



Minutes

Ordinary Council Meeting

28 October 2020

Shire of Victoria Plains
Council Chambers, Calingiri
AND
via E-Meeting Protocol

Commencing – 2.09 pm

DISCLAIMER:

The recommendations contained in this document are officers' recommendations only and should not be acted upon until Council has resolved to adopt those recommendations.

The resolutions of Council should be confirmed by perusing the minutes of the Council meeting at which these recommendations were considered. Resolutions are not considered final until the minutes of the meeting are confirmed or advised in writing by the CEO or authorised person.

Members of the public should also note that they act at their own risk if they enact any resolution prior to receiving official written notification of Council's decision.

Recording of Meeting

Members of the public are advised that meetings of Council are audio recorded to assist with ensuring an accurate record of the meeting is provided for the formal minutes of the meeting. In terms of the Privacy Act 1998 this may involve the recording of personal information provided at the meeting. The provision of any information that is recorded is voluntary, however if any person does not wish to be recorded they should not address or request to address the meeting. By remaining in this meeting, you consent to the recording of the meeting.

You are not permitted to record this meeting with any recording device, unless you have the express authorisation of the Council of the Shire of Victoria Plains.

E – Disclaimer

It is the Presiding Member's responsibility to preserve order in the meeting and this can be more difficult in an eMeeting. Therefore, each Council Member must consistently and respectfully follow the Local Government's Meeting Procedures Local Law, any additional eMeeting guidance provided by the Local Government and support the Presiding Member in their conduct of the eMeeting.

The pace of an eMeeting should be slow and orderly. The following practices will help avoid confusion and support effective eMeetings:

Speak clearly and slowly, as connections may be distorted or delayed;

Always state your name to indicate to the Presiding Member that you wish to speak. Restate your name if the Presiding Member has not heard you at first;

In debate, only speak after the Presiding Member has acknowledged you. Then state your name, so that others know who is speaking;

Follow the Presiding Member's directions and rulings;

If you are unclear about what is happening in an eMeeting, immediately state your name to draw the Presiding Member's attention and enable you to then seek clarification from the Presiding Member;

Avoid looking for opportunities to call Points of Order; instead, politely and respectfully gain the Presiding Member's attention and explain any deviation from your Meeting Procedures, the Local Government Act or any other relevant matter.

Commonly-used abbreviations

AAS / AASB	Australian Accounting Standard / Australian Accounting Standards Board
BF Act	Bush Fire Act 1954
BFB	Bush fire brigade
CEO	Chief Executive Officer
CDO	Community Development Officer
DBCA	Dept of Biodiversity, Conservation and Attractions
DFES	Dept of Fire and Emergency Services
DPLH	Dept of Planning, Lands and Heritage
DWER	Dept of Water and Environmental Regulation
EHO	Environmental Health Officer
EFT	Electronic Funds Transfer
FAM	Finance and Administration Manager
JSCDL	Parliamentary Joint Standing Committee on Delegated Legislation
LEMA	Local Emergency Management Arrangements
LEMC	Local Emergency Management Committee
LG Act	Local Government Act 1995
LGGC	WA Local Government Grant Commission
LPP	Local Planning Policy
LPS	Local Planning Scheme
MOU	Memorandum of Understanding
MRWA	Main Roads WA
NNTT	National Native Title Tribunal
OAG	Office of Auditor General
OCM	Ordinary Council Meeting
PTA	Public Transport Authority
RRG	Regional Roads Group
RTR	Roads to Recovery
SAT	State Administrative Tribunal
SEMC	State Emergency Management Committee
SGC	Superannuation Guarantee Contribution
SJAA	St John Ambulance Association
SWALSC	South West Aboriginal Land and Sea Council
WAEC	WA Electoral Commission
WALGA	WA Local Government Association
WSM	Works and Services Manager

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Minutes

Ordinary Meeting of the Victoria Plains Shire Council

Held in the Calingiri Shire Chambers and via E-meeting Protocol
on 28 October 2020 commencing at 2.09 pm

1. DECLARATION OF OPENING

1.1 Opening

The Meeting was declared open at 2.09pm.

1.2 Announcements by Shire President

The Presiding Member stated the declaration of the State Emergency and State Health Emergency and the means of conducting meetings under the E-meeting platform, advising Elected Members that the meeting was being recorded for the purposes of Minute Taking and uploading of the recording to the Shire Website for public viewing.

2. RECORD OF ATTENDANCE

Members present

Cr P Bantock – Shire President
Cr D Lovelock – Deputy Shire President
Cr N Clarke
Cr J King

Staff attending

CEO – Ms G Teede
Executive Assistant – Mrs J Klobas
Governance Officer – Mr S Fletcher
Town Shire Planner – Mr J Douglas
Finance Consultant – Mr T Bate (RSM)

Apologies

Cr S Penn

Absent

Cr J Kelly

Approved leave of absence

Cr J Corless-Crowther has approved leave of absence from 31 July 2020 until 31 October 2020 inclusive.

Visitors Nil

Members of the public N/A

3. DISCLOSURES OF INTEREST

Refer – Local Government Act, Regulations, Code of Conduct, and Declaration Forms in Councillor folders.

	Type	Item	Person / Details
3.1	Financial		Cr P Bantock declared a financial interest in item - 8.7. "Applications for Development Approval & Extractive Industry License – Existing Extractive Industry (Gravel Quarry) on Lot 127 (No.668) Mogumber-Yarrowindah Road, Mogumber" due to <i>"indirect financial interest through close associated persons with a proximity"</i> .
3.2	Proximity		Nil
3.3	Impartiality		Cr N Clarke declared an impartiality interest in item- 8.5. "Australia Day 2021 due to <i>"member of Sports Club"</i> .

4. PUBLIC QUESTION TIME

Refer – Local Government Act, Regulations, Local Law and Submission Form & Guidelines circulated.

The following public questions were asked at the 23 September 2020.

Stacey Byrne-Brandis

- Q1 It would seem when the people spoke up about having local people and not contractors working on our Shire it has been ignored. With the recent redundancies there will be no other choice but to get contractors who will cost us more money we don't have, even though I'm not sure if this would be legal to hire anyone for at least a year. Why has this been approved, and our wishes blatantly ignored in such an under handed manner.
- A1. *The Shire certainly has a strong preference to "support local" where possible, in relation to purchasing and employment opportunities. Further, however, as staffing matters are the CEO's responsibility, and having regard to Privacy and Industrial Relations Laws, the CEO is unable to detail specifics in relation to this statement.*
- Q2. Is someone actually going to address the over 40 staff member turn over in the last 3 and a half years with at least 5 in the last 10 days, and the blatant lies about some people choosing to leave but in reality have been fired.
- A2. *This question also falls under privacy & industrial relation laws so specifics cannot be provided. The Shire can inform the public that an independent organisational*

chart review has been undertaken, of which the outcomes addressed a number of streamlining and efficiency issues leading to the workforce restructure.

- Q3. I would like to know about the disability toilet in town being closed and when will it be open. I'm asking as the one in the hall is not adequate and I'm not even sure if there is one in the men's toilet with a rail. The distance from the disability bay to the toilet is unrealistic and not helping anyone.
- A3. *The Calingiri Five Roads Café has disabled toilets as part of the lease of that building. Outside the trading hours of that business, there is no public access to these toilets. The current Lessee is away on leave at this point in time, therefore the business is not open at present. The Lessee has met all the conditions of the lease to date. The Shire has public toilets available at the Calingiri hall, however these are located in a building which was built when there was no requirement for disabled toilets within Public Halls. There is a disabled parking bay and access path leading to the Hall. The Hall has wide access doors & is sufficient for sensory & walking frame use. Shire staff are happy to meet onsite with Ms Byrne-Brandis to see if any small access issues can be rectified. Any large costs will need to be agreed by Council and budgeted for. The Shire has a disability access inclusion plan dated 2015 to 2020. The Shire will be pleased to liaise with Ms Byrne-Brandis and other members of the community, during the scheduled update of this plan.*

Anne-Marie Byrne-O'Neill, Calingiri

- Q1. How much money is allotted to Anzac Park in our 20-21 budget please?
- A1. *\$2,230 is allocated for the Anzac Day Rose Garden.*
- Q2. Are council able to present a report to the community on Staff turnover in the areas of administration and works for the following financial years please, it would be helpful but not necessary to include similar references to surrounding shires that have approx. staff numbers to ours - 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020
- A2. *The Shire's policy regarding public question time and the Act regarding section 5.23, states that staff matters are confidential and will not be responded to. Similar versions of this question have been asked at previous Council Meetings & a response documented along these lines.*

Suzanne Woods, Calingiri

- Q1. What is the number of staff that have concluded their employment with the Shire of Victoria Plains, either at the request of management or by their own choice in the financial years of 15-16, 16-17, 17-18, 18-19, 20-21 & 20-21 to date.
- A1. *As Above. The Shire's policy regarding public question time and the Act regarding section 5.23, states that staff matters are confidential and will not be responded to. Similar versions of this question have been asked at previous Council Meetings & a response documented along these lines.*

4.1 Public Questions With Notice

Annemarie Byrne-O'Neil

- Q1. Pauline do you acknowledge that I presented a Petition to yourself on the afternoon of September 14th 2020?
- A1. On the 14th Sep I received a request for a special meeting of electors, to discuss the financial management, control and annual budgetary status of the Shire of Victoria Plains over the 3 preceding years Nov 2016 to Nov 2019. This is not a petition, but a request signed by electors of the Shire, to hold an electors meeting. Under the current State of Emergency, the Minister has made a direction which prohibits electors meetings being held. The matter will be presented to the Annual Electors Meeting which will be held once the State of Emergency declaration is removed. In the meantime, the financial management & control of the Shire was discussed in detail in agenda item 8.4 at the September Council Meeting.
- Q2. What percentage of locally based interest is present in applications for positions recently available, due to the current restructuring of the VP shire workforce?
- A2. The public question time policy states that the Shire will not comment on employment matters. Broadly, the CEO is responsible for this matter and must comply with the local government act and is guided by the strategies outlined in the Shire's Workforce Plan. A part of a previous response to your questions, it was advised that the CEO recruits locals where possible. The CEO does need to follow the Corporate Business Plan and the Workforce Plan and jobs cannot be offered to locals who are not appropriately qualified. The local government act under s5.36 makes it very clear the CEO must believe a person is suitably qualified to undertake the position required. The CEO can comment that the most recently filled position has been filled by a local applicant.

