



MINUTES

Ordinary Council Meeting

29 September 2021

Shire of Victoria Plains
Council Chambers, Calingiri

AND

via E-Meeting Protocol

Commencing – 2.04pm

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.

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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 29 September 2021 commencing at 2.04pm

1. DECLARATION OF OPENING

1.1 Opening

The Meeting was declared open by the Presiding Member at 2.04pm.

1.2 Announcements by Shire President

Due to the Presiding Member advising of her apology to attend the September Council Meeting, the Deputy Shire President, Cr D Lovelock, assumed the Presiding Chair, who stated the declaration of the State Emergency and State Health Emergency, and the means of conducting meetings under the E-meeting platform, further 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 D Lovelock
Cr N Clarke
Cr G O'Brien
Cr J Kelly
Cr S Penn- via Teleconference.

Staff attending

CEO – Ms G Teede
WSM – Mr A Butcher
Governance Officer – Mr S Fletcher
CESM – Mr M Parry
Finance Manager -Mrs G Deocampo
Mr J Douglas – Shire Planner (Via teleconference
2.39pm-2.47pm)
Minute Taker – Mrs J Klobas

Apologies

Cr P Bantock – Shire President
Cr J King

Approved leave of absence

Nil

Members of the public Mrs J Varley
 Mrs E Gromet
 Mr T Kealy. Operations Manager, Hay Australia Pty Ltd

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	Nil
3.2	Proximity	Nil
3.3	Impartiality	Nil

4. PUBLIC QUESTION TIME

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

4.1 Public Questions With Notice

Public Question Time was opened to the floor at 2.06pm.

Cr J Kelly asked the following question at the 25 August 2021 OCM.

Q1. Queried Civic Legal invoices.

A1. The CEO noted legal invoices are confidential in nature.

Q2. EFT 10126 – Is this a duplicate entry?

A2. No duplicate. See below snippet of the list of accounts paid. The first column circled with red is the description of the invoice and the 2nd column (yellow highlights) is the payment for that invoice.

EFT10126	22/07/2021	Linsey Cotter	Cleaning of the Yerecoin Wayside Rest Area (9-19 July) July 2021 - invoiced Yerecoin Progress Association	\$ 280.00	L	
5	19/07/2021		Cleaning of the Yerecoin Wayside Rest Area (9-19 July) July 2021 - invoiced Yerecoin Progress Association	\$ 280.00		

Further question

Q1. Cr Kelly queried further detail regarding what the costs were in relation to.

A1. The Presiding Officer noted the matter is a confidential item, however a written response by the CEO will be provided in due course.

Cr J Kelly asked the following question at the September 2021 OCM

- Q1. Page 4, EFT 10193 – Staff or community matter? Question Taken on Notice.
- A1. Relates to legal advice on the Shire’s management order & use of the Mogumber Reserve, since the site was designated an Aboriginal Heritage Site under the Aboriginal Heritage Act by the State Government’s Aboriginal Cultural Materials Committee. This is expenditure from last financial year. Matters are of an administrative manner and there are no matters which required Council decision at present, therefore a written report has not been presented to Council.

Mrs Elke Gromert, Calingiri

- Q1. As provided at Appendix 1, Page 24.
- A1. The CEO noted the Shire EHO is currently looking into where and how the Shire can place these recycling bins. The process has now commenced and is ongoing.

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).

Public question time closed at 2.14pm.

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

Cr S Penn requested follow up to her July Financial Question Taken on Notice.

Answer provided as below:

Question 1

Query - Civic Legal Fees - Management of Natural Resources – Question Taken on Notice.

Answer 1

Legal fees for reviewing documents, drafting and finalising FOI application (DWER), meeting with CEO, and telephone attendance and updates to CEO

2109-01 Officer Recommendation / Council Resolution
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Moved: Cr N Clarke

Seconded: Cr D Lovelock

That the Minutes of the following meeting:

- Ordinary Council Meeting held 25 August 2021 as circulated, be **CONFIRMED** as a true and correct record.

CARRIED For 5 / Against 0

8. REPORTS REQUIRING DECISION**8.1 Accounts for Endorsement – August 2021**

File reference	F1.8.4		
Report date	22 September 2021		
Applicant/proponent	Nil		
Officer disclosure of interest	Nil		
Previous meeting references	Nil		
Prepared by	Glenn Deocampo – Finance Manager		
Authorised by	Glenda Teede – CEO		
Attachments			
Attachment 1	Page	2 2	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 2021.

