET, OBERON
Staff Report to the 20 July 2010 Ordinary Meeting
File No. PO2.58
Prepared by Mark Dicker 6 July 2010**

Applicant: G Cluderay & D Cluderay
Proposal: Construction of New Factory to Manufacture Polyethylene Water Tanks
Zone: Village 2 (v)

Reason for the Submission to Council

Part D4.4 of the Development Control Plan 2001 requires "*car parking at the rear of the development site in accordance with Councils Parking Code*". The applicant wishes to construct a new factory building in which car parking is proposed at the front of the building contrary to the requirements of the Oberon Development Control Plan 2001.

Copies of the site plan and elevations of the proposed building are attached. (**Attachment A5a**)

The Application

Development Application 10.2010.32.1 was received by Council on 19 May 2010 for the proposed construction of a factory building to manufacture Polyethylene Water Tanks. After lodgement of the application Council informed the applicant that the proposal was not in compliance with the Oberon Development Control Plan 2001, and as such was advised to either amend the proposal or submit substantial justification for council to consider approving a variation to the DCP. On 1 July 2010 Council received correspondence from the applicant seeking to vary Part D4.4 of the Oberon Development Control Plan 2001.

A copy of the applicant's letter requesting Council vary the DCP is attached. (**Attachment A5b**)

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General Manager

Mayor

The applicant's justification can be summarised as follows:

- It is considered safer to park at the front of the building as loading and unloading will be undertaken at the rear of the property.

Having considered the applicants justification and the merits of the proposal it is felt that because the factory is proposed to be setback approximately 22m from Albion Street allowing ample room for car turning and parking in conjunction with the proposed landscaping it is felt that in this particular case that car parking should be approved in front of the building.

Recommendation:

That Part D4.4 of the Development Control Plan 2001 be varied to allow car parking to be located at the front of the proposed factory building at Lot 15 in DP 1141191, 58 Albion Street, Oberon.

**A6. DEVELOPMENT APPLICATION 10.2010.15.1 – NEW SUBDIVISION FOR AGRICULTURE UNDER CLAUSE 12 OF OBERON LEP 1998
Staff Report to the 20 July 2010 Ordinary Meeting
File No. PR23.809
Prepared by Jaclyn Burns on 12 July 2010**

Applicant: Mr C.L. & Mrs J McCarthy
Property: Lot 115 in DP 757068, 809 Lowes Mount Road, Oberon
Owner: Mrs L Grady

At Council's 15 June 2010 Ordinary Meeting staff requested that Council's Seal be attached to an 88B Instrument for the restriction as to the use of the land for the creation of an agricultural lot under Clause 12 of Oberon LEP (**Attachment 6a**).

The attachment of the Council's Seal was not provided to the 88B Instrument due to concerns regarding the fact that legal access has not been provided to the proposed lot and as such Council resolved *"That staff seek clarification from the Department of Planning and the applicant regarding the creation of a lot without access."*

The response from the Department of Planning is attached (**Attachment 6b**) and essentially states that whilst the Department will not provide legal advice it does recommend that lots be created with legal access as it would be "undesirable" to allow land to become landlocked should the lot be on sold to a third party.

Whilst waiting for written advise from the Department of Planning Council staff contacted the Applicant and Owner with a number of options to enable access to the lot, namely:

- "1. Lot 1 in DP 1131900 (former Crown Road reserve) runs from Lowes Mount Road along the southern boundary of Lot 115 enabling consolidation with the proposed agricultural lot to create an access. Council's Engineering Department confirm that the access requires compliance with the required sight distances.*

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Mayor

2. *A Section 96 Modification can be requested to amend Condition 4 to include the following statement; "That the land hereby burdened shall be incorporated conjointly at all times in the same name of ownership by the owner/s of immediately adjoining lands". Immediately adjoining lands are those lands that are held as separate certificate of title that share a common boundary at anytime with the land hereby burdened.*
3. *That the proposed lot be consolidated with Lot 58 in DP 757068.*
4. *That a right of carriageway be created to the lot."*

On the 28 June 2010 Council staff received correspondence from the applicant (**Attachment 6c**) stating compliance with option 2 subject to Council meeting the costs associated to the modification, estimated to be \$200-\$300, according to advice received from the Applicant's Solicitor.

