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This is Page No. 1 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, 17 August 2010 commencing at 5.30 pm.

**A1. CREATION OF AGRICULTURAL LOTS UNDER CLAUSE 12 OF THE OBERON LOCAL ENVIRONMENTAL PLAN 1998**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. D52.2.5**  
**Prepared by Jaclyn Burns on 28 July 2010**

**Reason for Report to Council:**

At 20 July 2010 Ordinary Meeting a question was raised as to the need for a Restriction as to Use under Section 88B of the Conveyancing Act for lots created under Clause 12 of the Local Environmental Plan (LEP) for the purpose of Agriculture.

**Discussion:**

Section 88B of the Conveyancing Act enables restrictions to be placed on the Title of a property to inform the owner or potential owners of any restrictions relating to the Title.

Accordingly, it is common practice for Council Staff to require, via a Condition of Development Consent, that a Restriction as to Use be affixed to the Title when creating Agricultural lots under Clause 12 of the LEP, instead of relying on a Conditions of Development Consent to clarify land use.

The reasons for requiring the restriction on the Title are summarised as follows:

- It provides a clear indication to the land owner and any potential purchaser and adjoining land owner as to the permissible use of the lot;
- It saves Council Staff considerable time in the assessment of dwelling potential permissibility which is often disputed when a restriction is not applied;
- Council's Solicitor, Mr Pat Bird, indicates that during the search of a property, the Title Deeds are always checked, however the Conditions of Consent may not be, especially for older developments. Furthermore Section 149(5) Certificates only provide potential purchasers information of any Development Consents determined for the previous seven (7) years. **The legal advice is that the imposition of a Restriction as to Use is a very prudent step to take owing to the fact that solicitors rarely check conditions of Development Consent with their clients.**
- Council Staff have had a lot of difficulty establishing how and why lots were created under the previous Planning Instrument (IDO) in order to establish dwelling potential.

Whilst it can be demonstrated that the imposition of the restriction is beneficial to Staff, and to the proposed purchaser, some may argue that it is an imposition to the developer and the attachment of a condition may not only be easier but also achieve the same outcome.

In consideration of this the following points are made:

- In 2009-2010 Council Staff approved two (2) Development Applications for the creation of lots under Clause 12, which required the Restriction as to Use condition.

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- In 2009-2010 Council Staff determined twelve (12) Rural Boundary Adjustments essentially achieving the same result as the two (2) Agricultural lots (of which both were sold to adjoining land owners) without the requirement of Restriction on the Title.
- The cost of creating a Restriction on the Title is generally \$500, although, should the bank need to release the Title Deeds, for a Mortgage, then up to \$1,500 in bank fees may be charged. However, should the cost of the restriction be cost prohibitive then the applicant has the option of Boundary Adjustment in order to carry out rural land adjustment.

**Conclusion:**

The requirement of a Restriction as to Use for the creation of a lot under Clause 12 is a mechanism to enable ongoing compliance with the LEP and transparency as to Land Use permissibility. It is important to note that the Restriction always benefits Council and as such may be lifted if circumstances permit. In the circumstances of the creation of a new lot under Clause 12, these types of Development Applications are currently uncommon, however, the number of enquiries in relation to this type of Subdivision and/or Boundary Adjustments have increased due to the introduction of the Rural Land State Environmental Planning Policy (SEPP).

**Recommendation:** That the information be received and noted.

**A2. AMENDMENT TO COUNCILS FEES AND CHARGES – FIRE SAFETY REPORTS  
Staff Report to the 17 August 2010 Ordinary Meeting  
File No. C15.5  
Prepared by Jaclyn Burns on 2 August 2010**

**Reason for the Report to Council**

On the 20 April 2010, Council staff received information from the NSW Fire Brigades regarding their fees for services performed in connection with the statutory fire safety obligations under Clause 54 of the Fire Brigade Regulation.

This report has been prepared to enable an amendment to the Councils Schedule of Fees & Charges for 2010/11.

**Requirement for the Amendment**

The Environmental Planning & Assessment Act, 1979 (Clause 144) requires the referral of certain plans and specifications to the NSW Fire Brigade for review and assessment. The results of this process are provided in the form of an Initial Fire Safety Report and a Final Fire Safety Report. The report is applied for through the certifying authority (i.e. Council).

The Summary of Schedule of charges is attached (**Attachment A2**).

Whilst it will be uncommon for Council to require compliance with Clause 144 of the E P & A Act, as it relates to relatively large developments or developments seeking an Alternative Solution under the Building Code of Australia relating to fire safety, the statutory charge

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should be reflected in Council's Schedule of Fees & Charges as payment will be required upfront.

Notification of this amendment to the Management Plan will not be required as the fee is statutory.

**Recommendation:**

That Council amend the Schedule of Fees & Charges for 2010/11 financial year to include Fire Safety Reports in accordance with its statutory obligations under the Environmental Planning & Assessment Act 1979.

**A3. DEVELOPMENT APPLICATION 125/05, 5 LOT SUBDIVISION  
Staff Report to the 17 August 2010 Ordinary Meeting  
File No. PR191.1233  
Prepared by Janet Bailey on 4 August 2010**

**Applicant:** Lochgarry Pastoral Company Pty Ltd

**Owner:** Lochgarry Pastoral Company Pty Ltd

**Property:** Lots 2,105,120,167,170,&17 in DP 757065, Part Lot 310 & Lot 338 in DP 757067 & Lot 7 in DP 240276 & Lot 69, 70 & 71 in DP 1125687  
1233 Edith Road OBERON NSW

**History**

This application was previously referred to Council's 20 July 2010 Ordinary Meeting seeking Council's approval to allow the applicants to have their Subdivision plans released without completing all of their conditions of consent.

