



**MINUTES**  
**SPECIAL MEETING OF COUNCIL**

held on

**Tuesday, 08 September 2020**



WESTERN AUSTRALIA'S  
**WILDFLOWER COUNTRY**

**DISCLAIMER**

*No responsibility whatsoever is implied or accepted by the Shire of Morawa for any act, omission, statement or intimation occurring during Council Meetings. The Shire of Morawa disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission, and statement of intimation occurring during Council Meetings.*

*Any person or legal entity that acts or fails to act in reliance upon any statement, act or omission occurring in a Council Meeting does so at their own risk. The Shire of Morawa advises that any person or legal entity should only rely on formal confirmation or notification of Council resolutions.*

**Item 1 Opening of Meeting**

The President declared the meeting open at 5:31pm.

**Item 2 Acknowledgement of Traditional Owners and Dignitaries**

The President acknowledges the traditional custodians, the Yamatji people, and recognises the contribution of Yamatji elders past, present and future, in working together for the future of Morawa.

*'This meeting is being recorded on audio tape and to assist with minute taking purposes. The public is reminded that in accordance with Section 6.16 of the Shire of Morawa Meeting Procedures Local Law 2012 that nobody shall use any visual or vocal recording device or instrument to record the proceedings of Council without the written permission of the presiding member.'*

**Item 3 Recording of Attendance****3.1 Attendance****Council**

President Councillor Karen Chappel  
Deputy President Councillor Dean Carslake  
Councillor Jane Coaker  
Councillor Debbie Collins  
Councillor Yvette Harris  
Councillor Shirley Katona

**Staff**

Acting Chief Executive Officer	Robert Paull
Executive Manager Corporate & Community Services	John van der Meer
Economic Development Manager	Ellie Cuthbert

**Members of the Public**

Nil

**3.2 Attendance by Telephone / Instantaneous Communications**

In accordance with section 14 of the *Local Government (Administration) Regulations 1996* "Meetings held by electronic means in public health emergency or state of emergency (Act s. 5.25(1)(ba))", the President to declare that this Meeting may take place via instantaneous communication. All Councillors and staff are to be available either via telephone (teleconference) or in person.

**3.3 Apologies**

Nil

**3.4 Approved Leave of Absence**

Councillor Ken Stokes

**3.5 Disclosure of Interests**

<b>Special Meeting Agenda Item: 6.1.1 Temporary closure to Burton Road, Morawa</b>		
<b>Name of Disclosing Member</b>	<b>Nature of Interest</b>	<b>The Nature being</b>
Cr Dean Carslake	Financial Interest	“Shareholder in CBH”
Cr Karen Chappel	Financial Interest	“Shareholder in CBH”
Cr Jane Coaker	Financial Interest	“Shareholder in CBH”
Cr Debra Collins	Financial Interest	“Shareholder in CBH”
Cr Shirley Katona	Financial Interest	“Shareholder in CBH”
<b>Special Meeting Agenda Item: 6.1.2 Request for Donation – ‘1 Palm Farm Royal Flying Doctor Rally’ to be held over 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> of September 2020</b>		
<b>Name of Disclosing Member</b>	<b>Nature of Interest</b>	<b>The Nature being</b>
Cr Shirley Katona	Proximity Interest	My husband and I are the owners of 1 Palm Farm

In response to the declaration of Interest for Item 6.1.1, the *A/Executive Director Local Government from the Department of Local Government, Sport and Cultural Industries (DLGS&CI)* advised the Chief Executive Officer by Email on 07 September 2020 as follows:

*“I refer to your correspondence dated 2 September 2020 and advise that, in accordance with authority delegated by the Minister for Local Government, I have approved your application, under section 5.69(3)(a) of the Local Government Act 1995 (the Act).*

*This approval allows disclosing members Cr Karen Chappel, Cr Debra Collins, Cr Shirley Katona, Cr Jane Coaker and Cr Dean Carslake to fully participate in the discussion and decision making relating to the following agenda item at the Shire’s Special Council Meeting of 8 September 2020:*

