



Minutes
Special Council Meeting
9 November 2020

Shire of Victoria Plains
Council Chambers, Calingiri

Commencing – 10.09 am

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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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.

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

Special Meeting of the Victoria Plains Shire Council

Held in the Calingiri Shire Chambers,
on Monday 9 November 2020 commencing at 10.09 am

1. DECLARATION OF OPENING

1.1 Opening

Meeting declared open at 10.09 am.

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 Cr N Clarke Cr J King Cr D Lovelock Cr J Kelly – via teleconference (until 10.16am).
Staff attending	CEO – Ms G Teede Governance Officer – Mr S Fletcher Executive Assistant – Mrs J Klobas
Apologies	Nil
Approved leave of absence	Nil
Visitors	Core Business Australia – Mr B Lorimer (until 10.16am)
Members of the public	N/A

3. DISCLOSURES OF INTEREST

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

<i>Type</i>	<i>Item</i>	<i>Person / Details</i>
3.1	Financial	Cr P Bantock declared a financial interest in item 8.2 (<i>Applications for Development Approval & Extractive Industry License – Existing Extractive Industry (Gravel Quarry) on Lot 127 (No.668) Mogumber-Yarrowindah Road, Mogumber</i>) due to “thoroughly closely associated person having proximity interest”.
3.2	Proximity	Cr P Bantock declared a proximity interest in item 8.3 (11.1) (<i>Tender RFT 02 – 2020/21 Provision of Roadworks Contractor Services for the FY 2020/21 and FY2021/22 and consideration of the review of the tender process undertaken by Core Business Australia</i>) due to “proximity to Mogumber-Yarrowindah Road”.
3.3	Impartiality	Cr N Clarke declared an impartiality interest in item 8.3 (11.1) (<i>Tender RFT 02 – 2020/21 Provision of Roadworks Contractor Services for the FY 2020/21 and FY2021/22 and consideration of the review of the tender process undertaken by Core Business Australia</i>) due to “carries out contract work for me”.
		Cr D Lovelock declared an impartiality interest in item 8.3 (11.1) (<i>Tender RFT 02 – 2020/21 Provision of Roadworks Contractor Services for the FY 2020/21 and FY2021/22 and consideration of the review of the tender process undertaken by Core Business Australia</i>) due to “do business with one of the Tenderers”.

Cr Kelly advised that he has not had a chance to review the Special Council Meeting Agenda material. The Shire President listed the agenda items for Cr Kelly’s consideration and whether there was any requirement for a Declaration of Interest, at which point the Shire President did seek a motion from the floor to bring forward item 11.1 for Council’s consideration.

The motion was moved by Cr Clark and seconded by Cr King. Cr Kelly then declared to the meeting he had been advised of an emergency to attend to and left the meeting at 10:16am.

Due to these circumstances, the motion was not put and the meeting proceeded onto the next item of business.

4. PUBLIC QUESTION TIME

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

N/A

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).

N/A

5. PRESENTATIONS AND DEPUTATIONS

5.1 Presentations

5.2 Deputations

6. APPLICATIONS FOR LEAVE OF ABSENCE

7. MINUTES OF MEETINGS

7.1 Confirmation of Council Meeting minutes

NA

The Shire President returned to item 8.1 at 10.17am for Council consideration.

8. REPORTS REQUIRING DECISION

8.1 CEO's Advice to Council On Appointment of Works and Services Manager

File reference			
Report date	8 November 2020		
Applicant/proponent	CEO		
Officer disclosure of interest	Nil		
Previous meeting references	N/A		
Prepared by	Sean Fletcher, Governance Officer		
Authorised by	CEO		
Attachments			
Attachment 1	Page		Nil

PURPOSE

The CEO is to inform Council on the appointment of the new Manager Works and Services: Mr James Muir.

BACKGROUND

With the resignation of the previous Manager of Works and Services Mr Bob Edwards, the CEO began the recruitment process for a new Manager of Works and Services.

At the close of applications, four suitable applications were received. Interviews were conducted with two candidates, with Mr James Muir, considered the successful candidate.

COMMENT

Mr Muir is the current Manager Technical Services at the Shire of Bridgetown Greenbushes. This role is equivalent to that of Manager Works and Services. His key achievements in this role has included completion of successful Tenders for the Shire including:

- Securing Blackspot project Funding to the value of \$1.2M;
- Successful Delivery and execution of Roads to Recovery and Regional Road Group Project Grants programs;
- Implemented process and Policy for Design and Construct activities;
- Approval, supervision and completion of 20 lot Subdivision development, Bridgetown Heights;
- Re alignment and Rationalisation of our 10 Bridge program, including annual, preventive maintenance and preplacement programs to align with the Shire's Long Term Financial Plan.

Mr Muir at the Shire of Bridgetown Greenbushes, among other things, has been responsible for Supervising Operations and Technical staff in all facets of infrastructure

project works including road construction, drainage, footpaths, waste management bridges, parks, gardens and facilities, including development proposals, assessing designs, specifications and development plans to ensure compliance with legislative requirements, local laws and Council policies.