**Reason for submission to Council**

This report is submitted to enable Council to determine a **second** request from Bird Legal acting on behalf of the owners, Lochgarry Pastoral Company Pty Ltd to vary Council's Release of Subdivision Certificate Policy and the placing of the Council Seal on the Deed and Caveat.

**Proposed terms**

The above 5 lot subdivision was approved by council on the 29 January 2005. Various conditions were imposed on the consent including:

**3. Access Construction**

*Access construction is to comply with the following:*

- a) *The existing entrances to proposed Lot 5 are to be bitumen sealed where appropriate.*

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- b) *A formal Right of Carriageway is to be created to serve the existing dwelling on proposed Lot 5. The ROW is to be constructed in accordance with the requirements of Table B11.2 of Part B of Development Control Plan 2001.*
- c) *The precise locations of the double entrances to proposed Lots 1,2,3 and 4 is to be determined following an inspection with Council's Engineering Department. Some earthworks may be required to improve sight distances and the double entrances are to be indented and bitumen sealed in accordance with Council's Policy.*

*Construction Certificate approval for the above works is required under Section 81A of the Environmental Planning and Assessment Act 1979 prior to these works commencing.*

**REASON:** *To ensure that an appropriate and safe standard of access from the road is provided and to provide protection for the carriageway verge due to the movement of vehicles to and from the property and to comply with the Oberon Development Control Plan, 2001.*

#### **4. Fencing**

*Fencing of the boundaries of the proposed lots in accordance with the approved plans and specifications. Construction Certificate approval is required for this work, unless the fencing meets the Exempt Development criteria of Oberon Development Control Plan 2001.*

*The enclosed Rural Fencing Certification Form shall be completed and returned to Council after all work has been completed and prior to or with the application for a Subdivision Certificate.*

**REASON:** *To ensure rural boundary fencing as proposed in the application and of a suitable standard is provided to avoid disputes between adjoining property owners and to contain stock within each property.*

#### **9. Provision of Buffer**

*A Buffer Management Plan shall be submitted to Council for the proposed buffer area between the building envelope shown on the site plan and the following:*

- a) *South, East and West boundaries of proposed Lots 1,3 and 4*
- b) *North, South, East and West boundaries of proposed Lot 2.*

*Approval of the Plan and its implementation is required prior to the submission to Council of the Subdivision Certificate application.*

**REASON:** *To meet the design requirements of the subdivision and comply with Part B.14.12.9 of the Oberon Development Control Plan 2001 which requires the provision of suitable buffers between any dwelling site and the boundary of Class 1, 2 or 3 prime crop and pasture land.*

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Upon inspecting the new external boundary fencing and the access, Council staff noticed that the Right of Carriageway had been pegged, but not constructed. The applicants have advised that it was not their intention to complete the Right of Carriageway and they understood that it was to be deferred and should have been included in the original request, however was, according to the Applicants, overlooked by their Solicitor.

The owner's solicitor Bird Legal has stated in his letter dated 29 July 2010 the justification for the request together with the respective caveats, and the Step by Step Guide of which a copy is attached (**Attachments A3a & A3b**).

Council Staff have reviewed the documents, and found them to be in order.

**Recommendation:** That:

- a) The request From Bird Legal on behalf of Lochgarry Pastoral Company Pty Ltd and prospective purchasers Egon Investments Pty Limited, to seek to vary Council's Release of Subdivision Certificate Policy, in relation to a 5 Lot Subdivision, Development Application 125/05 at 1233 Edith Road Oberon be approved
- b) Council's Seal be placed on the Deeds and Caveats respectively
- c) Council's Seal be placed on the withdrawal of Caveat in favour of Lochgarry Pastoral Company Pty Ltd to allow the registration of the deed and caveat to Egon Investments Pty Limited, when submitted.

**A4. VARIATION TO DEVELOPMENT CONTROL PLAN 2001  
Staff Report to the 17 August 2010 Ordinary Meeting  
File No. D52.1  
Prepared by Ralph Tambasco on 4 August 2010**

Council has, over many years, received many requests from Applicants of Industrial/Commercial Developments to vary the following clauses of Council's Development Control Plan 2001 (DCP2001):

- a) Clause D4.4 "Parking" of Part D – Commercial and Industrial Development which states, inter alia;

*"The development will be required to provide for car parking at the rear of the development site in accordance with Council's Parking Code."*

- b) Clause F10.1 "Car Spaces" of Part F – Vehicle Circulation and Parking, which states, inter alia;

*"Parking spaces are not normally permitted to be between the building line and the property boundary."*

- c) Clause F10.2 "Driveways" of Part F – Vehicle Circulation and Parking, which states, inter alia;

*"Driveway materials to be concrete, segment paving exposed aggregate concrete, or other coloured or textured hard stand approved surface."*

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Council has, in all cases, approved the Applicants request to vary the above clauses of the DCP2001.

### **Car Parking Location**

Many Industrial/Commercial developments in the Industrial Estate have approved car parking spaces located at the front of the development. The size of the Industrial lots allows for car parking to be provided almost anywhere on the lot without causing any adverse effect or detracting from the aesthetics of the development. Locating vehicular parking at the front of a development still allows for the exit from the site to be in a forward direction, as required elsewhere in the DCP2001.