Stacey Byrne-Brandis

- Q1. Can each councillor name 3 things that they have done that has benefited this Shires community since they have held their position please?
- A1. This is not a matter addressed individually, as elected members work together as a team under the body of the Council. The Council body can direct you towards the Shire's annual report and the update on the Shire's Corporate Business Plan to see the benefits the Shire is delivering.
- Q2. Can each councillor name 3 different things that Glenda has done for this community to make it better please.
- A2. Similar to the answer provided to your first question, the CEO and Council body work together as a team for the benefit of the local government. It would be inappropriate for individual Councillors to comment, as such matters are addressed with the CEO as part of her performance review.

4.2 Public Questions Without Notice

Where written questions are not submitted, a summary of the questions and responses are given, as per the Local Government (Administration) Regulations 1996 r.11(e).

Nil

5. PRESENTATIONS AND DEPUTATIONS

5.1 Presentations

Nil

5.2 Deputations

Nil

6. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

7. MINUTES OF MEETINGS

7.1 Confirmation of Council Meeting minutes

VOTING REQUIREMENTS

Absolute majority required: No

2010-01 Officer Recommendation/Council Resolution
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Moved: Cr N Clarke

Seconded: Cr J King

That the Minutes of the following meeting:

- Ordinary Council Meeting held 23 September 2020 as circulated, be **CONFIRMED** as a true and correct record.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

The Shire President proposed that items 8.6 and item 8.7 be brought forward for consideration to allow the Shire Planner to withdraw from meeting after those items.

2010-02 Council Resolution

Moved: Cr N Clarke

Seconded: Cr D Lovelock

That Council Agenda Items 8.6 and 8.7 be brought forward at 2.18pm for Council consideration.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

UNCONFIRMED

8. REPORTS REQUIRING DECISION

The Shire President returned to this item at 2.21pm.

The Shire Planner withdrew from the meeting at 2.21pm and did not return.

8.1 Accounts for Endorsement – September 2020

File reference	F1.8.4		
Report date	15 October 2020		
Applicant/proponent	Nil		
Officer disclosure of interest	Nil		
Previous meeting references	Nil		
Prepared by	Agatha Prior – Office Manager		
Authorised by	Glenda Teede – CEO		
Attachments			
Attachment 1	Page	2 n/a	Public schedule – in the Attachments to Agenda Restricted schedule – to councillors under separate cover

PURPOSE

This Item presents the attached List of Accounts Paid, paid under delegated authority, for August 2020.

BACKGROUND

As per Local Government Act and Financial Management Regulations.

COMMENT

Each month Council is to be advised of payments made during the preceding month; the amount, payee, date and reason for payment.

CONSULTATION

None

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.8(2)(b) – expenditure is to be reported to the next ordinary meeting of Council

Local Government (Finance) Regulations 1996 –

- r.13 Payments for municipal fund or trust fund
 - (1) the Chief Executive Officer is to provide a list of accounts paid from the Municipal fund or Trust fund, a list of all accounts paid each month showing for each account paid –
 - a) The payee's name
 - b) The amount of the payment
 - c) The date of the payment

- d) Sufficient information to identify the transaction
(2) the listing to be presented to the Council at the next ordinary meeting of Council after preparation.

CORPORATE CONTEXT

Delegations Register –

- 3.2 – Municipal Fund and Trust Fund – Payments from Bank Accounts
 - o CEO authorised, subject to conditions
 - o compliance with legislation and procedures
 - o Minimum of 2 signatories with varying level of authorisation

FINANCIAL IMPLICATIONS

All payments are in accordance Council's adopted budget.

VOTING REQUIREMENTS

Absolute Majority Required: No

2010-04 Officer Recommendation

Moved: Cr D Lovelock

Seconded: Cr J King

That the payments made for September 2020 from the Municipal Bank Account/Trust Bank Account as per the attached listing and summarised below, and the Credit Card Reconciliation/Statement be endorsed:

Payment type	References from – to	\$ Amount
Creditor EFT Payments**	9252 - 9321	225,920.27
Creditor Cheque Payments	12271 - 12272	315.85
Direct Debit Payments**	DD11949 – DD11965	67,167.08
Salaries & Wages EFT	PE 02/09/20, PE 16/09/20. PE30/09/20	178,600.68
Credit Card Statements	DD11956.1	620.13
Fuel Card – Wright Express	DD11956.2	401.29
Trust Payments		0.00
TOTAL		\$473,025.30

**includes salary and wages deductions, and SGC

CARRIED BY UNANIMOUS DECISION OF COUNCIL

8.2 Monthly Financial Statements – September 2020

File reference	
Report date	19 October 2020
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Nil
Previous meeting references	Nil
Prepared by	RSM – Travis Bate
Authorised by	Glenda Teede
Attachments	
Attachment 1	Page 7 Monthly Financial Statements

PURPOSE

To receive the monthly financial statements for the period ending 30 September 2020.

BACKGROUND

Section 6.4 of the Local Government Act 1995 requires a Local Government to prepare financial reports.

The Local Government (Financial Management) Regulations 34 & 35 set out the form and content of the financial reports which have been prepared for the periods as above and are presented to Council for approval.

COMMENT

The 30 September 2020 Monthly Financial Statements are presented for consideration.

Explanations for the significant variances have been reported in Note 2. Most variances for the month were classified as timing variances.

CONSULTATION

RSM
CEO

STATUTORY CONTEXT

Local Government (Financial Management) Regulations 1996 –

- r.34 – financial activity statement required each month and details of what is to be included

CORPORATE CONTEXT

None

FINANCIAL IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute Majority Required: No

Officer Recommendation

Moved: Cr N Clarke

Seconded: Cr J King

That Council **RECEIVE** the 30 September 2020 Monthly Financial Reports as presented:

Procedural Motion to adjourn the matter

2010-05 Officer Recommendation

Moved: Cr D Lovelock

Seconded: Cr J King

Council adjourn the meeting at 2.28pm to discuss Item 8.2.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

2010-06 Officer Recommendation

Moved: Cr J King

Seconded: Cr D Lovelock

Council reconvene the meeting at 2.30pm

CARRIED BY UNANIMOUS DECISION OF COUNCIL

2010-07 Officer Recommendation

Moved: Cr D Lovelock

Seconded: Cr N Clarke

That Council adjourn Item 8.2 until the November 2020 Ordinary Council Meeting.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

The Shire Finance Consultant withdrew from the meeting at 2.31pm via E-Meeting protocol and did not return.

8.3 Quarterly Update of the Shire's Corporate Business Plan 2020-2021

File reference			
Report date			21 October 2020
Applicant/proponent			CEO
Officer disclosure of interest			Nil
Previous meeting references			OCM 12 August 2019 10.1, 10.2, 10.3; OCM 18 December 2019 8.4; OCM 22 July 2020 8.6 ; OCM 23 September 2020 – Item 8.3 2009-04
Prepared by			Sean Fletcher, Governance Officer
Authorised by			CEO
Attachments			
Attachment 1	Page	35	Quarterly Update (September Quarter) Shire's CBP 2020-2021

PURPOSE

For Council to accept the update of the Shire's Corporate Business Plan regarding the September 2020 – 2021 Quarter.

BACKGROUND

At its September 2020 OCM, Council advised the CEO it is satisfied with the Corporate Business Plan - Action Plan. The CEO now reports on the status of that plan each quarter..

COMMENT**Analysis of the September 2020 Quarter**

The CBP Dashboard shows for the September Quarter that 96% (25 out of 26) of actions are subject to: lack of staff resources (34%), impacts beyond the Shire's control (16%), have yet to be started (6%) or are well underway (40%):

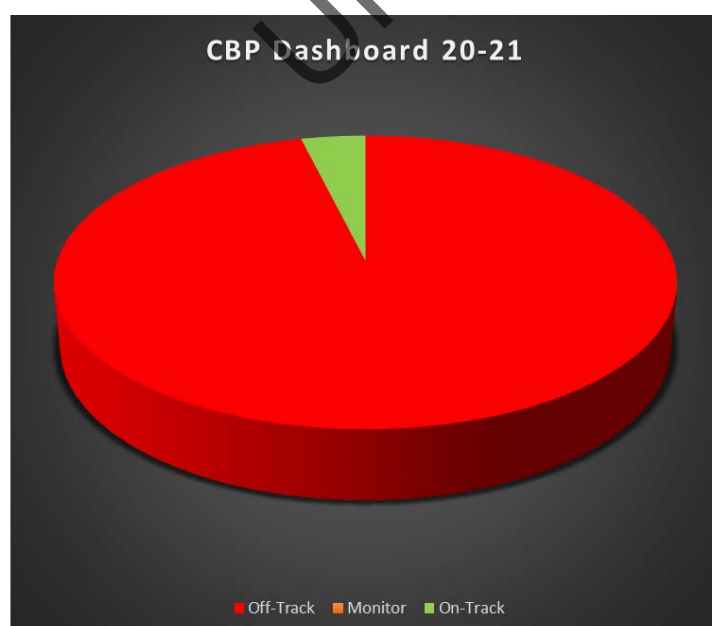


Diagram One – CBP Dashboard 2020-2021

Priority Area	Off-Track	Monitor	On-Track	Yrs 3 & 4	Total Yr 2	Comment
Community	5	0	1	6	6	The red flag indicates that the majority of these actions lack the necessary staff resources to make them happen. The action re improving community facilities is impacted by the focus of the Acting WMS on the Shire's key road projects and development of an appropriate service structure. The blue flag indicates the number of actions now due to occur 21/22 and 22/23
Economic	4	0	0	6	4	The red flag indicates that for the majority of these actions the economic priority area is impacted by other factors outside the Shire's control.
Environment	1	0	0	1	1	Recycling program recognises introduction of the Container Deposit Scheme. Improvements to Drum Muster relies on community groups undertaking this program
Infrastructure	5	0	0	2	5	Impacted by changes to incumbents in WSM role and implementation of a suitable service structure. However, maintenance works undertaken as per schedule. WSNF - Tenders called. LGCF applications being compiled. Expect further improvement with commencement of new WMS in second quarter
Civic Leadership	10	0	0	0	10	Shows key work has continued in this area across the board. Will become orange flags through second quarter through and anticipate green flags in third and fourth quarters
Total	25	0	1	15	26	96% of actions are subject to: lack of staff resources (34%), impacts beyond the Shire's control (16%), have yet to start (6%) or are well underway (40%)

Table One – Status of Actions for September 2020 Quarter

A key roadblock regarding the Community and Economic Priority Areas is a lack of a suitable resource to assist deliver the actions and associated outcomes. Pursuing grants, or assisting the community obtain grants and developing and encouraging community events is very difficult to achieve without a staff resource to undertake these actions. The same applies with a number of the actions regarding upgrading tourist facilities, promoting local attractions and events. A number of these actions are deferred to years three and four on the CBP with a view to seek resources to get these actions underway then.