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

Note

Page 4, EFT 10193 – Staff or community matter? Question Taken on Notice.

2109-02 Officer Recommendation / Council Resolution**Moved: Cr N Clarke****Seconded: Cr G O'Brien**

That the payments made for August 2021 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**	10158 - 10215	344,481.92
Creditor Cheque Payments		0
Direct Debit Payments**	DD12715 – DD12785	35,796.00
Salaries & Wages EFT	PE 04.08.21, PE 18.08.21	88,138.25
Credit Card Statements	DD12784.1	396.55
Fuel Card – Wright Express	DD12784.2	518.68
Trust Payments		0.00
	TOTAL	\$469,331.40

Local Spending	\$	%
Local Supplier	144,548.82	30.80
Payroll	88,138.25	18.78
Total	232,687.07	49.58

**includes salary and wages deductions, and SGC

CARRIED For 3 / Against 2

Cr Penn and Cr Kelly requested to have their names recorded as voting against the motion.

8.2 Monthly Financial Statements – July 2021 and August 2021

File reference			
Report date			
23 September 2021			
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	10	Monthly Financial Statements – 31 July 2021 / 31 August 2021

PURPOSE

To receive the monthly financial statements for the period ending 31 July 2021 and 31 August 2021.

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 31 July 2021 and 31 August 2021 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 months and details of what is to be included

CORPORATE CONTEXT

None

FINANCIAL IMPLICATIONS

None

VOTING REQUIREMENTS

Absolute Majority Required: No

2109-03 Officer Recommendation / Council Resolution
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Moved: Cr G O'Brien

Seconded: Cr N Clarke

That Council **RECIEVE** the 31 July 2021 and 31 August 2021 Monthly Financial Reports as presented:

CARRIED For 3/ Against 2

Cr Penn and Cr Kelly requested to have their names recorded as voting against the motion.

CONFIRMED

8.3 Application for Development Approval – Existing Unauthorised Improvements and Use of Lots 800, 802 & 803 (Proposed Lot 805) Carani West Road, Carani, Proposed New Incidental Improvements, and Request to Delete Condition of Original Development Approval

File reference	
Report date	22 September 2021
Applicant/Proponent	Mr Tom Keely on behalf of Hay Australia Pty Ltd (Landowner)
Officer disclosure of interest	Nil
Previous meeting references	Resolution 21/2013 on 19 February 2013 – Original Development Approval for Hay Storage and Processing Facility
Prepared by	Mr Joe Douglas – Town Planning Consultant
Authorised by	Ms Glenda Teede - CEO
Attachments	
Attachment 1	Page 72 Previous Agenda Item & All Development Approvals Issued To-date.
Attachment 2	Page 107 Latest Development Application Documentation & Plans

PURPOSE

Consideration and final determination of a development application requesting Council's approval for the following as it applies specifically to Lots 800, 802 & 803 (Proposed Lot 805) Carani West Road, Carani:

- i) Modifications to the original development approval issued by Council in February 2013 to account for three (3) existing hay storage sheds not constructed in accordance with the original approved plans;
- ii) Two (2) unauthorised site offices (one containing amenities for staff), three (3) unauthorised four-man transportable accommodation units (two x 14.4m x 4.2m units and one x 14.4m x 3.3m unit) and an unauthorised kitchen and facility room (12m x 6.4m) for workforce accommodation purposes;
- iii) Use of the existing single storey dwelling on the land for workforce accommodation purposes (i.e. two people only);
- iv) A proposed new 1.8m x 1.8m transportable laundry building associated with the existing unauthorised workforce accommodation use;
- v) Upgrades to the existing on-site effluent disposals system on the land and installation of new on-site effluent disposals systems as required; and
- vi) Removal of Condition No.12 from the original development approval granted by Council on 19 February 2013 to develop and use the subject land for 'Rural Industry' purposes (i.e. hay storage and processing facility).