In addition, depending on the setback of the building from the front boundary, locating car parking at the front of a development enables easier access to the premises as there could be traffic conflict between vehicles entering/exiting the site and visitors/employees on the site if the car parks are located at the side of the building, as most large delivery vehicles or work vehicles would drive down the side of a factory/warehouse building for loading/unloading purposes.

By allowing car parking at the front of a development, the issue of on-site traffic conflict between vehicles and visitors/employees would be reduced as it would enable these areas to be segregated.

### **Hard Stand Area**

Numerous developments in the Industrial Estate have their hard stand car parking and manoeuvring areas constructed of compacted, decomposed granite material. Staff have not received any formal complaints concerning dust pollution from these areas. In addition, they appear to be well maintained and are not being eroded. Therefore, it is proposed to delete the previous DCP requirement for hard stand areas and replace it with the following:

*“Vehicle parking and manoeuvring areas are to be constructed of all weather, compacted decomposed granite or similar hard stand, approved material.”*

### **Area between Kerb to Gateway**

In addition, it is proposed to add the following requirement in Parts D and F of the DCP2001, as follows:

- a) New sentence in existing Clause D4.5 “Access Driveways” and existing Clause F10.2 “Driveways”, as follows:

*“The access crossing over the footpath from the kerb of the road/street to the gateway of the development is to be concreted.”*

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**Recommendation:**

That Development Control Plan 2001 be amended as follows:

- a) By deleting Clause D4.4 "Parking" of Part D – Commercial and Industrial Development, the following:

*"The development will be required to provide for car parking at the rear of the development site in accordance with Council's Parking Code."*

- b) By deleting from Clause F10.1 "Car Spaces" of Part F – Vehicle Circulation and Parking, the following:

*"Parking spaces are not normally permitted to be between the building line and the property boundary."*

- c) By amending Clause F10.2 "Driveways" of Part F – Vehicle Circulation and Parking as follows:

Delete: *"Driveway materials to be concrete, segmented paving, exposed aggregate concrete or other coloured or textured hard stand approved surface."*

Replace with: *"As a minimum requirement, vehicle parking and manoeuvring areas are to be constructed of all weather, compacted, decomposed granite or similar hard stand, approved material."*

- d) By adding the following to Parts D and F of the DCP2001:

*"The access crossing over the footpath from the kerb of the road/street to the gateway of the development is to be concreted."*

- e) The proposed amendments to the DCP2001 for the purpose of public notification in accordance with Clauses 22 and 23 of the Environment Planning and Assessment Regulation 2000, be adopted by Council
- f) The subsequent formal notification of the amendments be endorsed subject to there being no adverse public submissions
- g) The eventual amendments to the DCP2001 be endorsed by Council as the current plan.

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General Manager

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**A5. SUSTAINABLE CHOICE PROGRAM**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. D51.1**  
**Prepared by Ralph Tambasco on 4 August 2010**

I recently had a meeting with Claire Huckerby, Project Manager, Sustainable Choice Program, Environment, Local Government Association of NSW and Shires Association of NSW concerning the Sustainable Choice Program.

Sustainable Choice is a partnership program between the Local Government and Shires Association (LGSA) and the NSW Department of Environment, Climate Change and Water (DECCW) aimed at helping Council's increase their level of sustainable purchasing.

It is a sustainable procurement program helping local government meet Ecologically Sustainable Development (ESD) and triple bottom line objectives. It provides support and guidance to Council's on products and services that save energy or water, contain recycled content, are non-toxic, have greenhouse or biodiversity benefits, or advance Council's social or environmental objectives in some way.

Currently, there are 58 member Council's in the program and this number is continually increasing. Joining the program is free. Oberon Council is currently not a member.

Information on specific products and services is available via fact sheets and briefing notes. A free web based data base of sustainable products is available to help Council staff locate sustainable products and services. There are currently approximately 1400 products and 250 suppliers on the Sustainable Choice database.

Oberon Council already practises some level of sustainable purchasing, such as recycled photocopier paper and energy efficient fluorescent light tubes.

Nine of the seventeen Centroc Council's currently participate in the program.

**Recommendation:**

That the information be received and noted.

**A6. LOCAL ENVIRONMENTAL PLAN REVIEW AND STRATEGY – REQUEST TO CONSIDER LAND FOR REZONING – LOT 2 IN DP 815013, 1480 CARLWOOD ROAD, O'CONNELL**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. D52.2.5 & PR2.1480**  
**Prepared by Ralph Tambasco on 5 August 2010**

By letter, dated 21 July 2010, the owners of Lot 2 in DP 815013, 1480 Carlwood Road, O'Connell have submitted a letter to have their lot considered in the strategic review process for a potential rezoning to facilitate rural residential development.

A copy of the letter and site plans are attached (**Attachment A6**).