It is expected that a number of key actions will be progressed to at least the monitor level in the second (December) quarter. These include matters regarding the Records Project, the Community Engagement strategy/policy and the awarding of tenders for the commencement of works on the Mogumber-Yarrowindah Rd as part of the WSNF Project.

The quarterly review will also be submitted to the Audit Committee in future.

Better Practice Review

There are a just that remain and these are reported in the status update each month and are being closed out as follows:

Planning and Regulatory

- Item 8 Local Planning Scheme – Council adopted the Omnibus amendments. Minister to sign off on LPS Review by 1 December 2020.

Workforce and HR Management

- Item 22/23 Policies and Procedures – WALGA Templates received re HR policies. CEO is in the process of implementing the newly created HR executive policies.

Community and Consultation

- Item 21 Community Engagement. Specification developed for the development of a strategy/policy with the Community. On-hold due to COVID-19 impacts. Required to be underway as part of CEO's KPIs.

CONSULTATION

CEO and Agenda Settlement

Shire President – on the need for the provision of a quarterly update.

STATUTORY CONTEXT***Local Government (Administration) Regulations 1996***

19DA. Corporate business plans, requirements for (Act s. 5.56)

(4) A local government is to review the current corporate business plan for its district every year.

Integrated Planning and Reporting – Framework and Guidelines

It is anticipated that the Annual Report will also outline progress towards the achievement of four-yearly Council priorities as established through the Corporate Business Plan (Intermediate Standard).

CORPORATE CONTEXT**Strategic Community plan**

Civic Leadership *to better allocate scarce resources and effectively interact with the community*

5.1	Implement measures to improve relationship and communication between Council and community	<ul style="list-style-type: none"> Implementation of initiatives to better connect Council with the community and associated matters.
5.2	Improve elected member performance	
5.3	Develop an advocacy and lobbying capacity	
5.4	Measures to improve organisational efficiency	

Corporate Business Plan

Strategy 5.4: Measures to improve organisational efficiency

5.4.1: Review, update and maintain strategic and operational plans

Risk Management (Risk Governance Framework)

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance	Mitigation and Outcome
Reputation Not adhering to the Corporate Business Plan and hence the Strategic Community Plan	Major (4) Substantiated, public embarrassment, widespread high impact on community trust, high media profile, third party actions	Almost Certain (5) The event will occur at least once per year	Extreme (20)	CEO & Council Risk only acceptable with excellent controls and treatments in place. Inadequate: Shire has not effectively followed its IPR	CEO to ensure all staff undertake and follow CBP. This will, over time, ensure that the risk is corrected and reduced to low that can be corrected by the appropriate manager
Compliance Not adhering to the Corporate Business Plan and hence the Strategic Community Plan	Major (4) Non-compliance results in termination of services or imposed penalties to Shire/Officers	Almost Certain (5) The event will occur at least once per year	Extreme (20)	CEO & Council Risk only acceptable with excellent controls and treatments in place. Inadequate: Shire has not effectively followed its IPR	CEO to ensure all staff undertake and follow CBP. This will, over time, ensure that the risk is corrected and reduced to low that can be corrected by the appropriate manager

The Shire is very much in a tactical mindset, rather than a strategic one (outcomes focussed). This has occurred due to the change in key positions in recent months, inadequate staff resourcing and skill sets (which through 2020 is being addressed) in key areas. The CEO is constantly putting out fires rather than being in a position to focus staff on the Shire's key objectives.

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute majority required: No

2010-08 Officer's Recommendation/Council Resolution

Moved Cr D Lovelock

Seconded Cr N Clarke

That Council:

ACCEPT the report on the Corporate Business Plan and the September 2020 – 2021 quarterly review of the Shire's Corporate Business Plan as set out in Attachment 1.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

UNCONFIRMED

8.4 Audit Committee Terms of Reference

File reference				
Report date				22 September 2020
Applicant/proponent				CEO
Officer disclosure of interest				Nil
Previous meeting references				Audit Committee Meeting 26 June 2019; OCM 1910-03 Item 8.1 30 October 2019
Prepared by				Sean Fletcher, Governance Officer
Authorised by				CEO
Attachments				
Attachment 1	Page	38	Audit Committee – Draft Revised Terms of Reference	
Attachment 2	Page	46	Terms of Reference for Committees, Advisory Groups and External Organisations	

PURPOSE

For Council to adopt the revised Terms of Reference applicable to the Audit Committee.

BACKGROUND

The author has explored whether the Audit Committee has in place a suitable terms of reference, as the CEO and the Audit Committee along with Council need to ensure that there are suitable guidelines regarding the Audit Committee's functions and responsibilities.

The author has concluded that although there was a terms of reference (ToR) finally adopted by Council on 16 May 2018, it requires updating to reflect the various changes to the Local Government Act and Audit Regulations that happened shortly after the ToR was adopted. The following analysis of the Shire's Council meeting minutes and other documentation that could be found shows the following:

Origins of the Audit Committee (This Information is Important for the Historical Record)

- The CEO at the meeting on 18 January 2005 advised Council that an Audit Committee needed to be formed in line with amendments to the Local Government Act effective May 2005. This would be finalised at the March 2005 OCM;
- The March 2005 OCM minutes show discussion only re the Audit Committee with no further comment;
- The matter of appointment was considered at 19 April 2005 OCM, but the decision was to lay the item on the table until May 2005;
- The Audit Committee was formed on 17 May 2005. No terms of reference are mentioned;
- Council appointed its second community member to the Audit Committee on 21 June 2005;

- At the 16 August OCM 2005, the Audit Committee was disbanded as criteria was introduced by the Department re qualifications required by committee members. Nominations were apparently readvertised?
- I can see no re-appointment of the Audit Committee in the Council minutes between August 2005 and December 2005. So, I can find no reference to when the Audit Committee was re-established;
- At the 13 December 2005 OCM, Audit Committee minutes were adopted by Council, thus indicating that the Audit Committee was operational;
- At the 17 January OCM 2006, the Audit Committee meeting minutes were adopted. At this point I stopped my search re a ToR.

Later Operations and Appointment Matters

Between 2017 and 2011, it would seem that the Audit Committee, along with other committees, were just appointed at the start of the October OCMs without an absolute majority. So, not legal as such.

There's a reference to the Audit Committee in the 12 December 2011 OCM minutes. It almost reads as if the Committee was reconvened at this point? There are minutes of the Audit Committee on the Shire's website re June 2012 which means it was certainly operational.

Regarding the attachments provided after the October 2017 Local Government Elections in relation to committee appointments, the document listing the committee membership for 2017 – 2019 says the Audit Committee is to act in accordance with the Model Terms of Reference (ToR) - Departmental Guideline No 9. From what the author can see, the model ToR was not adopted by Council at this point.

However, at the May OCM on 16 May 2018, Council adopted the Audit Committee Terms of Reference (ToR) as part of the draft Terms of Reference for Committees, Advisory Groups and External Organisations regarding the:

- Audit Committee (Attachment 2);
- ANZAC Commemorative Advisory Group;
- Suicide Prevention Advisory Group.

Not long after the ToR were adopted, major auditing reforms were legislated in June 2018. However, the Audit Committee ToR were never updated to reflect the new legislated responsibilities of the Audit Committee.

It would appear that the same information provided to Council after the October 2017 Local Government Election was submitted to Council at the 30 October 2019 OCM with background information on the level of qualifications that the community members should have. The Audit Committee was adopted by absolute majority with three elected members and two community member positions and is therefore legally constituted. However, the author has noted two issues:

- It would be reasonable to assume that the May 2018 ToR are still in place;
- However, the May 2018 ToR do not reflect the SoVP Audit Committee's current legal responsibilities.

The author has subsequently concluded that a suitable up to date terms of reference for the Audit Committee is now required to be adopted by Council.

COMMENT

Under the Department of Local Government's Guideline 9 it states the following:

The purpose of this guideline is to assist local governments to establish and operate an effective audit committee. Clear and comprehensive terms of reference, setting out the committee's roles and responsibilities, are essential and a model terms of reference for an audit committee is provided with this guideline. Matters such as the governing legislation, membership, primary roles and responsibilities of the committee and ancillary functions are also addressed.

So, from this statement it is clear that there are to be terms of reference in place.

The Guideline itself, does require updating. However, key requirements regarding updating the function of the Audit Committee were legislated in 2018. This includes the following as set out in Circular No 02-2018 Guide to Local Government Auditing Reforms – June 2018:

With the transfer of auditing to the Auditor General, local government Audit Committees will have a new and important role.

The role of the Audit Committee has been amended so that the Audit Committee has greater involvement in assisting the CEO to carry out the review under Regulation 17 of the Audit Regulations of systems and procedures concerning risk management, internal control, and legislative compliance. The Audit Committee is empowered to 'monitor and advise' the CEO in reviews of certain systems prescribed by the audit and financial management regulations. The terms 'monitor and advise' have been selected following consultation with the sector.

The reforms are intended to help CEOs formulate recommendations to council to address issues identified in the reviews.

The Audit Committee will also support the auditor as required and have functions to oversee:

- the implementation of audit recommendations made by the auditor, which have been accepted by council; and
- accepted recommendations arising from reviews of local government systems and procedures.

These roles reflect the importance of the Audit Committee as a section of council charged with specific responsibilities to scrutinise performance and financial management. The regulations continue to allow for external membership of Audit Committees. Councils are encouraged to consider inviting appropriate people with expertise in financial management and audit to be members of their Audit Committee.