BACKGROUND

Mr Tom Keely, acting on behalf of Hay Australia Pty Ltd (Landowner), has submitted a development application requesting Council's approval for the existing unauthorised development and use of Lots 800, 802 & 803 Carani West Road, Carani for 'Rural Industry'

(i.e. hay storage and processing facility) and 'Workforce Accommodation' purposes, a proposed new laundry building, and removal of Condition 12 from the original development approval granted by Council on 19 February 2013 which read as follows:

12. That the Proponent negotiate and enter into a deed of agreement on maintenance and upgrade of Carani West Road.

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

Lots 800, 802 & 803 are located in the locality of Carani in the eastern segment of the Shire's municipal district and comprise a total combined area of approximately 575.37 hectares.



Location & Lot Configuration Plan (Source: Landgate)

All three lots are gently to moderately sloping and have direct frontage and access to Carani West Road along their northern boundaries which is a local road under the care, control and management of the Shire that has been classified as a RAV6 heavy vehicle route by Main Roads WA capable of accommodating truck and trailer combinations up to 36.5 metres in length with a maximum permitted mass of 91.5 tonnes.

That portion of Carani West Road from Bindi-Bindi Toodyay Road to the main driveway entry to the existing hay storage and processing facility on the subject land was sealed by the Shire in 2015/16 using State Government grant funding to ensure the road could accommodate the

volumes of heavy vehicle traffic like to be generated by the facility. It is understood Hay Australia Pty Ltd paid a \$20,000 contribution (excluding GST) towards those works following ongoing discussions and negotiations with the Shire's previous CEO Mr Harry Hawkins with no requirement to enter into a deed of agreement with the Shire pursuant to Condition 12 of the original development approval granted by Council in February 2013.

The hay storage and processing facility and all existing and proposed improvements have or will be constructed on previously cleared portions of the subject land with no apparent need to clear any existing native vegetation. The remaining balance portions of the land are used for extensive agricultural purposes (i.e. cropping and grazing).

Council should note those portions of the land comprising the hay storage and processing facility and all existing and proposed improvements are not subject to inundation or flooding and do not appear to have been designated by the Fire and Emergency Services Commissioner as being bushfire prone. The Shire's previous Environmental Health Officer also inspected the property and undertook soil permeability testing to confirm the land's suitability for additional on-site effluent disposal using septic tanks and leach drains, the findings from which were favourable.

Immediately adjoining and other nearby land uses are all rural in nature comprising extensive agricultural activities (i.e. cropping and grazing) on large sized lots of approximately 250 hectares or greater.

Lastly, Council should note on 25 February 2021 the Western Australian Planning Commission granted conditional subdivision approval to reconfigure the existing boundaries between Lots 800, 802 & 803 to create three (3) new separately titled lots, one of which will contain the existing hay storage and processing facility in its entirety (i.e. proposed Lot 805) and two (2) balance-of-title rural lots encompassing the remaining land currently used for extensive agricultural purposes. It is understood the subdivision is in the process of being finalised by Hay Australia Pty Ltd with new titles expected to be issued soon.

COMMENT

Lots 800, 802 & 803 are all 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.

Council has previously approved the development and use of portions of Lots 800, 802 & 803 for 'Rural Industry' purposes to accommodate the existing hay storage and processing facility on the land. The current unauthorised development and use of the land for 'workforce

accommodation' purposes has not however been formally approved by Council.

The use class 'workforce accommodation' 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 the existing and proposed development and use of the relevant portions of Lots 800, 802 & 803 for 'workforce accommodation' purposes, including all associated improvements, 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 and intensity of the existing and proposed workforce accommodation on the land and its likely limited impact on the rural character and amenity of the immediate locality;
- ii) its general compatibility with the existing approved activities on the land;
- iii) the fact it will support the continued operation of the existing approved hay storage and processing facility on the land;
- iv) its likely positive contribution to the continued viability of the current approved use of the land;
- v) previous resolutions by Council confirming 'workforce accommodation' is an acceptable use of 'Rural' zoned land in the Shire; and
- vi) impending modifications to LPS5 recently approved by the Minister for Planning which will expressly allow for the development of 'workforce accommodation' on all land in the Shire classified 'Rural' zone subject to Council's formal development approval,

it is contended the proposal **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, Local Planning Policy No.1 entitled 'Moveable Buildings', the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* as well as discussions with the Shire's previous Building Surveyor / Environmental Health Officer Mr Allan Ramsay and the Shire's current Works and Services Manager Mr Allister Butcher. This assessment has confirmed the existing and proposed works and associated uses are consistent with the Shire's strategic aims as well as the objectives of the land's current 'Rural' zoning classification in LPS5 and are compliant or capable of compliance with the following requirements:

- Land capability and suitability including topography, soil types and stability, drainage and flood risk;
- Location, scale, siting including boundary setbacks (i.e. proposed Lot 805 only), building design and construction materials;
- Land use compatibility including buffer separation distance requirements, 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 it is concluded the existing unauthorised and proposed development are generally acceptable and 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 works and use components of the application.