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General Manager

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## Comments/Issues

- a) The land has an area of 30.36 hectares and is located immediately adjoining the existing Llambada Rural/Residential 1(c) Zone. The land is zoned Rural 1(a).
- b) The proposal is for three lots having an area of approximately 10 hectares each, which is satisfactory for on-site effluent disposal.
- c) The lot is located on Class 3 Agricultural Land (Prime Crop and Pasture Land), but is considered to be too small for traditional agricultural pursuits. Adjoining Lot 1 of 11.69 hectares is considered to be a buffer for Lot 2. Also the existing 1(c) Zone lots to the North and West of the site are considered to be buffers for any future lots on existing Lot 2. Therefore, buffer distances of future dwellings from adjoining land can be easily achieved.
- d) Reference to Figure 37 – Environmentally Sensitive Areas (ESA) Land Resources – O’Connell in Version 2 of the Draft Land Use Strategy (DLUS) indicates that the subject site has a Land Capability of Class V and V1 and states that “Development Capability of these areas will vary”. Class V Land Capability is land that is not suitable for cultivation on a regular basis owing to limitations of slope gradient, soil erosion, shallowness or rockiness, climate or a combination of these factors. Not suited to the range of agricultural uses. Class V1 Land Capability is land on which productivity will vary due to the soil fertility and it comprises the less productive grazing lands.
- e) Reference to Figure 38 – ESA Water Resources – O’Connell in Version 2 of the DLUS indicates that the subject site has “moderately high groundwater vulnerability” and states that “developments with the potential for significant contamination of groundwater sources (such as intensive animal agriculture) would not be considered appropriate for these locations”. Therefore, there should be no adverse effects with any potential future dwellings.
- f) Reference to Figure 39 – ESA Biodiversity and Native Vegetation – O’Connell indicates that a section of Lot 2 has “less than 30% remaining within the catchment”. Therefore, there should be no adverse effects with any potential future dwellings.
- g) The ESA maps, in respect to constraints, indicate that:
  - There are no biodiversity constraints
  - There are no adverse land resource constraints
  - There are no adverse water constraints
- h) The Planning Consultant, in respect to O’Connell, states, inter alia;

*“A logical extension of existing rural residential or residential developments is suitable (example: extension or mirroring of existing developments).”*

The above proposal has merit and should be referred to the Planning Consultant as part of the revised Draft Land Use Strategy.

**Recommendation:** Submitted for discussion.

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**A7. ACCREDITATION OF COUNCIL BUILDING SURVEYORS**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. D52.1**  
**Prepared by Ralph Tambasco on 6 August 2010**

As Council is aware, the State Government has recently introduced legislation requiring Council's Building Surveyors to be accredited by the Building Professionals Board (BPB).

One issue that has recently come to light, which is completely unworkable, is that by bringing all Council's under the scheme, it brings with it new conflict of interest provisions. These provisions significantly impact upon Council's functions.

As of 1 September 2010, it will be prohibited, pursuant to the Building Professionals Act, for Council's Building Surveyors to act as the Principal Certifying Authority (PCA) under the following circumstances:

- Where the Building Surveyor has been involved in the design process
- Where the Building Surveyor is "related" to the applicant
- Where the Building Surveyor is associated with the Council

At present, the term "related to" includes having the same employer i.e. Council.

The PCA is responsible for issuing any Construction Certificate and Complying Development Certificate and undertaking inspections during the building process.

The Environmental Planning and Assessment Act 1979 gives the responsibility to appointing the PCA to the owners of the land. In practical terms, it will be a conflict of interest for Council to appoint itself as the PCA in the following circumstances;

- Where Council is the Applicant
- Where Council is the owner of the land
- Where the Applicant is a member of Council Staff or a Councillor, or is "related to" a Staff Member or Councillor

The last point has been subject to further review by the BPB who has now determined that it is acceptable for a Council Accredited Certifier (Building Surveyor) to certify work arising from applications made by another employee of the same Council.

In the circumstances where a conflict of interest exists, Council will have two options available. It could either;

- a) Appoint a Private Accredited Certifier to be the PCA.
- b) Approach an adjoining Council to undertake approvals and inspections on its behalf.

It is ludicrous to think that after the 1 September 2010, Council will have to engage either a Private Certifier or another Council Certifier to undertake processing of a Construction Certificate or a Complying Development Certificate for their own proposed work and to undertake the relevant building inspections, tasks which Council currently provides to itself.

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The BPB is “sympathetic” to the problems alarming some Council’s finding it difficult to make arrangements with adjoining Council’s to carry out the compliance role on their own applications.

Despite this, the BPB remains committed to properly managing this conflict of interest and is having discussions with the Division of Local Government and ICAC about this issue. After these discussions, the BPB will consider what to do next but it would appear unlikely that they will step back from their policy decision.

However, on the other hand, according to the BPB from meetings held throughout the State, many Council employees had expressed relief that they no longer would be involved in certifying their own Council’s works and the pressure that can be exerted inappropriately upon them by Management or Councillors.

Interestingly, in many ways, the conflict of interest that exists between an Applicant and a Private Certifier (which has been opposed and criticised as a fundamental flaw in the Private Certifier model over the years) also exists with the Council employees certifying the application of their employer.

### **The Process Now**

It is helpful to have an understanding about how Council functions in terms of its land development, public infrastructure and building regulatory functions. Presently, all works (including land development and building functions) are arranged through Council’s Engineering Department and Development Department. This includes, in the most part, the preparation of designs. Council engages private building contractors to undertake works on its behalf through the tender process.

Some subdivision works (e.g. the Industrial and Residential Subdivisions) are however, undertaken by Council Works Staff.

The building approval and inspection process is dealt with through Council’s Development Department under the control of the Director of Development. All applications, when lodged, are allocated randomly amongst staff, who are responsible for undertaking the assessment. All approvals are ultimately issued by the Director of other Development Department Staff under delegation. Likewise, inspections are undertaken by staff.

The opportunities for corruption and conflict of interest between Council’s development functions and building regulations functions are therefore minimised through its internal processes.

Council’s have met with the Director of the BPB, Mr Neil Cocks, to raise concerns regarding the conflict of interest provisions. Council has also prepared a submission directly to the BPB seeking amendments to the Act.

Council will be kept informed of any amendments in this matter.