Attached for Council's and consideration is the proposed Audit Committee Terms of Reference (Attachment 1). The draft Terms of Reference is based on a current framework adopted by many local governments (with further enhancements by the author) that also takes into account the legislative requirements, the requirements of Guideline 9 and Circular No 02 as follows:

Heading	Description
Preliminaries	The Audit Committee Terms of Reference defines the membership, authority, purpose, operational guidelines,

	responsibilities and resources of the Shire of Victoria Plains Audit Committee, established by Council pursuant to division 1A, section 7.1A of the <i>Local Government Act 1995</i> and the <i>Local Government (Audit) Regulations 1996</i>
Structure – Name, Establishment, Guiding Principles, Purpose	<p>Sets out the Name of the Committee, legislation that establishes a Committee, the guiding principles and the Committee's purpose:</p> <p>The purpose of the Audit Committee is to:</p> <ul style="list-style-type: none"> o Guide and assist the Shire of Victoria Plains in carrying out its financial management and audit functions; o Monitor and advise the Chief Executive Officer in reviews conducted into financial management and audit systems and procedures. This also includes the Shire's risk management, internal controls and level of compliance and integrated planning and reporting (IPR) and training; o Oversee the implementation of any resulting Council recommendations so as to support better decision-making, greater accountability to the community and ensure a more efficient and effective Local Government.
<p>Committee Functions</p> <p>Part 6 refers to preparing for the annual audit(s)</p> <p>Part 7 refers to the audit committees and its audit functions</p> <p>17(3) Regulation 17 Review</p> <p>17(1) Regulation 17 Review</p> <p>5.2(c) Review of Financial Management Systems</p> <p>7.12A(3) Examine the Auditor's Report and ensure the action plan for any corrections is followed</p> <p>7.12(4)(a) Prepare a report</p>	<p>The Committee's functions are set out in Regulation 16 and 14(3A) of the Audit Regulations.</p> <p>Regulation 16 An audit committee has the following functions:</p> <ul style="list-style-type: none"> • to guide and assist the local government in carrying out: <ul style="list-style-type: none"> o its functions under Part 6 of the Act; and o its functions relating to other audits and other matters related to financial management; • to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act; • to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to: <ul style="list-style-type: none"> o report to the council the results of that review; and o give a copy of the CEO's report to the council; • to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under: <ul style="list-style-type: none"> o regulation 17(1); and o the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c); • to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government; • to oversee the implementation of any action that the local government: <ul style="list-style-type: none"> o is required to take by section 7.12A(3); and o has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and o has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and

<p>on Significant findings by the Auditor and how they will be addressed by the Shire</p> <p>The CAR is prepared annually for the previous calendar year</p>	<ul style="list-style-type: none"> ○ <i>has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);</i> ● <i>to perform any other function conferred on the audit committee by these regulations or another written law.</i> <p>Regulation 14(3A) The Audit Committee is to:</p> <p><i>(3A) The local government's audit committee is to review the compliance audit return (CAR) and is to report to the council the results of that review.</i></p> <p>Notes Notes are also provided in this section regarding the types of report required and when the Auditor General became responsible for local government audits</p>
<p>Membership</p>	<p>The Committee consists of five (5) members. Three council members and two who are other persons (community representatives). There is required to be a Presiding Member. Council may wish to review the structure of the Committee in due course. The appropriate time to do this is prior to the 2021 Ordinary Local Government Elections.</p> <p>Any community representative appointed to the Committee should have qualifications and/or professional experience that will enhance the expertise available to Elected Members serving on the Committee.</p> <p>On the matter of the external (community) appointments, there is a requirement for Council to select suitably qualified persons.</p> <p>Vacancies for the community representatives will be advertised in the Shire Newsletter, the Shire of Victoria Plains webpage and notice boards. Council will then select and appoint new members.</p>
<p>Meetings</p>	<p>As per previous advice i.e. quarterly meetings are held and the quorum is 3. Meetings must be conducted according to the Shire's Standing Orders. Voting must be in accordance with the Act (i.e. open voting) and minutes must be kept as per the Local Government Administration Regulations.</p> <p>Meetings are not open to the public as the Audit Committee does not have delegated functions and so there is no public question time either.</p>
<p>Delegated Authority</p>	<p>Nil</p>
<p>Adoption</p>	<p>Date Adopted by Council i.e. 28 October 2020</p>
<p>Appendix 1</p>	<p>Sets out the Agenda structure and the work of the committee in terms of the officer's reports:</p> <ol style="list-style-type: none"> 1. Updates on the Functions of the Audit Committee.

	<ol style="list-style-type: none"> 2. External Audits e.g. Interim Audit, Annual Audit and the corresponding actions plans. 3. Internal Audits e.g. three yearly financial management systems review, three yearly Reg 17 Review, the CAR, other internal audits (as per the compliance calendar), and so on. 4. Financial Reporting e.g. best practice, status of ratios from time to time. 5. Risk Management Issues e.g. quarterly updating and reporting on key risks from time to time. 6. Controls, Systems and Procedures e.g. policy considerations, procedural considerations, 7. Matters of Compliance: as per the compliance calendar. 8. Integrated Planning and Reporting. 9. Training and Development (Elected Member Training, Committee Member Training and Staff training). 10. Status Report.
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Table One – Overview of Audit Committee Terms of Reference

It can be seen in Table One, that the terms of reference will provide a level of rigour and put the Audit Committee into a position of performing its role more effectively.

CONSULTATION

CEO

OCM

Council Briefing Session October 2020

STATUTORY CONTEXT

The Audit Committee Terms of Reference defines the membership, authority, purpose, operational guidelines, responsibilities and resources of the Shire of Victoria Plains Audit Committee, established by Council pursuant to division 1A, section 7.1A of the *Local Government Act 1995* (the Act) and the *Local Government (Audit) Regulations 1996* (the Regulations).

The Terms of Reference are required to be adopted by an absolute majority.

Audit Regulations 1996

r.17 – Audit Committee to review CEO report on risk management, internal control and legislative compliance

CORPORATE CONTEXT

Policy

1.10 Enterprise Risk Management

The CEO is required to review and report to the Audit Committee on the Shire's risks, internal controls and legislative requirements every three financial years.

11.1 The Shire will implement and integrate a monitor and review process to report on the achievement of the Risk Management Objectives, the management of individual risks and the ongoing identification of issues and trends.

11.2 This policy must be reviewed every two years.

To this end the Shire has in place the above policy and the corresponding Risk Governance Framework in place.

Strategic Community Plan / Corporate Business Plan

Civic Leadership	<i>to better allocate scarce resources and effectively interact with the community</i>	
5.1	Implement measures to improve relationship and communication between Council and community	<ul style="list-style-type: none"> Implementation of initiatives to better connect Council with the community and associated matters.
5.2	Improve elected member performance	
5.3	Develop an advocacy and lobbying capacity	
5.4	Measures to improve organisational efficiency	

5.4.1: Review, update and maintain strategic and operational plans

5.4.2 Maintain accountability and financial responsibility in accordance with Long Term Financial Plan

5.4.3 Maintain controls to promote a high level of legislative compliance throughout the organisation

5.4.4 Support and facilitate ongoing relevant training and capacity building for staff

5.4.5 Maximise operational efficiencies whilst maintaining appropriate controls.

Risk Management

The risks regarding the Audit Committee and its lack of a terms of reference are:

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance	Mitigation and Outcome
Failing in Good Governance Non-compliance re fiduciary responsibility	Major (4) Non-compliance results in imposed penalties to Shire/Officers	Likely (5) Is expected to occur in most circumstance	Extreme (20)	CEO/Council Processes (Controls) not operating as intended, do not exist, or are not being addressed / complied with, or have not been reviewed or tested for some time.	By adopting the Terms of Reference, the Audit Committee will be able to operate as required by the legislation and Council and assist the CEO effectively. Over time the risk will reduce to Medium/Low.

The other benefits regarding the above are improved financial outcomes, better trust with the community regarding fiducial matters and preparation regarding interruption to services.

FINANCIAL IMPLICATIONS

Nil

VOTING REQUIREMENTS

Absolute majority required: Yes

2010-09 Officer Recommendation / Council Resolution
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Moved Cr J King

Seconded Cr D Lovelock

That Council **ADOPT** the revised Terms of Reference for the Shire of Victoria Plains Audit Committee as set out in Attachment 1.

CARRIED BY UNANIMOUS DECISION OF COUNCIL (AND IS AN ABSOLUTE MAJORITY)

UNCONFIRMED

The Shire President reminded Council of the impartiality interest of Cr N Clarke in this item.

8.5 Australia Day 2021

File reference			
Report date			20 October 2020
Applicant/proponent			Shire of Victoria Plains -
Officer disclosure of interest			Nil
Previous meeting references			Nil
Prepared by			Sean Fletcher, Governance Officer
Authorised by			Glenda Teede, CEO
Attachments			
Attachment 1	Page		Nil

PURPOSE

To consider the arrangements for holding of Australia Day 2021 regarding the Australia Day Breakfast that also encompasses the Australia Day Awards presented by the Shire of Victoria Plains.

BACKGROUND

The Shire undertakes an event on Australia Day each year with a community group holding/hosting the Australia Day Breakfast.

The Bolgart Progress Association has provided the breakfast at the event in 2020, 2019 and 2018.

COMMENT

The author considers that it is appropriate for the Shire to plan for Australia Day 2021, including the CEO working with the appropriate community group to provide the breakfast at the event along with ensuring suitable arrangements are in place for holding the breakfast safely i.e. with consideration to the State of Emergency Order regarding COVID-19 and the hosting of events safely.

As set out in the Consultation section of today's report, the Shire is eligible to apply for funding to assist host Australia Day 2021.

In order for the Shire to meet the 9 November 2020 deadline to apply for the COVID Safe Australia Day Grant \$20,000 (and possibly the Australia Day Branding Grant - \$1,000), the CEO will need to consider the requests received to host the event/provide breakfast and then submit a grant application in conjunction with the event holder as soon as possible.

Funding may be used by successful applicants to deliver Australia Day activities in a COVID safe environment, including but not limited to:

- Additional cleaners;

- Additional cleaning supplies including soap and hand sanitizer;
- Safety cleaning officer (COVID Marshall);
- Physical barriers and guides
- Food service (i.e touchless payment options, limit sharing items);
- Modified layouts, seating setup;
- Event ticketing systems;
- Contact identifying staff and/or technology;
- Staff COVID safe training;
- Additional public restrooms;
- Fencing to control attendee numbers;
- Increased transport options;
- Increased food and water distribution areas;
- Personal Protective Equipment;
- COVID-19 signage;
- Australia Day Designs.

Eligible activities include any public event that will take place leading up to and on Australia Day 2021. The event can be an existing or new event. Events could include, but are not limited to the following categories:

- Fireworks;
- live entertainment;
- family friendly;
- novelty and special Interest;
- flag raising ceremony;
- community awards;
- food & BBQ;
- art & culture;
- citizenship;
- sporting;
- ambassadors;
- community event;
- multi faith ceremony;
- an online engagement.

Assessment Criteria

It is recommended that in selecting the community group that holds the Australia Day breakfast that it is familiar with the assessment criteria set out in the NADC grant application i.e.