In relation to the unauthorised works and use, Council should note section 218 of the *Planning and Development Act 2005* states that any person who commences, continues or carries out any development in any part of an area the subject of a local planning scheme or otherwise than in accordance with the provisions of the planning scheme commits an offence. Section 223 of the same Act states that a person who commits an offence is liable to a fine of \$200,000 and, in the case of a continuing offence, a further fine of \$25,000 for each day during which the offence continues. In the case of an offender that is a body corporate such as a proprietary limited company, section 44(5) of the Sentencing Act 1995 states a body corporate that is convicted of an offence is liable to a fine of five (5) times the maximum fine that could be imposed on a natural person convicted of the same offence.

The fines for unauthorised development are clearly significant. In this particular case however it is recommended Council not proceed with prosecution action as the landowner appears to have made honest mistakes by not realising there was a need for Council's development prior to undertaking the unauthorised works, has been highly apologetic and made every effort to comply with the requirements of LPS5 to resolve the issues of concern raised by the Shire. It must also be acknowledged that some confusion was also caused by the Shire's handling of previous building permit applications where the town planning issues should have been identified and addressed as a first step.

In relation to the applicant's request to remove Condition No.12 from the original development approval granted by Council on 19 February 2013 requiring a deed of agreement with the Shire for upgrades to and ongoing maintenance of Carani West Road, Council should note the actions taken and agreements reached with the Shire's previous CEO regarding upgrades to Carani West Road without a formal deed of agreement with Hay Australia Pty Ltd as required by Condition 12 have undermined Council's ability to enforce the requirements of this condition. The Shire's previous CEO created a perception and expectation in the landowner's mind that the requirements of Condition 12 had been fully addressed to the Shire's satisfaction.

The significant amount of time that has elapsed since the original development approval was granted, the Shire's failure at any point during this period to enforce the requirements of Condition 12 to its full extent, as well as the Shire's failure to determine and quantify in the condition a definitive timeframe for formulation of the deed of agreement and the annual road

maintenance contribution payable by Hay Australia Pty Ltd also cast significant doubt over the need for and validity of this condition. It is therefore contended that if this condition were to be legally challenged by Hay Australia Pty Ltd they'd have a good chance of having it removed from the approval in its entirety on the basis it fails the validity test established under common law throughout Australia.

As such, it is recommended Council agree to remove Condition 12 from the original development approval as requested by the applicant and consider imposing a similar, more properly founded, definitive and clearly worded condition on any future approval that may be granted to expand the existing hay storage and processing facility on the land if there's a demonstrated need to further upgrade and provide for the ongoing maintenance of Carani West Road to accommodate any associated increase to heavy vehicle traffic volumes likely to be generated. This view is shared by the Shire's Works and Services Manager Mr Allister Butcher, who was consulted during assessment of Hay Australia Pty Ltd's request in this matter, and is considered by the reporting officer to be a reasonable and equitable outcome given Carani West Road is in good trafficable condition with no need for any immediate upgrades or maintenance works beyond that typically undertaken as part of the Shire's annual road maintenance program.

Lastly, it is recommended Council also remove Conditions 5 and 6 from the original development approval granted in February 2013 on the basis they are no longer necessary or relevant given Carani West Road is a Main Roads WA approved RAV6 heavy vehicle route capable of accommodating truck and trailer combinations up to 36.5 metres in length with a maximum permitted mass of 91.5 tonnes. Conditions 5 and 6 read as follows:

- 5. Approval shall be for 'RAV up to Category 3' vehicles only.**
- 6. Access and egress of Lot 800 Carani West Road shall be restricted to 'RAV Network 2/3' roads only.**

CONSULTATION

Public consultation was not required or deemed necessary. The application was however the subject of discussion with the Shire's current CEO as well as the previous Environmental Health Officer / Building Surveyor who provided advice and guidance in relation to a number of health and building related matters which were conveyed to the applicant to assist preparation and finalisation of the development application. The application was also referred to the Shire's Works and Services Manager for review and comment as stated previously above.