**6.1.1 – TEMPORARY CLOSURE OF BURTON ROAD, MORAWA**

*Subject to the following conditions:*

- 1. The approval is only valid for the 8 September 2020 Special Council Meeting when agenda item 6.1.1 is considered;*
- 2. The abovementioned Councillors must declare the nature and extent of their interests at the abovementioned meeting when the matter is considered, together with the approval provided;*
- 3. The CEO is to provide a copy of the Department’s letter of approval to the abovementioned Councillors;*

4. *The CEO is to ensure that the declarations, including the approval given and any conditions imposed, are recorded in the minutes of the abovementioned meeting, when the item is considered;*
5. *The CEO is to provide a copy of the confirmed minutes of the abovementioned meeting to the Department, to allow the Department to verify compliance with the conditions of this approval; and*
6. *The approval granted is based solely on the interests disclosed by the abovementioned Councillors, made in accordance with the application. Should other interests be identified, these interests will not be included in this approval and the financial interest provisions of the Act will apply.”*

*The President read out loud to Council the letter from the A/Executive Director DLGS&CI and advised that all Councillors are required to vote on Item 6.1.1.*

<b>Item 4      Public Question Time</b>
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*Important note:*

*‘This meeting is being recorded on audio tape and to assist with minute taking purposes. The public is reminded that in accordance with Section 6.16 of the Shire of Morawa Meeting Procedures Local Law 2012 that nobody shall use any visual or vocal recording device or instrument to record the proceedings of Council without the written permission of the presiding member.*

*Members of the public are also reminded that in accordance with section 6.17(4) of the Shire of Morawa Meeting Procedures Local Law 2012 mobile telephones must be switched off and not used during the meeting.’*

**4.1      Public Question Time**

Nil

**4.2      Public Statement Time**

Nil

**4.3      Petitions/Deputations/Presentations/Submissions**

Nil

<p><b>Item 5      Declarations of All Members to have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting</b></p>
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The Elected Members to declare that they have given due consideration to all matters contained in the agenda.

- President Councillor Karen Chappel
- Deputy President Councillor Dean Carslake
- Councillor Jane Coaker
- Councillor Debbie Collins
- Councillor Yvette Harris
- Councillor Shirley Katona

**Item 6 Reports of Officers****6.1 Chief Executive Officer****6.1.1 Temporary Closure of Burton Road, Morawa**

**Author:** Acting Chief Executive Officer

**Authorising Officer:** Acting Chief Executive Officer

**Disclosure of Interest:** The Author/Authorising Officer declares that he does not have any conflicts of interest in relation to this item.

**OFFICER'S RECOMMENDATION/RESOLUTION**

**200901 Moved: Cr Carslake                      Seconded: Cr Coaker**

**That with regards to the Temporary Closure of Burton Road, Morawa, Council:**

- 1. Endorses the action of the Chief Executive Officer to undertake the statutory consultation process required under Section 3.50 of the *Local Government Act 1995* to enable the temporary closure of Burton Road, Morawa from 1 November 2020 until 31 January 2021 to enable arrangements for unrestricted access to the Co-operative Bulk Handling Ltd (CBH) Morawa Bin for the 2020/21 Grain Harvest.**
- 2. Approves:**
  - a) The temporary closure of Burton Road, Morawa from 1 November 2020 until 31 January 2021 to enable arrangements for unrestricted access to the Co-operative Bulk Handling Ltd (CBH) Morawa Bin for the 2020/21 Grain Harvest;**
  - b) Allowing only vehicles directly involved in accessing the CBH Morawa Bin along with emergency services vehicles and utility service vehicles to access Burton Road for the period of temporary closure as provided in 1. above in accordance with s6.4(a) of the *Shire of Morawa Public Places and Local Government Property Local Law 2018*;**
  - c) In addition to 1 (a) and (b) above, allowing CBH to place on Burton Road, a temporary 'Sample Hut' and temporary Weighbridge for the period of closure as provided in 1. above, provided that prior to any placement:
    - i. CBH presents and maintains for the period of closure, public liability insurance policy in which the interests of the Shire of Morawa are formally noted by the insurer, indemnifying CBH and the Shire of Morawa for a sum of not less than \$20,000,000 in respect of any one claim relating to any of the operations on the closed road.****

**CARRIED BY SIMPLE MAJORITY 6/0**

## PURPOSE

Council is requested to consider Co-operative Bulk Handling Ltd's (CBH) request to temporarily close Burton Road, Morawa to enable arrangements for unrestricted access to the CBH Morawa Bin for the 2020/21 Grain Harvest.