Benefits and Beneficiaries:

Demonstrate that COVID-19 has had a substantial economic impact on:

- Australian industries (for example, creative, cultural, hospitality and related industries) that will be involved in the planned Australia Day event;
- the Australian communities in which the planned event will be held.

Demonstrate the provision of the grant funds would provide economic support for the relevant community, region or industry sector.

Ability to Deliver

The applicant's capability to successfully deliver the planned Australia Day event as demonstrated by past experience and how the planned event is proposed to be delivered in a COVID safe environment.

Economic Impacts

The substantial increased costs for event planners in delivering events because of safety requirements in the COVID environment, the event not going ahead because of the economic impacts of COVID-19 and the industry sectors involved in the event impacted by COVID-19.

Project Quality and Risk

The extent to which the applicant, planned event and proposed use of the grant funds demonstrate overall quality and value for money.

Australia Day Messaging

The extent to which the event will acknowledge Australia Day in a COVID safe environment, including with reference to how the message 'Reflect, Respect, Celebrate' will be incorporated into the planned event and the items of promotional collateral that will be used to stage and promote the event.

Australia Day Awards

The CEO will in due course seek nominations for the Shire's Australia Day awards and present the nominations received to Council for its consideration.

CONSULTATION

Briefing Forum 19 October 2020.

At the briefing session, it was suggested that the Shire should promote the holding of Australia Day 2021, if possible. Also, if Australia Day is to proceed, then certain parameters are required to put in place regarding the holding of this very important civic and community event.

The Shire President advised she has received a letter from the National Australia Day Council (NADC) advising:

COVID Safe Australia Day Grant \$20,000. – Applications Close 9 November 2020

The guidelines state that the purpose of the grant is for assisting eligible event organisers to ensure Australia Day 2021 events proceed and that the events are able to be held in a COVID safe environment. The NADC, with the assistance of the Australian Government, is making available grants of up to \$20,000 (GST exclusive) through the COVID Safe Australia Day Program (Program).

Recently Australia has faced harsh challenges – drought, floods, Black Summer bushfires and the coronavirus pandemic. On Australia Day 2021 Australians will be encouraged to reflect, respect and celebrate and, more than ever, mark our nation's resilience and the ability of Australians to rise to meet these extraordinary challenges.

Local, state and territory government entities, entities that are part of the Australia Day Network and Australian not for profit organisations are eligible to apply for this grant opportunity.

Applicants are encouraged to support local businesses and communities through the planning and execution of the event including through fostering creation and enabling retention of local employment opportunities.

For Australia Day 2021, NADC also seeks to encourage a new message of Reflect. Respect. Celebrate. We're all part of the story. The NADC has created new branding and design assets with this message for Australia Day 2021 (Australia Day Designs). These designs are available for use by all organisations in their Australia Day promotional collateral. Successful applicants will be required to promote this message through NADC available collateral. Where organisations do not have access to local printing or production facilities, grant recipients will be able to purchase items online through the Australia Day Council Aussie Merchandise program.

In order to receive the grant, the Shire will need to provide the same level of financial investment that it did regarding Australia Day 2020.

Australia Day Branding Grant \$1,000

Successful recipients are encouraged to support local businesses in the manufacturing and printing of promotional items displaying the Australia Day Designs. Where recipients do not have access to local printing or production facilities, grant recipients will be able to purchase items online through the Australia Day Council Aussie Merchandise program.

Requests to Community Groups (As at 21 October 2020)

Gillingarra Sports & Recreational Club

- Unable to host event on this occasion.

Yerecoin Progress Association

- Unable to host event on this occasion.

Bolgart Progress Association

- Unable to host event on this occasion.

Piawaning Progress Association

- Awaiting advice.

Mogumber Progress Association

- No response received as yet.

Calingiri Progress Association

- No response received as yet.

Bolgart Sports Club

- Indicated Expression of Interest to host the Australia Day 2021 Event.

STATUTORY CONTEXT

State of Emergency Act (State of Emergency Order – COVID-19 Pandemic)

Hosting Events Over 500 People

The WA Department of Health requires an event plan if the Australia Day event is going to be over 500 people.

CORPORATE CONTEXT

Strategic Community Plan / Corporate Business Plan

Community

Strategy 1.3: Promote community health and wellbeing

1.3.1: Continue to apply for and facilitate community health and wellbeing grants

1.3.2: Encourage community participation in community groups and events

Strategy 1.4: Support sporting, volunteer and community groups

1.4.1: Support community groups with grant applications

1.4.2: Support community groups in facilitating community events

Strategy 1.5: Increase community activities

1.5.1: Celebrate community achievements and host community events and functions

1.5.2: Promote community based activities Support community groups in facilitating community events

Economic

Strategy 2.4: Initiatives to reverse ageing population

Policy

SoVP COVID-19 Response and Safety Plan

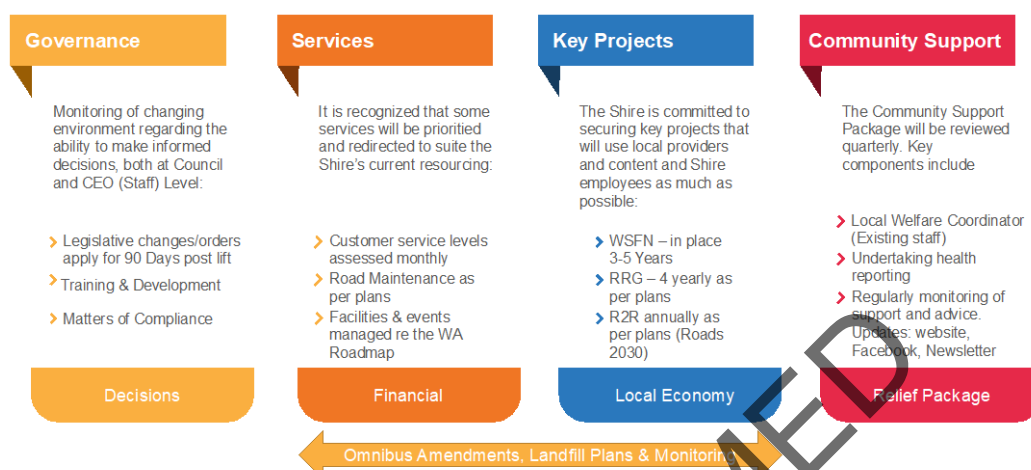
The Shire through the CEO and the LRCG has in place the *SoVP COVID-19 Response and Safety Plan*. This plan outlines the requirements necessary to manage the potential risk of COVID-19. The plan details the additional hygiene practices to be implemented, the Shire social distancing measures and response to suspected or confirmed cases within its teams. The measures detailed are designed to reduce the likelihood of an infection in the workplace and contain any potential spread of the virus amongst our staff, contractors and the Elected Members. This is extended to holding community events.

SoVP COVID-19 Response Framework

Designed to guide Council (and the Shire) on what it needs to consider in response to the Pandemic.

Plan B – Ongoing Impacts?

COVID-19



Risk Management

It would be fair to say that there are both positive and negative risks regarding holding the Australia Day Breakfast. By minimising the negative risks, the event will be of benefit to both the Shire and its communities. The risks regarding holding the Australia Day Breakfast are:

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance	Mitigation and Outcome
Reputation Not being a COVID Safe Environment	Major (4) Substantiated, public embarrassment, widespread high impact on community trust, high media profile, third party actions	Likely (4) The event will occur at least once per year	High (16)	Senior Management Team/CEO Processes (Controls) not operating as intended, do not exist, or are not being addressed / complied with, or have not been reviewed or tested for some time.	Effective: By observing the State Roadmap and the Shire's COVID Response and Safety Plan, this will assist keep the risk low.
Compliance Not adhering to Roadmap/COVID criteria	Extreme (5) Results in litigation, criminal	Likely (4) The event will occur at least once	Extreme (20)	CEO & Council	Adequate: Holding a COVID Safety Event in the Shire is yet to be tested. CEO and Council will need to be

	charges or significant damages or penalties to Shire/Officers	per year			satisfied that excellent controls are in place. By adhering to the State Roadmap and the Shire's COVID Response and Safety Plan, this will assist keep the risk low.
Financial	Minor (2) \$10,000 - \$25,000	Likely (4)	Medium (8)	Operational Manager (CEO)	Adequate: Submitting an application for NADC funding should result in a grant of, perhaps \$10,000. This is a positive, low impact

FINANCIAL IMPLICATIONS

Grant Funding

The Shire can apply for up to \$20,000 to help it and the selected community group to hold and host the event including the breakfast.

This will require a budget adjustment accordingly to recognise the funding when it is received and when it is expensed.

Shire Costs of Supporting Australia Day

These costs have generally been in the order of \$350.00.

VOTING REQUIREMENTS

Absolute majority required: No

Officer Recommendation

That Council:

1. **AGREE** for the Australia Day 2021 to go ahead providing it can be conducted in a COVID-19 safe environment.
2. Accordingly, authorises the CEO to:
 - A. Assess the proposals received to provide the Australia Day Breakfast 2021. This is due to the limited time that the CEO has to submit a grant application addressed in Point 2C.
 - B. Advise the successful proponent of the criteria to hold the Australia Day Breakfast including the requirements outlined in the Shire's COVID-19 Safety and Response Plan.
 - C. Determine where the Australia Day Breakfast will be held providing this venue can hold the Australia Day event in a COVID-19 safe environment.
 - D. Submit an application to the National Australia Day Council for the COVID Safe Australia Day Grant - \$20,000 to assist with the holding of the Australia Day Breakfast.

2010-10 Council Resolution

Moved: Cr P Bantock

Seconded: Cr J King

That Council:

1. **AGREE** for the Australia Day 2021 to go ahead providing it can be conducted in a COVID-19 safe environment.
2. Accordingly, authorises the CEO to:
 - A. Seek written proposals by 8am Monday 2nd Nov from the groups who have currently indicated interest to provide the Australia Day Breakfast 2021 & assess the proposals. This is due to the limited time the CEO has to submit the grant application addressed in Point 2D.
 - B. Advise the successful proponent of the criteria to hold the Australia Day Breakfast including the requirements outlined in the Shire's COVID-19 Safety and Response Plan.
 - C. Determine where the Australia Day Breakfast will be held providing this venue can hold the Australia Day event in a COVID-19 safe environment.
 - D. Submit an application to the National Australia Day Council for the COVID Safe Australia Day Grant - \$20,000 to assist with the holding of the Australia Day Breakfast.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

Variation Reason

To allow all Groups who are interested in hosting the event the opportunity to submit an application.