STATUTORY CONTEXT

- *Planning and Development (Local Planning Schemes) Regulations 2015*
 - Schedule 2, Part 9, Clause 60 – 'Requirement for 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'
- *Shire of Victoria Plains Local Planning Policy No.1 - Moveable Buildings*

CORPORATE CONTEXT

Nil

STRATEGIC IMPLICATIONS

The existing and proposed development on Lots 800, 802 & 803 are consistent with the aims and objectives of the Shire's Local Planning Strategy as it applies specifically to future development within the agricultural areas of the Shire. It is also consistent with the aims and objectives of the Shire's Strategic Community Plan 2017-2028.

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 and offset by the development application fee paid by the applicant which included financial penalties for an application involving unauthorised development. All costs associated with the proposed development will be met by the 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.

Lastly, Council should note if it decides to pursue prosecution action against Hay Australia Pty Ltd for unauthorised development, the cost to do so could be expected to be in the order of \$100,000 excluding GST. It is unknown if the courts would require the defendant to pay the Shire's legal costs and is a matter that would need to be explored further with the Shire's solicitor.

VOTING REQUIREMENTS

Absolute majority required: No

Mr Joe Douglas, Shire Planner joined the meeting at 2.39pm via teleconference.

2109-04	Officer Recommendation / Council Resolution
----------------	--

Moved: Cr G O'Brien

Seconded: Cr J Kelly

That Council:

1. Determine that the proposed use of Lots 800, 802 & 803 (Proposed Lot 805) Carani West Road, Carani for 'workforce accommodation' purposes, including all associated improvements, 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;
2. **APPROVE** the development application submitted by Mr Tom Keely on behalf of Hay Australia Pty Ltd (Landowner) to formalise various existing unauthorised works and uses

on Lots 800, 802 & 803 (Proposed Lot 805) Carani West Road, Carani and the proposed new improvements to support the continued use of the land for 'Rural Industry' purposes (i.e. a hay storage and processing facility) subject to the following conditions and advice notes:

Conditions

1. The proposed development shall be undertaken in accordance with the information and plans submitted in support of the final updated application dated 24 June 2021 and formally received on 28 July 2021 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 stormwater drainage from the structures the subject of this approval shall be contained and disposed of on-site to the satisfaction of the Shire's Chief Executive Officer in consultation with the Shire's Works and Services Manager.
4. All transportable buildings the subject of this approval to be used for habitable purposes shall not be located on any portion of the land that has been designated by the Fire and Emergency Services Commissioner of Western Australia as being bushfire prone.
5. A maximum of fourteen (14) people employed by Hay Australia Pty Ltd to operate the hay storage and processing facility are permitted to be accommodated on the land at any one time unless otherwise approved by Council.
6. The site office with ablutions and all buildings used for workforce accommodation purposes, including the associated kitchen and facility room building and attached laundry, shall be provided with an adequate on-site effluent disposal system as determined by the Shire's Environmental Health Officer or the Department of Health with all such work to be undertaken to the specifications and satisfaction of the Shire's Chief Executive Officer in consultation with the Shire's Environmental Health Officer or the Department of Health.
7. The site office with ablutions and all buildings used for workforce accommodation purposes, including the associated kitchen and facility room building and attached laundry, shall be provided with a reticulated potable water supply service and a suitable capacity electricity supply service. If a reticulated water supply service is not available, these buildings shall be provided with a potable water supply service comprising a shared rainwater storage tank with a minimum capacity of 120,000 litres unless otherwise approved by the Shire's Chief Executive Officer in consultation with the Shire's Environmental Health Officer.
8. Any open sub-floor areas around the periphery of all transportable structures the subject of this approval shall be enclosed with brick, stone, vermin proof battens or other means acceptable to the Shire's Chief Executive Officer.
9. A minimum of ten (10) on-site parking bays shall be provided in close proximity to the buildings to be used for workforce accommodation purposes within 120 days of the date of this approval. The car parking bays and associated vehicle accessways shall be designed and constructed in accordance with Australian/New Zealand Standard AS/NZS 2890.1:2004 entitled '*Parking Facilities – Off-Street Car Parking*' (as amended).