Some of the previous positions Mr Muir has held include:

- Project Manager NCC Contracting. Key activities included:
 - Eliwana Mine site Village development and Construction FMG \$4.25m;
 - Peedamulla Rd Renewal Reconstruction SOA \$1.2m;
 - Chevron, Wheatstone Sand Bypassing \$2.6m.
- Shire of Ashburton:
 - Manager, Rural Roads & Operations West;
 - Contract Project Manager, Acting Manager Technical Services;
- Core Business – Project Manager/Surveying Operations;
- Alcoa Pinjarra Refinery - Process Maintenance Supervisor, Residue Operations Supervisor.

Accordingly, the CEO believes that Mr Muir is suitably qualified to perform the function of Manager Works and Services at the Shire of Victoria Plains and has appointed him to this role for a term of four years.

CONSULTATION

CEO

STATUTORY CONTEXT

5.37. Senior employees

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.

Note: Subsection 5.37(2) refers to a position under contract and in accordance with Council policy that is designated a senior employee. In this case it is the Manager Works and Services.

5.36. Local government employees

(3) A person is not to be employed by a local government in any other position unless the CEO:

- (a) believes that the person is suitably qualified for the position; and
- (b) is satisfied with the proposed arrangements relating to the person's employment.

Note: The CEO is responsible under the Local Government Act for employing all officers.

CORPORATE CONTEXT**Strategic Community 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"> <i>Implementation of initiatives to better connect Council with the community and associated matters.</i>
5.2	Improve elected member performance	
5.3	Develop an advocacy and lobbying capacity	
5.4	Measures to improve organisational efficiency	

The Manager Works and Services is a key position within the Shire regarding providing services to the community, advocacy and lobbying for funding towards key infrastructure and improving the efficiency and effectiveness of the Shire.

Council Policy

2.1 Senior employees - Designation

1. Pursuant to Section 5.37 of the Local Government Act 1995, the following employees are designated as senior employees:

a) Manager of Works and Services

Risk Management

The risks regarding the CEO failing to appoint a suitably qualified person to the position of Manager Works and Services:

Consequence	Consequence Rating:	Likelihood Rating:	Risk Rating	Risk Acceptance	Mitigation and Outcome
Financial Impact \$100,000 - \$500,000	Major (4) Non-compliance results in significant penalties to Shire/Officers	Possible (3) The event should occur at some time	High (12)	Senior Management Team/CEO Risk acceptable with excellent controls, managed by senior management / executive and subject to monthly monitoring	Mr Muir is considered to have the appropriate local government and technical background to manage both the technical and operational aspects of the Manager Works and Services role and so the risk is reduced to insignificant.

FINANCIAL IMPLICATIONS

Nil

The funding for the position of Manager Works and Services is allowed for in the Shire's current budget and Long Term Financial Plan.

VOTING REQUIREMENTS

Absolute majority required: No

2011-01 Officer Recommendation / Council Resolution
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Moved: Cr N Clarke

Seconded: Cr D Lovelock

That Council under section 5.37(2) of the *Local Government Act 1995* **ACCEPTS** the CEO's proposal to employ Mr James Muir as the Manager Works and Services, Shire of Victoria Plains.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

The Shire President suggested, at 10.23am, that, due to a lack of quorum regarding Item 8.2, the meeting be adjourned until later this afternoon.

2011-02 Council Resolution

Moved: Cr J King

Seconded: Cr N Clarke

The meeting be adjourned until later this afternoon on 9 November 2020 to allow for a quorum to be convened.

CARRIED BY UNANIMOUS DECISION OF COUNCIL

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

File reference	Lot 127 (STP)
Report date	21 October 2020
Applicant/Proponent	Menzies 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	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-Yarrowindah 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-Yarrowindah 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-Yarrowindah 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-Yarrowindah 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-Yarrowindah 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-Yarrowindah Road carriageway;
- v) Install distance drop tags at the bottom of the existing advance warning heavy vehicle (Road Train) road signs on Mogumber-Yarrowindah 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-Yarrowindah Road; and
- vii) Install a guide sign (finger board) and a Hazard Marker sign No MR-HM-2 on the northern verge of Mogumber-Yarrowindah 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 / Council Resolution
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Moved Cr _____

Seconded Cr _____

That Council resolve to:

- 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 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.

For _____ / Against _____

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

Council Resolution

Moved: Cr Clarke

Seconded: Cr King

That item 11.1 be brought forward for Council consideration at 10.15am.

Cr J Kelly advised he would need to withdraw from the meeting at 10.16 am which resulted in no quorum of Council and the below item was adjourned with the Shire President returning to Item 8.1 for Council consideration, at which point Mr Bruce Lorimer withdrew from the meeting via E-Meeting Teleconference (10.16 am) and did not return.

11.1 Tender RFT 02 – 2020/21 Provision of Roadworks Contractor Services for the FY 2020/21 and FY2021/22 and consideration of the review of the tender process undertaken by Core Business Australia

File reference	
Report date	November 8 2020
Applicant/proponent	Shire of Victoria Plains
Officer disclosure of interest	Core Business Australia is a WALGA Preferred Supplier and has the potential to be further engaged by the Shire to assist the Shire with this project, as such has a financial interest in this matter.
Previous meeting references	1909 – 17 & 2004-13
Prepared by	Bruce Lorimer, Managing Director, Core Business Australia for the Chief Executive Officer
Authorised by	
Attachments	
Attachment 1	Page
	Confidential Tender Assessment Report prepared by Brett Howson - RFT 02-2020/21 Provision of Roadworks Contractor Services for the FY 2020/21 and FY2021/22

12. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 10.23 am.

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.