## DETAIL

At the 16 October 2019 Special Meeting, Council considered a Traffic Management Plan presented by CBH to deal with the turning of vehicles into the Morawa CBH receival point (weighbridge and 'Sample hut) from Broad Avenue and resolved:

*"That Council, with regard to Morawa CBH site, resolves to:*

- 1. Supports the Traffic Management Plan for the 2019 season from CBH setting out the management commitments applicable to RAV vehicles utilising the Morawa CBH receival point from Broad Avenue.*
- 2. Authorises the CEO to set up a meeting with CBH in February 2020 to outline long term solutions to the issues of RAV Network vehicles utilising the Morawa CBH site."*

Due to factors including COVID-19, the meeting with the Shire and CBH did not take place until 15 May 2020 (via telephone). At this meeting, CBH were informed that the 'Sample Hut' is located on Reserve 39611 with Power to Lease.

A lease arrangement with CBH had expired and for it to be accessed by CBH, a new lease is required. The access to and from the 'Sample Hut' on Reserve 39611 was noted to be 'problematic' due to tight turning circles and difficult (large) vehicle movements.

A further meeting with the Shire and CBH addressing issues associated with the access arrangements was not conducted until 29 July 2020 but did involve a site visit. The outcome of the on-site meeting essentially resulted in an acceptance by CBH that the access to Broad Avenue need to be reviewed.

Since then, several other meetings concerning access to CBH that included Morawa Growers occurred, essentially resulting in a revised access arrangement via Burton Road as provided for in **Attachment 1**. It is noted that CBH's proposal is reflective of the draft plan as put forward by many of the Growers at the onsite meeting a few weeks back.

The Morawa Growers Representative was provided with an advanced copy of the CBH proposal and support from the Growers perspective has been confirmed:

*"I myself and other growers who use the Morawa CBH site are more than happy with the purposed layout and traffic management that CBH have put forward for this upcoming harvest to enable the site to operate safely".*

## LEVEL OF SIGNIFICANCE

High. It is vital for the Morawa CBH Bin to operate for the 2020/21 season. A revised access arrangement is the only opportunity for this to occur.



## CONSULTATION

All Councillors  
Morawa Growers  
CBH  
Main Roads WA Representative

Community consultation was undertaken in accordance with the statutory requirements of the *Local Government Act* (s3.50) as follows:

- Public notice through the Shire Website; Facebook, placement of 2 notices on the Shire’s public notice board and to be published this week in the local ‘Scene’ Newsletter.
- Public notice via 2 signs on Burton Road.
- Public notice to interested parties through Emails/Website referral to:
  - Main Roads WA;
  - Western Power;
  - Water Corporation;
  - Great Southern Fuels; and
  - WA College of Agriculture.

At the time of preparing this Report, no objections to the CBH proposal had been received. Should objections be received prior to the deadline of noon 8 September 2020, these will be provided to Council under separate cover.

## LEGISLATION AND POLICY CONSIDERATIONS

### **Local Government Act 1995**

#### *“3.50. Closing certain thoroughfares to vehicles*

- 4) *Before it makes an order wholly or partially closing a thoroughfare to the passage of vehicles for a period exceeding 4 weeks or continuing the closure of a thoroughfare, the local government is to —*
- a) *give local public notice of the proposed order giving details of the proposal, including the location of the thoroughfare and where, when, and why it would be closed, and inviting submissions from any person who wishes to make a submission; and*
  - b) *give written notice to each person who —*
    - i. *is prescribed for the purposes of this section; or*
    - ii. *owns land that is prescribed for the purposes of this section; and*
  - c) *allow a reasonable time for submissions to be made and consider any submissions made”.*

#### *“3.50A. Partial closure of thoroughfare for repairs or maintenance*

*Despite section 3.50, a local government may partially and temporarily close a thoroughfare, without giving local public notice, if the closure —*

- (a) *is for the purpose of carrying out repairs or maintenance; and*
- (b) *is unlikely to have a significant adverse effect on users of the thoroughfare”.*