The Applicant has now submitted an amended section 88B Instrument (**Attachment 6d**) which essentially ensures that proposed Lot 2 be held in the same ownership as Lot 2 in DP 1009316 or Lot 58 in DP 757068 both owned by the applicant.

Recommendation: That the Common Seal of Oberon Council be affixed to the 88B Instrument for Mr. and Mrs. McCarthy in relation to Development Application 10.2010.18.1 for the creation of a lot for the purpose of agricultural under clause 12 of Oberon LEP 1998 in Lot 115 DP 757068, 809 Lowes Mount Road, Oberon.

B1. FELLED TIMBER ROAD
Staff Report to the 20 July 2010 Ordinary Meeting
File No. R38
Prepared by Ian Tucker on 10 June 2010

A letter has been received requesting consideration of the sealing of a section of Felled Timber Road (**Attachment B1**).

The request results from concern about dust for several residences in the area. They report an increase in traffic using the road to access the National Park, as well as forest harvesting operations. The harvesting is of course temporary, and is likely to be completed before any road upgrading could commence.

To upgrade and seal a 600 m section as requested would cost in the order of \$50,000.

Similar to the report about McKeons Creek Road in February 2010, Council may wish to refer this request to the 2011/12 budget considerations. However if the project was to proceed, it would be at the expense of higher priority roads already included in the forward program.

Recommendation:

That the complainants be advised that Felled Timber Road is unlikely to be included in the sealing program in the foreseeable future.

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General Manager

Mayor

B2. AGED CARE
Staff Report to the 20 July 2010 Ordinary Meeting
File No. C22.4
Prepared by Leigh Robins on 13 July 2010

The minutes of a meeting held with Member for Macquarie, The Hon Bob Debus MP, Council and a representative of the Oberon Aged Care Committee on Monday 4 July 2010 are attached (**Attachment B2**).

Recommendation:

That the information be received and noted.

B3. POLICY FOR PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR, DEPUTY MAYOR AND OTHER COUNCILLORS
Staff Report to the 20 July 2010 Ordinary Meeting
File No. A1.2.3
Prepared by Leigh Robins on 23 June 2010

Following the Ordinary Council Meeting in June it was agreed by the Councillors in attendance that the provision of a credit card for the mayor was an appropriate way of providing to cover out of pocket expenses incurred by the Mayor.

The provision of credit card will require amendment to Council's Policy 1103, Payment of Expenses and Provision of Facilities to The Mayor Deputy Mayor and Other Councillors.

An application for a credit card has been submitted for this purpose.

Recommendation: That the action to provide a council credit card for the mayor be endorsed.

B4. FUEL PRICING
Staff Report to the 20 July 2010 Ordinary Meeting
File No. E37.2
Prepared by Leigh Robins on 30 June 2010

Council resolved at its May 18, 2010 Ordinary Meeting to seek an explanation on high fuel prices in Oberon compared to Orange and Bathurst.

A copy of a response from one of the suppliers is included (**Attachment B4**). In summary the reasons offered for a price differential are:

- Volume capacity on a particular site
- Additional distance for delivery
- Competition or lack of competition from major suppliers

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The supplier advises the smaller centres have similar operating costs of the largest centres along with lower volume of sales.

Information received via e-mail from another distributor highlighted the additional haulage costs where fuel was transported from the Sydney terminal to the Orange depot and then secondary freight from Orange to Oberon.

On Friday 2 July 2010, prices for diesel and ULP in Oberon and Bathurst were one cent apart.

Recommendation:

That the information be received and noted.

**B5. PROPOSED ROAD CLOSURE
Staff Report to the 20 July 2010 Ordinary Meeting
File No. E31.6.2
Prepared by Leigh Robins on 2 July 2010**

Council has received a road closure application from Land and Property Management Authority.

A plan of the proposed closure is included as **Attachment B5 and B5a**.

The road although not constructed, does link Arties Road and Phils Falls Road. Closure of the road would inhibit access for firefighting purposes.