This item was moved forward and addressed at 2.18pm.

8.6 Application for Development Approval (Retrospective) – Existing Unauthorised ‘Rural Home Business’ and ‘Trade Supplies Outlet’ on Lot 1 (No.4876) Bindi – Toodyay Road, Wyening

File reference	ASS 4876 – Application	
Report date	21 October 2020	
Applicant/Proponent	Ms Kelly-Ann Palmer (Landowner)	
Officer disclosure of interest	Nil	
Previous meeting references	Nil	
Prepared by	Mr Joe Douglas – Town Planning Consultant	
Authorised by	Ms Glenda Teede - CEO	
Attachments	Page 64	Attachment 1 - Application Documentation

PURPOSE

Consideration and final determination of a development application requesting retrospective approval for an existing unauthorised ‘Rural Home Business’ and ‘Trade Supplies Outlet’ on Lot 1 (No.4876) Bindi – Toodyay Road, Wyening.

BACKGROUND

The applicant/landowner has submitted a development application seeking Council’s retrospective approval for an existing unauthorised ‘Rural Home Business’ and ‘Trade Supplies Outlet’ within an existing shed on Lot 1 (No.4876) Bindi – Toodyay Road, Wyening for the purposes of a mobile tow truck service and the sale and fitting of vehicle tyres, batteries and UHF / CB Radios.

Full details of the application, including supporting documentation and plans, are provided in Attachment 1.

Council should note the applicant’s/landowner’s father Mr Malcolm Palmer, who also resides on the land, is operating the ‘Rural Home Business’ and ‘Trade Supplies Outlet’ following the relocation of these uses from an existing commercial premises in the Calingiri townsite. It is understood the business activities were relocated to Lot 1 for financial reasons and may have permanently closed otherwise due to poor trading conditions over recent months which were exacerbated as a consequence of the COVID-19 pandemic.

Lot 1 is located approximately 11.4 kilometres north-north-west of the Bolgart townsite in the locality of Wyening. The land comprises a total area of approximately 19.90 hectares, is gently sloping throughout and has direct frontage and access to Bindi – Toodyay Road along its southern boundary which is a sealed and drained regional distributor road under the care, control and management of the Shire of Victoria Plains.

Lot 1 is predominantly cleared with the exception of a large stand of native vegetation in its northern portion which has been retained for land management and general amenity

purposes.

The subject land has been extensively developed and used for broadacre agricultural purposes (i.e. cropping and grazing) for many years and contains a number of associated improvements including large open paddocks and boundary firebreaks throughout as well as numerous sheds, water storage tanks, grain storage silos, stock holding yards, internal driveways, parking/loading areas and a single storey dwelling in good habitable condition in its northern portion.

Immediately adjoining and other nearby land uses are predominantly rural in nature and comprise broadacre agricultural activities (i.e. cropping & grazing) on lots of varying size. The nearest dwellings are located approximately 1.5 kilometres to the east and south-east on separately owned properties.



Location & Lot Configuration Plan (Source: Landgate)

COMMENT

Lot 1 is classified 'Rural' zone in the Shire of Victoria Plains Local Planning Scheme No.5 (LPS5).

Council's stated objectives for the development and use of any land classified 'Rural' zone are as follows:

- i) To provide for a range of rural pursuits which are compatible with the capability of the land and retain the rural character and amenity of the locality;
- ii) To protect land from urban uses that may jeopardise the future use of that land for other planned purposes that are compatible with the zoning;
- iii) To protect the land from closer development which would detract from the rural character and amenity of the area; and

- iv) To prevent any development which may affect the viability of a holding.

The development and/or use of any land classified 'Rural' zone for the purposes of a 'Rural Home Business', in this case a mobile tow truck service, is listed in the Zoning Table of LPS5 as being discretionary (i.e. a 'D' use) which means it is not permitted without Council's development approval.

The use class 'trade supplies', which in this case involves the sale and fitting of vehicle tyres, batteries and UHF / CB Radios, is not expressly listed in the Zoning Table of LPS5. As such, any development application for this use must be considered and determined in accordance with clause 3.4.2 of LPS5. Accordingly Council must firstly determine whether any such use on Lot 1 is:

- a) **consistent** with the objectives of the 'Rural' zone and is therefore a use that may be permitted in this zone subject to conditions imposed by the local government; or
- b) **may be consistent** with the objectives of the 'Rural' zone and advertise the application for public comment for a minimum required period of fourteen (14) days; or
- c) **not consistent** with the objectives of the 'Rural' zone and is therefore not permitted in this zone.

Having regard for:

- i) the location, nature, scale and intensity of the existing 'trade supplies' use on the subject land and its limited impact on the rural character and amenity of the immediate locality;
- ii) its general compatibility with the existing broadacre agricultural activities on the land; and
- iii) the fact it is not compromising the continuation of broadacre farming activity on the property or any adjoining properties, being the principal land use in the district,

it is contended the 'trade supplies' use **is consistent** with the objectives of the land's current 'Rural' zoning classification and may therefore be permitted within the zone subject to any conditions Council considers appropriate.

The application has been assessed with due regard for all relevant elements of the Shire's local planning framework including Local Planning Strategy, LPS5 and the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as well as the outcomes from a recently completed public advertising campaign. This assessment has confirmed the proposal is consistent with the Shire's strategic aims as well as the objectives of the land's current 'Rural' zoning classification in LPS5 and is generally compliant or capable of compliance with the following requirements:

- Location, scale, siting including boundary setbacks;
- Land use compatibility including the preservation of productive agricultural land and continuation of broadacre farming;
- Environmental protection and conservation;
- Visual landscape character and amenity;
- Vehicle access and parking;
- Essential services including electricity, potable water supply, effluent disposal and

- stormwater drainage management; and
- Bushfire risk management.

In light of the above findings and the fact no submissions were received from any immediately adjoining landowners or other members of the local community during the recently completed 14 day public advertising process, it is concluded the proposal for Lot 1 is consistent with the aims and objectives of the Shire's local planning framework and therefore unlikely to have any negative impacts on the general amenity, character, functionality and safety of the immediate locality subject to compliance with a number of conditions. As such it is recommended Council exercise its discretion and grant conditional approval to the application to ensure the development is undertaken in accordance with the information and plans submitted in support of the proposal and the relevant standards and requirements of the Shire's local planning framework.

CONSULTATION

Public consultation was undertaken for the minimum required period of fourteen (14) days and involved publication of a notice and all application documentation and plans on the Shire's website, public display of the application at the Shire's administration centre in Calingiri and correspondence to all immediately adjoining landowners inviting their feedback and comment.

At the close of public advertising on Friday 9 October 2020 no submissions had been received by the Shire in respect of the proposal.

STATUTORY CONTEXT

- *Planning and Development (Local Planning Schemes) Regulations 2015*
 - Schedule 2, Part 9, Clause 67 – 'Matters to be considered by local government'
- *Shire of Victoria Plains Local Planning Scheme No.5*
 - Clause 3.2 – 'Objectives of the zones'
 - Clause 3.3 – 'Zoning Table'
 - Clause 4.7 – 'Site and Development Requirements'
- *State Planning Policy 2.5 – 'Rural Planning'*
 - Clause 5.1 – 'Protection of rural land and land uses'
 - Clause 5.12 – 'Preventing and managing impacts in land use planning'

CORPORATE CONTEXT

Nil

FINANCIAL IMPLICATIONS

Nil immediate financial implications for the Shire aside from the administrative costs associated with processing the application which are provided for in Council's annual budget. All costs associated with the proposed development will be met by the applicant/landowner.

It is significant to note that should the applicant/landowner be aggrieved by Council's final decision in this matter, they have the right seek a formal review of that decision by the State Administrative Tribunal. Should this occur for whatever reason, which is considered highly unlikely in this particular instance, the Shire would need to respond. The cost to

respond to an appeal cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process.

VOTING REQUIREMENTS

Absolute majority required: No

2010-03	Officer Recommendation/Council Resolution
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Moved: Cr D Lovelock

Seconded: Cr J King

That Council:

1. Determine that the establishment and operation of a 'Trade Supplies Outlet' (i.e. the sale and fitting of vehicle tyres, batteries and UHF / CB Radios) on Lot 1 (No.4876) Bindi – Toodyay Road, Wyening as proposed is consistent with the objectives of the land's current 'Rural' zoning classification in the Shire of Victoria Plains Local Planning Scheme No.5 and may therefore be permitted in the zone; and
2. **APPROVE** the development application submitted by Ms Kelly-Ann Palmer (Landowner) seeking Council's retrospective approval for an existing unauthorised 'Rural Home Business' and 'Trade Supplies Outlet' within an existing shed on Lot 1 (No.4876) Bindi – Toodyay Road, Wyening for the purposes of a mobile tow truck service and the sale and fitting of vehicle tyres, batteries and UHF / CB Radios subject to the following conditions and advice notes:

Conditions

1. The development shall be undertaken in accordance with the information and plans submitted in support of the application received on 31 August 2020 subject to any modifications required as a consequence of any condition/s of this approval or otherwise approved by Council.
2. Any additional development which is not in accordance with the application the subject of this approval or any condition of approval will require the further approval of Council.
3. All waste generated by the uses the subject of this approval shall be recycled and/or disposed of at an approved landfill facility on a regular basis. The stockpiling of waste on the land is not permitted.

Advice Notes

1. This approval is not an authority to ignore any constraint to development on the land which may exist through contract or on title, such as an easement, memorial or restrictive covenant. It is the responsibility of the applicant / landowner and not the Shire to investigate any such constraints before commencing development. This approval will not necessarily have regard to any such constraint to development, regardless of whether or not it has been drawn to the Shire's attention.
2. This is a development approval of the Shire of Victoria Plains under its Local Planning Scheme No.5. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant

- / landowner to obtain any other necessary approvals, consents, permits and licenses required under any other law, and to commence and carry out development in accordance with all relevant laws.
3. The applicant/landowner is reminded of their obligation to ensure compliance with the following requirements (as applicable):
 - i) *Shire of Victoria Plains Firebreak and Fuel Hazard Reduction Notice* as it applies specifically to all rural land with an area greater than 10 hectares to help guard against potential bushfire risk; and
 - ii) *Shire of Victoria Plains Health Local Law 2003* (as amended).
 4. In accordance with the *Building Act 2011* and *Building Regulations 2012*, an 'Application for Building Approval Certificate' (i.e. a BA13 application form) and 'Certificate of Building Compliance (i.e. a BA18 form) to convert the existing Class 10A storage shed on the land to a different, more appropriate classification to accommodate the unauthorised 'Trade Supplies Outlet' contained within must be submitted to and approved by the Shire's Building Surveyor. It is recommended the applicant / landowner engage a private building surveyor to assist preparation of the abovementioned forms.
 5. The existing shed being used to accommodate the uses approved by this application is required to comply in all respects with the National Construction Code of Australia.
 6. Failure to comply with any of the conditions of this development approval constitutes an offence under the provisions of the *Planning and Development Act 2005* and the Shire of Victoria Plains Local Planning Scheme No.5 and may result in legal action being initiated by the local government.
 7. If the applicant / landowner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be submitted within 28 days of the determination.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

This item was moved forward and addressed at 2.19pm.