**Recommendation:** That the information be received and noted.

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General Manager

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**A8. DEVELOPMENT APPLICATION 10.2009.219.1 SUBDIVISION PURSUANT TO  
CLAUSE 16 OF THE OBERON LOCAL ENVIRONMENTAL PLAN 1998, LOT 64 IN  
DP 753059 AND LOT 93 IN DP 753059, 2052 ISABELLA ROAD, ISABELLA  
Staff Report to the 17 August 2010 Ordinary Meeting  
File No. PR42.2052  
Prepared by Ralph Tambasco on 4 August 2010**

The above Development Application has been submitted by Council's Engineering Department to excise a lot of 5.097 hectares (proposed Lot 1) from the above land for the purposes of a quarry, pursuant to Clause 16 of the Oberon Local Environmental Plan 1998 (LEP1998). Gravel from the quarry will continue to be used by Council for roadworks.

A copy of the proposed Plan of Subdivision is attached (**Attachment A8a**). A copy of the aerial photograph of the site is also attached (**Attachment A8b**).

The site has had an existing operational gravel quarry for many years.

When this area was amalgamated from the former Evans Shire Council, the gravel quarry had been in operation for approximately 20 years.

Oberon Council has continued to use the quarry for roadworks on the Campbells River Road, Barrack Road and during June 2010 for roadworks on the Abercrombie Road.

Lot 93 in DP 753059 (the current lot which contains the quarry) is now freehold land. Prior to conversion to freehold, the land was held under perpetual lease from the Crown.

Title has now been issued for this lot. All previous perpetual leases converted to freehold are subject to a Section 77B Restriction on Use (Prevention of subdivision) and a Restriction on Use (Preventing dealings that will result in separate ownership of the parcels).

Bird Legal has advised that they are arranging for the Subdivision Restriction and Separate Dealing Restriction to be removed by the NSW Land and Property Management Authority and that this process will be a formality and will not take a long time. Bird Legal further advised that a condition could be attached to the development consent to reflect this.

### **The Proposal**

It is proposed to extract gravel for use by Council in roadworks on an "as and when required" basis. Truck movements would only be 200 or so per annum and there will be no blasting carried on at the quarry.

Appropriate sedimentation control devices will be installed and no site buildings are proposed.

Existing vegetation provides an effective screen to the quarry making it not visible from the road or from surrounding dwellings for the most part.

The existing access is to be bitumen sealed for a distance of 100 metres into the existing lot from the road to facilitate ease of access.

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The nearest dwelling is located approx 121 metres East of the existing quarry. The owner of the dwelling also owns the quarry and has consented to the lodgement of the Development Application.

### **Development Control Plan 2001**

Clause B.14.12.10 Buffer Distances of DCP2001 requires a 500 metre buffer for extractive industry. However, the table in this clause also states, in respect to buffers from extractive industries;

*“Council may consider less stringent conditions based on partial use and/or annual production volume having regard for public benefit.”*

In this particular instance, the proposed operators of the quarry would indicate that the existing 121 metres distance from the quarry to the existing dwelling is satisfactory, based on the proposed low scale of operations of the quarry. In addition there is vegetation that provides an effective screen from the existing dwelling to the existing quarry.

The owner of the dwelling has consented to the lodgement of the Development Application for the subdivision to excise the lot for the purposes of continued operation of an existing quarry and therefore has no objections to the continued operation of the quarry.

There are no other dwellings within 500 metres of the existing quarry.

**Recommendation:** That:

- a) Council vary Clause B.14.12.10 of Part B of Development Control Plan 2001 to allow the subdivision of land which will create a lot containing the existing quarry at a distance of less than 500 metres from the existing dwelling on Lot 64 in DP 753059, 2052 Isabella Road, Mount David.
- b) Development Application 10.2009.219.1 for a two lot subdivision of Lot 64 in DP 753059 and Lot 93 in DP 753059, 2052 Isabella Road be approved subject to appropriate conditions of consent.

### **B1. NAMING OF ROAD RUNNING WEST OFF GINGKIN ROAD Staff Report to the 17 August 2010 Ordinary Meeting File No. E31.9 Prepared by Matilda Dwyer on 26 July 2010**

There is an un-named section of road which runs west off the Gingkin Road. It is located approximately 3.8km along the Gingkin Road from Edith Road. The road is 800 metres long and is unsealed.

Council advertised in the Oberon Review on 6<sup>th</sup> of July calling for submissions to name this road. There was one submission for the road name, being “Mackie Road.” (**Attachment B1**)

**Recommendation:** That an advertisement be placed in the Oberon Review advising proposed new name “Mackie Road” and requesting any objections to be forwarded to council within 30 days.

This is Page No. 14 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, 17 August 2010 commencing at 5.30 pm.

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General Manager

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Mayor

**B2. SENIORS WEEK**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A3.1 & A5.3**  
**Prepared by Kathy Beesley on 2 August 2010**

NSW Seniors Week Grants are provided through the NSW Department of Ageing, Disability and Home Care (DADHC) to support the development and organisation of local NSW Seniors Week projects. Council is in receipt of an application form for Seniors Week 2011 which will be held from 20th to the 27th March of that year.

Council has applied for these grants over the years with moderate success. Council was not successful in 2009 however successful in 2010. As with all grants there is a criterion on which applications are assessed. The eligibility criteria (**Attachment B2**) are provided for Council's information.

Applications must be received by DADHC no later than 5pm on Friday 27th August 2010. Consequently Council needs to decide if they want to run a seniors week event and if they want to apply for funding under this scheme.