Recommendation:

That the proposed road closure not be supported.

**B6. NOMINATION OF THE O'CONNELL ANZAC MEMORIAL AVENUE OF TREES BY THE NSW HERITAGE BRANCH
Staff Report to the 20 July 2010 Ordinary Meeting
File No. A2.22 and R253.2.9
Prepared by Ralph Tambasco on 6 July 2010**

At its 18 May 2010 Ordinary Meeting, Council considered the following recommendation from the Heritage Committee from its 19 April 2010 meeting:

- a) *The offer from NSW Heritage Branch can be accepted to develop a nomination of the O'Connell Anzac Memorial Avenue of Trees under the WWI and WWII theme for inclusion on the State Heritage Register.*
- b) *It be noted that the nomination is to be prepared by the NSW Heritage Branch in conjunction with community groups.*

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General Manager

Mayor

Council did not adopt the above recommendation, but resolved as follows:

“That the matter be deferred subject to receipt of a full report on the matter”.

The issue at hand is the preparation by the NSW Heritage Branch of an application to nominate the O’Connell Anzac Memorial Avenue of Trees under the World War I and World War II theme for inclusion on the State Heritage Register.

BACKGROUND

In April 2009 Dr Olwen Beazley, Senior Heritage Officer, and two other officers of the Heritage Branch of the Department of Planning attended a meeting in Bathurst. Invited to the meeting were representatives of Bathurst Regional Council and other Councils. Representatives of local historical and heritage groups were also in attendance.

The purpose of the meeting was outlined as an opportunity for the Heritage Branch to ascertain information about heritage items in the local area that might be suitable for consideration for placement on the State Heritage Register. The representatives of the Heritage Branch outlined the four themes for Heritage Branch activities in 2009-2010 being Aboriginal Heritage, Convicts, Governor Macquarie, and World Wars I and II.

There was considerable discussion at the meeting and a number of heritage items in the Bathurst Regional Council area were put forward for consideration. The Heritage Branch was informed that a nomination for Coxs Road was in the process of preparation by the Coxs Road Project Committee.

As part of the discussion about heritage items in the Bathurst and Oberon area which are of heritage value under the World War I and II theme, the officers of the Heritage Branch particularly noted information about the O’Connell Anzac Memorial Avenue.

On 18 March 2010, Dr Beazley emailed myself as a follow up to this discussion in Bathurst in April 2009. In her email she inquired *“whether this is still something the Council wish to pursue and if so, would they welcome the nomination being prepared on their behalf”* by a Consultant engaged by the Heritage Branch. The offer was for the application to be progressed to the nomination stage at **no cost to the Council**.

The email of 18 March 2010 was placed on the agenda papers for the meeting of Heritage Committee on 19 April 2010. A copy of the agenda (including the letter from Dr Beazley) was provided to all the Councillors.

The Heritage Committee considered the offer which had been referred to them for consideration and recommended to the Council that:

- a) *The offer from NSW Heritage Branch be accepted to develop a nomination of the O’Connell Anzac Memorial Avenue of Trees under the WWI and WWII theme for inclusion on the State Heritage Register.*
- b) *It be noted that the nomination is to be prepared by the NSW Heritage Branch in conjunction with community groups.*

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General Manager

Mayor

RELEVANT COMMENTS

1. The O'Connell Anzac Memorial Avenue is of considerable heritage significance.

The Ozark Report prepared for the Roads and Traffic Authority (RTA) in February 2007 regarding the O'Connell Anzac Memorial Avenue states:

*"The summary statement of significance in the Conservation Management Plan (CMP) concludes that the Memorial Avenue in O'Connell is of **rare historical significance at State level; aesthetic significance at a regional level; local social significance and has a degree of technical/research significance** revolving around knowledge of the trees themselves, their ageing process and the data already gathered which can be supplemented in the future (Musecape et al. 1999: 18). Based on this significance assessment, preservation, reconstruction and minor adaptation were the recommended conservation management approaches advocated".*