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 lots in the Shire with an area greater than 4,000m² to help guard against the 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) for the unauthorised structures the subject of this approval 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 these applications.
5. In accordance with the *Building Act 2011* and *Building Regulations 2012*, a building permit application for all proposed new structures the subject of this approval must be submitted to and approved by the Shire's Building Surveyor prior to the commencement of any construction or earthworks on the land.
6. The conditional subdivision approval granted by the Western Australian Planning Commission the 25 February 2021 to reconfigure the existing boundaries between Lots 800, 802 & 803 to create three (3) new separately titled lots, one of which will contain the existing hay storage and processing facility in its entirety (i.e. proposed Lot 805), must be finalised and new titles issued to enable the building applications referred to in Advice Notes 4 and 5 above to be processed and determined.
7. All structures the subject of this approval are required to comply in all respects with the National Construction Code of Australia.
8. An 'Application to Construct or Install an Apparatus for the Treatment of Sewage' prepared pursuant to the specific requirements of the *Health (Treatment of Sewage and Disposal of Effluent and Liquid Waste) Regulations 1974* must be prepared and submitted to the Shire or the Executive Director of Public Health for consideration and determination.
9. 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.

10. 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.
3. Remove Conditions 5, 6 and 12 from the from the original development approval granted on 19 February 2013 for the hay storage and processing facility Lots 800, 802 & 803 (Proposed Lot 805) Carani West Road, Carani due to concerns regarding their validity and/or relevance with all remaining conditions to remain unchanged and advise the applicant/landowner that Council may consider imposing a condition/s on any future development approvals granted to expand the existing hay storage and processing facility on the land if there's a demonstrated need to further upgrade and provide for the ongoing maintenance of Carani West Road to accommodate any associated increase to heavy vehicle traffic volumes likely to be generated.
4. That Council authorise the Shire Administration to conduct regular checks of the hay storage and processing facility and all associated uses and improvements on Lots 800, 802 & 803 (Proposed Lot 805) Carani West Road, Carani over the next twelve (12) month period, including the installation of traffic counters along that portion of Carani West Road from Bindi-Bindi Toodyay Road to the main driveway entry to the facility, to ensure compliance with the conditions of all development approvals granted to-date and all other regulatory approvals and requirements.

CARRIED For 5 / Against 0

CONFIRMED

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

N/A

11. MEETING CLOSED TO PUBLIC – CONFIDENTIAL ITEMS

11. Matters for Which the Meeting May Be Closed

N/A

.12 CLOSURE OF MEETING

The Presiding Member extended Council and the Administrations' sincere appreciation and thanks to Cr J King for her considerable work as a Councillor and her contribution as an Elected Member to the Shire of Victoria Plains, noting her retirement at the upcoming October 2021 election.

There being no further business, the Presiding Member declared the meeting closed at 2.47pm.

CERTIFICATION

These minutes were confirmed at the Ordinary Council Meeting held on 27th Oct 2021 2021.


Signed *JABaudock*
(Presiding member at the meeting which confirmed the minutes)

Date 27th Oct 2021

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

Appendix 1

Shire of Victoria Plains – Public question time submission



Questions should be addressed to the Presiding Member, and submitted to the Chief Executive Officer.
 Questions can be submitted by –

- e-mailing this form or a Word document to reception@victoriaplains.wa.gov.au, or
- hand delivering this form to the Shire's administration office at 28 Cavell Street, Calingiri, by midday the day prior to the relevant council or committee meeting.

Questions handed in after that time may be taken as being without notice, and answered in writing after the meeting.

Name Elke Gronert Date 27.9.21
 Address 24 Yulgering Rd.
Calingiri
 Contact No. 96287009

Are you an elector or resident of the Shire? Yes No

Question 1 – Agenda Item No. that the question relates to –
Being rates time, it came to my attention that only residents of Calingiri are recycling their waste in yellow bins, to ensure the refuse-site on the Geomalling road is not too large.
Now, I have to ask, why is Bolgard not recycling? The complete Bolgard waste is dumped every Wednesday in Calingiri and their recycle-waste is buried/landfilled there. This is unfair to Calingiri residents who are paying quite a sum for the yellow bin. Within one shire using one tip for household refuse, we should be treated equally.

Question 2 – Agenda Item No. that the question relates to –
refuse, we should be treated equally.

eg

Author's signature