Council has already provided for \$1,000 in its budget for the 2010-2011 year expenditure on the seniors. This could be utilised to attract a dollar for dollar grant which would result in being able to run an event for \$2000.

**Recommendation:** That a Seniors Week event/project for 2011 that meets the eligibility criteria be determined which can be adequately carried out within Council's human and financial resources and is in sufficient detail that enables Council to make an application.

**B3. OBERON STREET PAVING**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. E31.2.1**  
**Prepared by Ian Tucker on 2 August 2010**

There are problems with damage to the brick paving in several areas of Oberon Street.

It is believed the damage largely results from moisture seeping into small cracks, and especially when it freezes and thaws in winter. Over time this causes the tops of some of the pavers to break away.

Hence the problem is worst where there are no awnings to protect the pavers from moisture and on the northern side of Oberon Street where they may receive no direct sunlight all day.

The most severely damaged area is the eastern end of the brick paving on the northern side of Oberon Street, approx 75m long. The broken pavers could cause a trip hazard. Some patching has been carried out.

Other possible treatments have been considered. The preferred option is to replace the pavers with asphalt, and apply a surface coating to imitate the appearance of brick paving.

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General Manager

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Mayor

The cost of this treatment would be:

Remove pavers and prepare base	\$2,000
Supply and lay asphalt 75m x 3.7m x 50mm	\$18,000
Surface coating – colour and imprint and non-slip surface	\$22,000
<b>Total Cost</b>	<b>\$42,000</b>

The total cost is \$42,000 or \$150 per m<sup>2</sup>. By comparison, plain concrete may be approx \$100 - \$120 per m<sup>2</sup>.

Council has allocated \$40,000 in 2010/11 for paving repairs/replacement.

Council may also wish to consider this treatment instead of the plain concrete footpath to be constructed in Dart Street in front of Mawhoods. The estimated cost is \$27,000. The current allocation is \$11,000.

**Recommendation:** That the replacement of the damaged pavers in Oberon Street proceed using asphalt with a coloured and imprinted surface coat.

#### **B4. WASTE REMOVAL CHARGES**

**Staff Report to the 17 August 2010 Ordinary Meeting**

**File No. E35.1**

**Prepared by Amanda McGrath on 26 July 2010**

At Council's July 2010 Ordinary Meeting, following a question raised by Councillor McMahon, staff undertook to prepare a report in relation to Waste Management Charges included in the 2010/2011 Management Plan.

Council currently raises a levy on all parcels of land whether occupied or vacant within the town of Oberon including the Stratford Downs area. The rates for 2009-2010 and 2010-2011 are as follows:

##### **2009-2010**

Vacant Parcels of Land	\$10.00/year
Occupied Parcels of Land	\$137.00/year
Commercial Premises	\$137.00/year
Total Estimated Yield	\$187,600

##### **2010-2011**

Vacant Parcels of Land	\$10.30/year
Occupied Parcels of Land	\$141.00/year
Commercial Premises	\$141.00/year
Total Estimated Yield	\$199,000

Although the charges for Domestic Waste removal to Council have dropped from \$108,271 in 2008-2009 to \$83,108 in 2009-2010, this is not the only factor in determining the Domestic Waste Charges to users.

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General Manager

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Mayor



The life of the existing garbage depot is limited and funds need to be set aside for its future replacement or relocation. A proportion of these funds must be raised from the Domestic Waste Management Charge to users.

Negotiations are currently underway with the Department of Environment, Climate Change & Water (DECCW) to have the tip licenced. Licencing can potentially require the installation of a weighbridge, air and groundwater monitoring, and additional covering requirements. These additional works need to be accommodated from the Waste Reserve.

Over the past 12 months, Council staff have received a larger number of requests for replacement bins than in the past. There are currently higher levels of breakages in garbage bins due to aging, and a different method of collection. These replacements are fully funded by the Domestic Waste Charge.

Other annual increases factored into the Domestic Waste Charge include Council Clean up days and the Waste Disposal Site Operational Costs which increase each year due to increases in wages, plant hire, advertising and other associated costs.

The Domestic Waste Fund surplus has been slowly decreasing from over \$33,000 in 2007, to \$16,000 in 2008, and another year end loss in 2009, brought the surplus in this fund to under \$4,000.

Staff determined that it was appropriate to have a small increase in the Domestic Waste Charge per year to avoid the possibility of a larger increase in any future year. This will be reviewed again in February 2011 prior to the 2011-2012 budget, taking the balance of the Domestic Waste Management Fund into consideration at this time.

**Recommendation:** That the information be received and noted

**B5. QUARTERLY BUDGET REVIEW AS AT 30 JUNE 2010  
Staff Report to the 17 August 2010 Ordinary Meeting  
File No. C15.3  
Prepared by Amanda McGrath on 6 August 2010**

The Quarterly Budget Review Statements for the fourth quarter to 30 June 2010 have been distributed as a separate document.

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

Council is advised that this review has been prepared prior to the finalization of the Financial Reports for the year ended 30 June 2010. Any further major variations will be reported in conjunction with presentation of the Annual Financial Reports.

**Recommendation:** That the Quarter 4 Budget Review Statements for 2009/2010 be received and noted and the revised budgeted income and expenditure items be voted.

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General Manager

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Mayor

**B6. REVIEW OF MANAGEMENT PLAN – QUARTER 4, 2009/10**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. C15.5**  
**Prepared by Joanne Barton on 6 August 2010**

In accordance with the provisions of the Local Government Act 1993, a report is being distributed as a separate document on the progress made to 30 June 2010 with Council's Management Plan for the 2009/10 year.