2. On Tuesday 18 August 2009, in a media release, the then Minister for Roads, Michael Daley said:

*"I'm pleased to announce that the trees along O'Connell Anzac Memorial Avenue will be staying put, he said.
The RTA will now start developing plans to upgrade the existing road to improve road safety for the O'Connell community".*

3. In a formal record of the meeting with the RTA held in August 2009, the RTA noted "the RTA is not considering any option for the project that involved removal of one or both sides of the Avenue of Trees".
4. The Premiers Department has provided funding for the maintenance of the Avenue. This has been used for arborist work. Most recently the Minister representing the Premier on matters of Veteran Affairs visited the O'Connell Avenue and made a presentation of \$10,000 to the Community Guardians of the O'Connell Anzac Memorial Avenue for further arborist work.
5. The RTA, in recognition of the issues of safety raised by the Council and members of the community has reduced the speed limit through O'Connell to 60 kph.
6. The RTA has engaged Dr Peter Martin, University of Sydney, to undertake extensive research into the Avenue, to provide information to for the roads works through the Avenue and the management of the trees. Dr Martin has undertaken the research and the RTA is currently awaiting a report from Dr Martin.

As the purpose of the report is to provide quality advice regarding the management of the trees, the timing of the release of the report to the RTA has no bearing on decisions about the preparation of a nomination for heritage listing.

7. The offer by Heritage Branch to prepare an application for heritage listing to nomination stage does not mean that the application will automatically be approved. It will only be provided for consideration by the NSW Heritage Council for inclusion

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on the State Heritage Register. There is no guarantee of the outcome of their deliberations.

8. The local community conducts Anzac Day and Remembrance Day services in the Avenue, thereby maintaining the vision of the O'Connell community which raised the funds and carried out the work to establish the Avenue in memory of the service men and women of O'Connell who served in World War I, many of whom never returned. The Avenue remains an important memorial for the descendants of those who died and to the Local, State and National community.

Recommendation:

That:

- a) The offer from NSW Heritage Branch be accepted to develop a nomination of the O'Connell Anzac Memorial Avenue of Trees under the WWI and WWII theme for inclusion on the State Heritage Register.
- b) It be noted that the nomination is to be prepared by the NSW Heritage Branch in conjunction with community groups and at no cost to Council.

**B7. LOCAL GOVERNMENT AMENDMENT (PLANNING AND REPORTING) ACT 2009
Staff Report to the 20 July 2010 Ordinary Meeting
File No. C15.7
Prepared by John Chapman on 12 July 2010**

Council resolved at the ordinary Meeting on 15 December 2009 *“that the delivery program for the Integrated Planning and Reporting Framework be adopted as follows:*

- *Feb 2010 – Draft Assets Management Plan considered by Council*
- *Apr 2010 – Assets Management Plan adopted by Council*
- *Jun 2010 – Adopt framework for community consultation, including process, formats, delivery etc*
- *Oct 2010 – Completion of community consultation*
- *Dec 2010 – Completion of communications with government departments/agencies*
- *Apr 2011 – Consideration of draft Strategic Plan*
- *Apr-May 2011 – Draft Strategic Plan on exhibition*
- *Jun 2011 – Adoption of Strategic Plan*
- *Oct 2011 – draft Delivery Plan (4 year program)*
- *Feb 2012 – draft Operational Plan (1 year)*
- *Apr 2012 – Delivery Plan & Operational Plan on public exhibition*
- *June 2012 - Delivery Plan & Operational Plan adopted*
- *Sep 2012 – NSW Local Government Election”*

Since the adoption of the resolution, ongoing discussions have been held with the Assets Management consultant (Mr Ashay Prabhu) who has considerable experience in the community consultation process and preparation of strategic plans. Further discussions

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have been held also regarding a realistic timeframe for the completion of Council's Assets Management Plan which is integral to progress with the delivery program for the Integrated Planning and Reporting Framework. As a result of those discussions and, based upon the recommendation of the consultant, a revised draft delivery program has been prepared.