Cr P Bantock, having declared a Financial Interest in this item, withdrew from the meeting at 2.19pm, with the Deputy President, Cr D Lovelock, taking over the Presiding Chair.

The Council meeting, due to a lapse of quorum for Item 8.7, stopped at 2.20pm with the Presiding Member returning to Chambers and resuming the Presiding Chair with advice provided that the item had been adjourned.

8.7 Applications for Development Approval & Extractive Industry License – Existing Extractive Industry (Gravel Quarry) on Lot 127 (No.668) Mogumber-Yarrowindah Road, Mogumber

File reference	MQ – SoVP	
Report date	21 October 2020	
Applicant/Proponent	Menzi's Quarries Pty Ltd under the authority of Mr M.D. Driessen (Landowner)	
Officer disclosure of interest	Nil	
Previous meeting references	Item 12.1 – December 2016 Ordinary Meeting Item 7.0 – June 2017 Ordinary Meeting Item 10.9 – February 2019 Ordinary Meeting Item 11.1 – November 2019 Ordinary Meeting Item 11.1 – December 2019 Ordinary Meeting	
Prepared by	Mr Joe Douglas – Town Planning Consultant	
Authorised by	Ms Glenda Teede - CEO	
Attachments	Page 72 Page 77 Page 199	Attachment 1 – Application Documentation Attachment 2 – Road Maintenance Cost Contribution Report by Roadswest Engineering Group Pty Ltd Attachment 3 – Road Intersection Assessment and Deficiency Report by Roadswest Engineering Group Pty Ltd

PURPOSE

Consideration and final determination of development and extractive industry licence applications received in respect of an existing extractive industry (i.e. gravel quarry) on Lot 127 (No.668) Mogumber-Yarrowindah Road, Mogumber.

BACKGROUND

The applicant has submitted development and extractive industry licence applications in respect of an existing, previously approved extractive industry (i.e. gravel quarry) on Lot 127 (No.668) Mogumber-Yarrowindah Road, Mogumber for the following purposes:

- i) To amend Conditions 3 and 17 of the original development approval issued by the Victoria Plains Shire Council at its Ordinary Meeting held on 14 June 2017 to address concerns raised by the applicant regarding the validity and enforceability of these conditions; and
- ii) To formalise the current use of the land for extractive industry purposes under the *Shire of Victoria Plains Extractive Industries Local Law 2018* which is a specific requirement that has not been addressed since the use was first established.

Council's formal consideration and final determination of these applications will help resolve the longstanding dispute with Menzies Quarries Pty Ltd regarding its existing operations on the land.

It should be noted the recommendations contained in this report are based on discussions, negotiations and agreements with Menzies Quarries Pty Ltd and its legal representatives over recent months as well as advice received from Roadswest Engineering Group Pty Ltd regarding road maintenance levy contributions to the Shire and the suitability of the existing heavy vehicle access arrangements to / from the existing extractive industry operations on the subject land.

COMMENT

Development Application

Conditions 3 and 17 of the original development approval issued by the Victoria Plains Shire Council at its Ordinary Meeting held on 14 June 2017 read as follows:

- ***Condition 3 – A levy of 0.25 cents per tonne of material is to be paid on an annual basis to Council to assist in the upgrade and maintenance of gazetted roads used for access to the pit; and***
- ***Condition 17 – Satisfactory arrangements being made with the local government for full cost of upgrading and/or construction of the access and egress to/from the site from Mogumber-Yarrowindah Road to the satisfaction of the Shire and Main Roads specifications.***

Menzies Quarries legal representatives Civil Technology have challenged Conditions 3 and 17 on the basis they are unclear, uncertain, excessive and therefore legally invalid and unenforceable. This view is supported by the Shire's solicitors Civic Legal who have advised both conditions are poorly worded, unclear and uncertain and may therefore be deemed invalid and unenforceable if tested legally.

In order to resolve the issues and concerns regarding the validity of Conditions 3 and 17 the Shire appointed civil engineering firm Roadswest Engineering Group Pty Ltd to:

- a) investigate and prepare a report regarding the most appropriate method for calculating a reasonable road maintenance levy per tonne of material extracted by Menzies Quarries from the subject land; and
- b) assess and prepare a report regarding the suitability of and any modifications or upgrades that may be required to the existing access arrangements to / from the existing gravel quarry on the subject land.

A full copy of the final reports prepared by Roadswest Engineering Group Pty Ltd is provided in Attachments 2 and 3.

In relation to Condition 3, the first report prepared by Roadswest Engineering Group Pty Ltd recommends, based on established principles and guidelines, that a road maintenance contribution \$0.125 per tonne of gravel extracted from the land should be payable to the Shire (see Attachment 2). When considering this recommendation Council should note the following key points:

- i) The revised contribution amount recommended accounts for inflation since 2015 based on the Australian Bureau of Statistics Producer Price Index Catalogue No.6427.0 as it applies to road and bridge construction works;
- ii) The revised contribution amount represents a 50% reduction to the amount payable by Menzies Quarries pursuant to the current requirements of Condition 3;
- iii) If Council supports this recommendation, a credit of \$9,585.62 excluding GST will be provided to Menzies Quarries when calculating road maintenance contributions payable for the period 1 January 2019 to 31 December 2020 (i.e. the last 2 calendar years) which are yet to be charged due to the need to resolve the current dispute with the applicant; and
- iv) Menzies Quarries has confirmed its agreement to and acceptance of this revised contribution amount given it is soundly based and more reasonable and equitable for both parties.

In relation to Condition 17, it is understood Council's original intention and preference in relation to this condition was the construction of a new slip lane along the edge of Mogumber-Yarrawindah Road adjacent to the main gravel pit entry to provide for the safe and convenient movement of all westward-bound heavy vehicles attending the site.

The second report prepared by Roadswest Engineering Group Pty Ltd (i.e. Attachment 3) has confirmed Council's preferred option of a new slip lane along the edge of Mogumber-Yarrawindah Road is unnecessary and that the following alternative works should be undertaken to provide for the safe and convenient movement of all heavy vehicles associated with the existing extractive industry operations on the land:

- i) Widen the existing pavement on the southern verge where the Mogumber-Yarrawindah Road carriageway and the main gravel pit entry road intersect to accommodate the full extent of turning vehicles correctly, particularly the left-out from the pit entry road;
- ii) Remove undergrowth and lop trees as required on the northern and southern road verges for a minimum distance of 300 metres each way along Mogumber-Yarrawindah Road to ensure road signs are not obscured and trucks leaving the main gravel pit entry road can be seen;
- iii) Improve the road side drainage along the main gravel pit entry road so that surface runoff is diverted into the existing table drains along the edge of Mogumber-Yarrawindah Road;
- iv) Construct a two (2) coat bitumen chip seal on the main gravel pit entry road for its full width and for a minimum distance of 100 metres from the edge of the Mogumber-Yarrawindah Road carriageway;
- v) Install distance drop tags at the bottom of the existing advance warning heavy vehicle (Road Train) road signs on Mogumber-Yarrawindah Road for both the eastern and western approaches to ensure compliance with the relevant Australian Standards;
- vi) Install an advance warning sign on the main gravel pit entry road on approach to Mogumber-Yarrawindah Road; and
- vii) Install a guide sign (finger board) and a Hazard Marker sign No MR-HM-2 on the northern verge of Mogumber-Yarrawindah Road immediately opposite the main gravel

pit entry road.

Details of the alternative works recommended above by Roadswest Engineering Group Pty Ltd were presented to Menzies Quarries for its consideration and comment. Menzies Quarries has advised it is willing to undertake the required roadworks and reimburse the Shire for the cost of supplying and installing the required road signage in accordance with the relevant Australian Standards which is considered to be the most expedient and practical option.

A recommendation with details of the suggested revised wording for Conditions 3 and 17 to be applied to the current development approval for the existing extractive industry operations on the land is provided below for Council's formal consideration and final determination. Council should note the revised wording for Conditions 3 and 17 has been carefully formulated to ensure these conditions are relevant, valid and enforceable and reflect the outcomes from recent discussions and negotiations with Menzies Quarries. Should Council not support the revised wording for whatever reason, there is a significant risk the matter will be referred to the State Administrative Tribunal by the applicant for review and reconsideration which could prove to be expensive and time consuming.

Extractive Industry Licence Application

The applicant has also prepared and submitted an extractive industries licence application to formalise the current use of the land for extractive industry purposes under the *Shire of Victoria Plains Extractive Industries Local Law 2018* which is a specific requirement that has not been addressed since the use was first established. Notwithstanding this fact, the applicant has a current public liability insurance policy naming the Shire of Victoria Plains and indemnifying the licensee and the Shire for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the excavation operations on the land as per the specific requirements of clause 7.1 of the Shire's Extractive Industries Local Law. This insurance policy has provided the protection required to enable the use to continue whilst the applicant made arrangements to formalise the required extractive industry licence application.

The application received is based on the documentation and plans prepared in 2017 which formed the basis for the original development approval issued by Council in June of that same year (see Attachment 1).

Under the terms of the application received Council's approval is sought for a twenty (20) year licence term which must be renewed annually in accordance with the provisions of the Shire's Extractive Industries Local Law.

The application has been assessed with due regard for all relevant elements of the Shire's Extractive Industries Local Law as well as the specific requirements of the original development approval issued by Council in June 2017. It is concluded from this assessment that:

- i) the conditions imposed on the original development approval encompass all relevant standards and requirements of the Shire's Extractive Industries Local Law with the exception of a few administrative obligations which can be addressed through the imposition of suitable conditions on any licence approval that may ultimately be

issued by Council;

- ii) the Shire's Extractive Industries Local Law contains a number of general provisions that apply automatically to any approved extractive industry operation which provide a number of additional safeguards to ensure all development of this type is undertaken in a proper and orderly manner; and
- iii) the term of any licence approval that may be issued by Council should match the term of the development approval issued for the land (i.e. until 14 June 2022) and not twenty (20) years as the applicant has requested. If Council grants approval to extend the term of the original development approval for a further ten (10) year period as indicated in Condition 1 of the development approval, the applicant can seek to extend the term of the extractive industry licence approval to match any new or amended development approval at that time.