**Recommendation:** That the Quarter 4 Management Plan review for 2009/2010 be received and noted.

**B7. OBERON DENTAL SURGERY**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No's. A3.1, PO16.72**  
**Prepared by John Chapman on 6 August 2010**

Advice has been received (**Attachment B7**) from the current lessee of the Oberon Dental Surgery indicating that he is leaving the area and will no longer be providing his services. His last day will be Thursday 19 August.

Negotiations have been held with an alternative provider but no firm arrangement has been made at the time of preparing this report.

A verbal update will be provided at the Council Meeting.

**Recommendation:** That the information be received and noted.

**B8. PUBLIC GATES AND GRIDS**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. E31.14 & A1.2.7**  
**Prepared by Ian Tucker on 6 August 2010**

Council's current policy on public gates and grids is attached (**Attachment B8a**).

Since that policy was adopted, this issue has been discussed by Council on several occasions. A legal opinion was obtained confirming the responsibility for maintenance rests with the owner, not with Council (**Attachment B8b**). However, Council is required to establish a register of grids and gates on its roads.

The resolution from Council's most recent consideration of this issue in January 2008 is attached (**Attachment B8c**).

Progress on implementing this resolution has been very slow, due to the time-consuming nature of the task, and partly due to staff turnover. However letters are nearly ready to be sent to all landowners adjacent to grids which have been identified.

The policy is now out of date and does not reflect Council's current approach to this issue. For example it required many owners to remove grids by September 2012. This will no

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longer be necessary, provided they accept maintenance responsibility to a standard determined by Council.

A revised policy is attached (**Attachment B8d**).

This approach will better protect road users, property owners, and Council, and will satisfy Council's legal obligations.

Reminders will also be sent to the owners of all grids each year to ensure that proper inspections and maintenance are carried out.

**Recommendation:** That Policy No. 4104, Public Gates and Grids, as per **Attachment B8d** be adopted.

**B9. JENOLAN CARAVAN PARK**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A3.3**  
**Prepared by Leigh Robins on 6 August 2010**

A request (**Attachment B9**) has been received from the managers of the park for assistance with construction of concrete slabs and paths within the park.

There is an allocation of \$10,000 in the current budget and the work could be funded from this allocation.

**Recommendation:** That the offer for a contribution of materials for the construction of paths and slabs at the Jenolan Caravan Park be accepted.

**B10. POLICY REVIEWS**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. C17.2.2 & A1.2.7**  
**Prepared by Joanne Barton on 28 July 2010**

Council's Governance policy requires that its policies be reviewed in accordance with predetermined review dates, which are generally each two years.

The following Policies are due to be reviewed and are submitted for consideration:

1. No changes considered necessary:
  - a. Policy 1102 - Code of Conduct Policy (**Attachment B10a**)
  - b. Policy 1117 – Business and Community Development (**Attachment B10b**)
  - c. Policy 4301 – Land Development (**Attachment B10c**)
  - d. Policy 2205 – Water Meter Access Charges on Fire Services (**Attachment B10d**)

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General Manager

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Mayor

2. Policies which incorporate recommended alterations:

**a. Policy 2211 – Investments**

Following the release of the Investment Policy Guidelines by the Division of Local Government May 2010 (**Attachment B10e**), Council's Investment Policy has been revised. The recommended updated policy is provided for review and consideration (**Attachment B10f**). As this policy is presented with considerable modifications, a copy of the outdated policy has also been provided for information (**Attachment B10g**).

**b. Policy 1109 – Quarterly Budget Review Statements**

Policy 1109, Quarterly Budget Review Statements is submitted to Council for adoption with the following changes.

The intent of this policy has been amended from:

*“The intent of this policy is to adopt the relevant provisions of the Regulations as well as additional provisions that direct staff to provide additional information in Budget review statements and revision of estimates which are consistent with legislative requirements”*

To:

*“The intent of this policy is to adopt the relevant provisions of the Regulations and provide direction to staff in providing information in Budget Review Statements including revisions which are consistent with legislative requirements”*

The proposed revised policy is attached (**Attachment B10h**).

**c. Policy 4109 – Trees on Council Road Reserves**

Policy 4109, Trees on Council Road Reserves is submitted to Council with the following change to paragraph one of the Guidelines, which currently reads:

*“To carry out work in a road reserve formal approval must be given from the relevant road authority. Council is the road authority in all cases in Oberon with the exception of crown roads and state roads.”*

Suggested Amendment:

*“To carry out work in a road reserve formal approval must be given from the relevant road authority. Council is the road authority in all cases in the Oberon Local Government Area with the exception of crown roads.”*

The proposed revised policy is attached (**Attachment B10i**).

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General Manager

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Mayor

**d. Policy 2201 – Debt Recovery, Hardship Provisions and Writing off of Debts**

Policy 2201 – Debt Recovery, Hardship Provisions and Writing off of Debts is submitted with the following minor change to the “Arrangements” paragraph:

From:

*“Arrangements which will clear the arrears and current balance within the current financial year may be approved by any staff member in the Finance Section. This includes Director Corporate Services, Manager Corporate Services, Revenue Clerk and Property Officer. Requests for arrangements which go beyond the current financial year must be authorised by either the Manager or Director of Corporate Services. Staff should have regard to all debts owing to Council before making any arrangements.”*

To:

*“Arrangements which will clear the arrears and current balance within the current financial year may be approved by any staff member in the Finance Section. This includes Director Corporate Services, Finance Manager, Revenue Clerk and Finance Officer. Requests for arrangements which go beyond the current financial year must be authorised by either the Director of Corporate Services or Finance Manager. Staff should have regard to all debts owing to Council before making any arrangements.”*

The proposed revised policy is attached (**Attachment B10j**).