Recommendation: That the revised delivery program for the Integrated Planning and Reporting Framework be adopted as follows:

Target Date	Task
November 2010	Draft Assets Management Plan to Council
December 2010	Assets Management Plan adopted by Council
December 2010	Framework for community consultation, including process, formats, delivery etc adopted by Council
February 2011	Workforce Plan adopted by Council
April 2011	Completion of community consultation
June 2011	Completion of communications with government agencies
November 2011	Draft Strategic Plan to Council
November 2011 to January 2012	Draft Strategic Plan on Public Exhibition
February 2012	Draft Strategic Plan adopted by Council
April 2012	Draft Delivery Plan (4 year program) and Operational Plan (1 year) adopted by Council
April to May 2012	Draft Delivery Plan (4 year program) and Operational Plan (1 year) on public exhibition
June 2012	Draft Delivery Plan (4 year program) and Operational Plan (1 year) adopted by Council
September 2012	NSW Local Government Election

**B8. B-DOUBLE ACCESS FELLED TIMBER ROAD
Staff Report to the 20 July 2010 Ordinary Meeting
File No. R38
Prepared by Leigh Robins on 12 July 2010**

A request has been received (**Attachment B8**) in relation to B-Double access on Felled Timber Road.

The route has been assessed in accordance with Roads and Traffic Authority guidelines and does not meet the guidelines in relation to road width, culvert width and access into the forest area.

Forests NSW advised that haulage is likely to continue for a further four week period.

Visy have been requested to arrange an alternate location for the coupling and uncoupling of the trucks.

Recommendation:

That the information be received and noted

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B9. WATER SUPPLY
Staff Report to the 20 July 2010 Ordinary Meeting
File No. E32.2
Prepared by Leigh Robins on 13 July 2010

Following Councils meeting of June 15, 2010 contact was made with State Water representatives seeking confirmation on the status of the installation of the low lift water pumps.

Advice received on July 13, 2010 is that the pumps have been lowered into position and the power connection will be completed to the pumps on July 14, 2010.

There is a delay with the supply of switchboards which are not expected to be available until late in the week ending 23 July 2010.

It is expected that the pumps will be operational in the week commencing 26 July 2010.

The programme of works originally had the works to be completed in the week ending 24 July.

Recommendation:

Submitted for council's consideration.

B10. STORMWATER HARVESTING
Staff Report to the 20 July 2010 Ordinary Meeting
File No. E32.11
Prepared by Leigh Robins on 13 July 2010

The final concept design report has been received from Geolyse and a description of the works proposed includes:

- A 20 ML stormwater harvesting pond on an unnamed watercourse to the south of Queen Street
- A 40l/s pump station (PS1) to transfer stormwater from the harvest pond to the storage pond
- A 150 mm rising main PS1 to the storage pond
- A 45 Ml storage pond at the corner of Lowes Mount Road and Albion Street to balance inflows from the harvest pond with timber complex demand
- a packaged water treatment plant capable of treating the water to ensure it is fit for purpose
- A 15l/s pump station (PS2) to transfer treated water to the Oberon Timber Complex
- A 100mm rising main to deliver the treated water to the OTC

Discussions with the New South Wales Office of Water will now be commenced with a view to having a Water Licence issued under the Water Act 1912.

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This will be done concurrently with the full engineering design, specification preparation and tender documentation for the harvest pond and storage pond, rising mains, pump stations and the water treatment plant.

Recommendation:

That the information be received and noted.

**M1. TIMBER HERITAGE WALK COMMITTEE MEETING MINUTES
Staff Report to the 20 July 2010 Ordinary Meeting
File No. A2.27
Prepared by Ralph Tambasco on 25 June 2010**

The minutes of the Timber Heritage Walk Committee Meeting held on 21 June 2010 are attached. (*Attachment M1*)

Recommendation:

That the information be received and noted.

**M2. HERITAGE COMMITTEE MEETING MINUTES
Staff Report to the 20 July 2010 Ordinary Meeting
File No. A2.22
Prepared by Ralph Tambasco on 7 July 2010**

The minutes of the Meeting held on 5 July 2010 are attached. (*Attachment M2*)

Recommendation:

That the information be received and noted.

Submitted,

Leigh Robins
Acting General Manager

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General Manager

Mayor