CONCLUSION

The proposed amendments to Conditions 3 and 17 of the original development approval issued for the existing extractive industry development on the subject land are well founded, relevant, valid and enforceable and reflect the outcomes from recent discussions and negotiations with Menzies Quarries. It is therefore recommended Council approve the development application pursuant to the powers afforded by clause 77(1)(b) of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

It is also recommended that Council exercise its discretion and grant conditional approval to the extractive industry licence application to ensure the development is undertaken in accordance with the specific requirements of the *Shire of Victoria Plains Extractive Industries Local Law 2018* and the term of the licence approval is consistent with the term of the development approval originally issued for the land (i.e. until 14 June 2022).

CONSULTATION

Public advertising of the development and extractive industry licence applications was not required or deemed necessary given the development proposal for the land was the subject of a detailed community consultation campaign in 2017 and has remain unchanged.

STATUTORY CONTEXT

- *Planning and Development (Local Planning Schemes) Regulations 2015*
 - Schedule 2, Part 9, Clause 77 – 'Amending or cancelling development approval'
 - Schedule 2, Part 9, Clause 67 – 'Matters to be considered by local government'
- *Shire of Victoria Plains Local Planning Scheme No.5*
 - Clause 3.2 – 'Objectives of the zones'
 - Clause 3.3 – 'Zoning Table'
 - Clause 4.7 – 'Site and Development Requirements'
- *State Planning Policy 2.5 - 'Rural Planning'*
 - Clause 5.9 – 'Basic raw materials outside the Perth and Peel planning regions'
 - Clause 5.12 – 'Preventing and managing impacts in land use planning'
- *Shire of Victoria Plains Extractive Industries Local Law 2018*

CORPORATE CONTEXT

- Works & Services Policy No.13.1 – *Road Reserves – Crossovers*
- Unclassified Policy No.16.1 – *Restricted Access Vehicles on Shire Roads*

FINANCIAL IMPLICATIONS

Should Council approve the development application to amend Conditions 3 and 17 of the original development approval issued in June 2017 as recommended, a credit of \$9,585.62 excluding GST will be provided to Menzies Quarries when calculating road maintenance contributions payable for the period 1 January 2019 to 31 December 2020 (i.e. the last 2 calendar years) which are yet to be charged for the reason stated previously above.

In addition to the administrative costs associated with processing the applications which are provided for in Council's annual budget, the Shire will need to fund the works required to ensure the existing table drains along the edge of Mogumber-Yarawindah Road are of a suitable standard and can manage all stormwater flows from the existing driveway access to the extractive industry use on Lot 127 which has been in place for many years and will be upgraded by the applicant to satisfy the requirements of Condition 17 of the original development approval as amended.

Aside from the above, there are no other immediate financial implications for the Shire. All costs associated with the development will be met by the applicant with the Shire's financial interests protected by the annual public liability insurance policy required pursuant to clause 7.1 of the Shire's Extractive Industries Local Law.

Should the applicant/landowner be aggrieved by Council's final decision in this matter, they have the right seek a formal review of that decision by the State Administrative Tribunal. Should this occur for whatever reason, which is considered unlikely in this particular instance, the Shire would need to respond. The cost to respond to an appeal cannot be determined at this preliminary stage but could be expected, based on the recent experience of other local government authorities in Western Australia, to range anywhere from \$5,000 to \$60,000 excluding GST depending upon how far the matter proceeds through the review process.

VOTING REQUIREMENTS

Absolute majority required: No

Officer Recommendation

That Council resolve to:

1. **APPROVE** the **development application** submitted by Menzies Quarries Pty Ltd under the authority of Mr M.D. Driessen (Landowner) to amend Conditions 3 and 17 only of the original development approval issued by Council at its Ordinary Meeting held on 14 June 2017 to establish and operate an extractive industry (i.e. gravel quarry) on Lot 127 (No.668) Mogumber-Yarrawindah Road, Mogumber so the conditions read as follows:

Condition 3 – Road Maintenance Contribution

A levy of \$0.125 per tonne of material extracted from the land shall be paid by Menzies Quarries Pty Ltd to the local government for the ongoing maintenance of Mogumber-Yarawindah Road. The levy is payable to the local government on 31 March each year with the final payment due on 14 July 2022 being one month after the expiry date of the current development approval for the extractive industry use. If the local government grants development approval for a further term, the levy payable each year thereafter shall be adjusted on an annual basis to account for inflation based on the Australian Bureau of Statistics Producer Price Index Catalogue No.6427.0 as it applies to road and bridge construction works.

Condition 17 – Road & Driveway Access Upgrade Works

Menzies Quarries Pty Ltd shall undertake the following to ensure the safe and convenient movement of heavy vehicles to/from the subject land by no later than Friday 26 February 2021 unless otherwise agreed by the Shire's Chief Executive Officer:

- i) Widen and seal the pavement on the southern verge where the Mogumber-Yarawindah Road intersects with the crossover and driveway access to the extractive industry use on Lot 127 to accommodate the full extent of turning heavy vehicles correctly, particularly the left-out from the main driveway access and crossover to Mogumber-Yarawindah Road which is currently deficient;
- ii) Trim all undergrowth and trees as required on both the northern and southern road verges of Mogumber-Yarawindah Road for a minimum distance of 300 metres each way to ensure road signs are not obscured and heavy vehicles exiting Lot 127 can be seen;
- iii) Seal the full width of the crossover as well as the driveway access to the extractive industry use on Lot 127 to a width of 6 metres for a minimum distance of 100 metres from the edge of the Mogumber-Yarawindah Road carriageway using a two-coat bitumen chip seal and maintain the sealed crossover and driveway thereafter to ensure they remain in good, safe trafficable condition at all times for the life of the development; and
- iv) Reimburse the local government for the cost of supplying and installing the following road signage in accordance with the relevant Australian Standards:
 - a) distance drop tags on the bottom of the existing advance heavy vehicle (Road Train) warning signs on Mogumber-Yarrawindah Road on both the eastern and western approaches to the crossover and driveway access to the extractive industry use on Lot 127;
 - b) an advance intersection warning sign on the driveway access to the extractive industry use on Lot 127 at the point where the sealing works required by sub-condition iii) above commences within the subject land;
 - c) a T-junction sight board as per Main Roads WA sign No.MR-HM-2 as shown on Main Roads WA (MRWA) Drawing No.9531-1002-5 on the northern verge of Mogumber-Yarrawindah Road opposite the crossover and driveway access to the subject land; and
 - d) a guide sign (i.e. finger board) on the northern road verge of Mogumber-Yarrawindah Road opposite the crossover and driveway access to clearly

identify the main entry point to the subject land.

2. **APPROVE** the **extractive industry licence** application submitted by Menzies Quarries Pty Ltd under the authority of Mr M.D. Driessen (Landowner) to establish and operate an extractive industry (i.e. gravel quarry) on Lot 127 (No.668) Mogumber-Yarrawindah Road, Mogumber subject to the following conditions and advice notes:

Conditions

1. This extractive industry licence is issued to Menzies Quarries Pty Ltd (i.e. the licensee) and shall remain valid until 14 June 2022 to coincide with the expiry date of the current development approval for the land unless otherwise approved by Council.
2. An annual licence fee of \$300.00 is payable to the local government by the licensee in advance by no later than 30 June each year for the term of the extractive industry licence approval.
3. The licensee shall at all times have and maintain a current public liability insurance policy naming the local government and indemnifying the licensee and the local government for a sum of not less than \$20,000,000 in respect of any one claim relating to the extractive industry operations on the subject land.
4. In accordance with the specific requirements of the *Shire of Victoria Plains Extractive Industries Local Law 2018*, the licensee shall provide the local government with a copy of the public liability insurance policy taken out pursuant to the requirements of Condition 3 of this approval, within 14 days of issuance of that policy and shall provide to the local government evidence of policy renewal within fourteen (14) days of each policy renewal date.
5. In accordance with the specific requirements of the *Shire of Victoria Plains Extractive Industries Local Law 2018*, a datum peg shall be established on the subject land by a licensed surveyor related to a point approved by the local government on the surface of a constructed public thoroughfare or other suitable land in the vicinity by no later than 31 December 2020. A certificate from the licensed surveyor certifying the correctness of the datum peg and related reference point required by this condition shall be submitted to the Shire within fourteen (14) days of establishment of the datum peg.
6. By no later than 31 January of each year this licence remains valid, the licensee shall provide the local government with information confirming the quantity of material extracted from the land in the preceding calendar year. If there is any uncertainty or doubt as to the accuracy of the information provided, the licensee shall at its own cost provide the local government with a surveyor's certificate confirming the quantity of material extracted from the land for the relevant period. The surveyor's certificate required by this condition shall be provided within 28 days of receipt of the local government's written request to provide a certificate.

Advice Notes

1. The licensee is reminded of their obligation to ensure compliance with the specific requirements of the *Shire of Victoria Plains Extractive Industries Local Law 2018* as it applies, but not limited to, license renewals, variations and transfers,

prohibitions, blasting and cessation of operations.

2. A copy of the Shire of Victoria Plains *Extractive Industries Local Law 2018*, including any approved amendments, is available for inspection on the Shire's website (www.victoriaplains.wa.gov.au). An electronic or hard copy of this local law, as amended, is also available from the Shire on request.
3. Authorise the Shire's Works & Services Manager to undertake the works required to ensure the existing table drains along the southern edge of Mogumber-Yarawindah Road are of a suitable standard and can manage all stormwater flows from the existing driveway access to the extractive industry use on Lot 127.

9. MEMBER MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

10. NEW BUSINESS OF AN URGENT NATURE REQUIRING DECISION

Admitted by resolution of Council

Nil

11. MEETING CLOSED TO PUBLIC – CONFIDENTIAL ITEMS

11.1 Matters for Which the Meeting May Be Closed

N/A

12. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 2.40 pm.

CERTIFICATION

These minutes were confirmed at the Ordinary Council Meeting held on _____ 2020.

Signed _____ Date _____
(Presiding member at the meeting which confirmed the minutes)

Council Minutes are unconfirmed until they have been adopted at the following meeting of Council.