**Recommendation:** That:

1. The following policies remain unaltered:
  - a. Policy 1102 - Code of Conduct
  - b. Policy 1117 – Business and Community Development
  - c. Policy 4301 – Land Development
  - d. Policy 2205 – Water Meter Access Charges on Fire Services
2. The following policies be amended in accordance with the staff report:
  - a. Policy 2211 - Investments
  - b. Policy 1109 – Quarterly Budget Review Statements
  - c. Policy 4109 – Trees on Council Road Reserves
  - d. Policy 2201 – Debt Recovery, Hardship Provisions and Writing off of Debts

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General Manager

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Mayor

**B11. POLICY FOR THE PAYMENT OF EXPENSES AND THE PROVISION OF FACILITIES FOR MAYORS AND COUNCILLORS**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A1.2.7**  
**Prepared by Joanne Barton on 8 August 2010**

Council considered a staff report at its Ordinary Meeting of 20 July 2010 Council resolved as follows:

*“That the action to provide a Council credit card for the Mayor be endorsed and that the policy be advertised for the required 28 days.”*

A copy of the policy is attached for Council's information (**Attachment B11**).

The necessary advertisement has been placed and, to date, no submissions have been received.

**Recommendation:** That:

- 1) The Policy, Payment of Expenses and Provision of Facilities to The Mayor, Deputy Mayor and Other Councillors be adopted.
- 2) The adopted Policy, Payment of Expenses and Provision of Facilities to The Mayor, Deputy Mayor and Other Councillors be forwarded to the Director General within 28 days.

**B12. DRAFT SOCIAL COMMUNITY PLAN**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A1.6**  
**Prepared by Joanne Barton on 8 August 2010**

Council's current Social/Community Plan 2006-2010 is currently due to be reviewed.

The attached draft Social/Community Plan has been amended to reflect changes made to review the wording of the Oberon Community Social Vision, in accordance with Council's comments at the 15 June 2010 meeting, Item B14, Minute 21 the following statement has been amended:

From:

*“Address the inadequate provision of nursing home type accommodation to meet federal targets of 108 places /1000 people over the age of 70.”*

To:

*“Address the inadequate provision of nursing home type accommodation by facilitating the provision of aged care facilities which will accommodate between 60 and 88 places and in the process highlight to the government and potential developers the communities expectation that the number of un-bonded beds currently available are not reduced.”*

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General Manager

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Mayor

Council is currently finalising its Asset Management Plan which will provide relevant and current information on Council's current infrastructure and long-term financial position. When this information is finalised, Council will embark on extensive community and key stakeholder consultation to develop a 10 year Community Strategic Plan. This 10 year plan will be adopted prior to 30 June 2012 and meet the requirements of the Integrated Planning and Reporting Requirements.

**Recommendation:** That the Draft Social/Community Plan 2010-2015 be adopted, with the 10 year Community Strategic Plan to be adopted by 30 June 2012.

**M1. OBERON SPORTS COMPLEX COMMITTEE MEETING MINUTES**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A2.29**  
**Prepared by Leigh Robins on 2 August 2010**

The minutes of the Oberon Sports Complex Committee Meeting held on 21 July 2010 are attached (**Attachment M1**).

**Recommendation:** That the information be received and noted.

**M2. HERITAGE COMMITTEE MEETING MINUTES**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A2.22**  
**Prepared by Ralph Tambasco on 3 August 2010**

The minutes of the Heritage Committee Meeting held on 2 August 2010 are attached. (**Attachment M2**)

**Recommendation:** That:

1. That Council provide funds (as an investment in the intellectual property) to match the grant with in-kind assistance of \$250, together with the amount of \$3,350 in cash, towards the first stage in the development of the research and writing of the updated Thematic History of the Oberon Local Government Area leading up to the sesqui-centenary of Oberon in 2013.
2. The NSW Heritage Branch be asked to undertake an analysis of the significance of the O'Connell Memorial Avenue of Trees to inform the new LEP, utilising information that the Heritage Branch may have available.
3. In respect to the proposed sign structures at Black Springs, Burruga & O'Connell
  - a. The quotation from Peter Anderson for the supply and erection of three sign structures to accommodate proposed signs at Black Springs, Burruga & O'Connell at a cost of \$1,900 each plus GST (funded from the Local Heritage Fund) be accepted,
  - b. Second-hand galvanised iron be used for the roof of the structure at O'Connell, and
  - c. An additional sum of up to \$100 per structure be provided (funded from the Local Heritage Fund) for treatment for the preservation of the timber members.

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General Manager

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Mayor

**M3. LIBRARY COMMITTEE MEETING MINUTES**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A2.8**  
**Prepared by John Chapman on 5 August 2010**

The minutes of the Library Committee Meeting held on 4 August 2010 are attached  
**(Attachment M3).**

**Recommendation:** That the information be received and noted.

**M4. EVENTS COMMITTEE MEETING MINUTES**  
**Staff Report to the 17 August 2010 Ordinary Meeting**  
**File No. A2.5**  
**Prepared by John Chapman on 5 August 2010**

The minutes of the Events Committee Meeting held on 4 August 2010 are attached.  
**(Attachment M4)**

**Recommendation:** That the information be received and noted.

Submitted,

John Chapman  
**ACTING GENERAL MANAGER**

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General Manager

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Mayor