#### *“3.51. Affected owners to be notified of certain proposals*

- 1) *In this section —*
- person having an interest, in relation to doing anything, means a person who —*
- (a) *is the owner of the land in respect of which that thing is done, or any land that is likely to be adversely affected by doing that thing; or*
  - (b) *is shown on the title to any of the land mentioned in paragraph (a) as holding an interest in any of that land; or*
  - (c) *is prescribed for the purposes of this section.*

- 2) *This section applies to —*
  - (a) *fixing or altering the level of, or the alignment of, a public thoroughfare; or*
  - (b) *draining water from a public thoroughfare or other public place onto adjoining land.*
- 3) *Before doing anything to which this section applies, a local government is to —*
  - (a) *give notice of what is proposed to be done giving details of the proposal and inviting submissions from any person who wishes to make a submission; and*
  - (b) *allow a reasonable time for submissions to be made and consider any submissions made.*
- 4) *The notice is to be given —*
  - (a) *in writing to each person having an interest; and*
  - (b) *if any land is likely to be adversely affected by the doing of the thing, by local public notice”.*

### **Local Government (Functions and General) Regulations 1996**

#### *Part 2 — Thoroughfares*

#### **4. Persons prescribed to be notified of road closure (Act s. 3.50)**

- 1) *The persons prescribed for the purposes of section 3.50 of the Act are —*
  - a) *any person providing a service by means of pipes, cables, or anything else under, on, or above the land used for the thoroughfare whose access for purposes connected with the provision of that service would be impeded by the proposed closure; and*
  - b) *the person having principal responsibility in the locality for ambulance services; and*
  - c) *the person having principal responsibility in the locality for fire services; and*
  - d) *the occupier of land that will lose its access.*
- 2) *The land that is prescribed for the purposes of section 3.50 of the Act is land that will lose its access.*
- 3) *In this regulation — land that will lose its access means land that abuts the thoroughfare at any point to which access would be precluded as a result of the closure.*

#### **5. Persons prescribed to be notified of certain proposals (Act s. 3.51(1) person having an interest)**

*The persons prescribed for the purposes of section 3.51 of the Act are —*

- a) *if the land to which that section applies is occupied, the occupier; and*
- b) *in relation to fixing or altering the level of, or the alignment of, a public thoroughfare, any person providing a service by means of pipes, cables, or anything else under, on, or above the land used for the thoroughfare”.*

### **Shire of Morawa - Public Places and Local Government Property Local Law 2018**

#### **6.4 No driving on closed thoroughfare**

*A person must not drive or take a vehicle on a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act unless –*

- a) *it is in accordance with any limit or exception specified in the order made under section 3.50 of the Act; or*
- b) *the person has first obtained a licence.*

### **Council Delegation:**

*Delegation 4.9 Closing Certain Thoroughfares to Vehicles provides the CEO with the authority to temporarily close roads in accordance with S.3.50 (4) of the Local Government Act 1995.*

**Strategic Community Plan 2018 to 2028 (Desktop Reviewed June 2020)**

**Outcome 4.3** A local government that is respected, professional and accountable.

**Outcome 1.2** Maximise business, industry and investment opportunities

*1.2.1 Continue to liaise with CBH to upgrade and extend grain handling and storage facilities*

**FINANCIAL AND RESOURCES IMPLICATIONS**

There are no known financial and resource implications associated with this Report.

**RISK MANAGEMENT CONSIDERATIONS**

Local government road closures are protected from compensation payment for damages under section 3.23 of the *Local Government Act 1995*, although this must be carried out in a manner that is not considered negligent.

Implementation of the road closure in a safe manner will be managed through CBH for the proposal with a requirement for CBH to provide public liability insurance for not less than \$20M. This mitigates the liability from negligence for which a local government can be liable under section 9.57 of the *Local Government Act 1995*. The closure will require that vehicles directly involved in accessing the CBH Morawa Bin along with emergency services vehicles and utility service vehicles for the period of closure be retained.

Importantly, it is anticipated that the arrangements as sought by CBH will be a significantly less risk over the current arrangements in relation to accessing the existing 'Sample Hut' and CBH Bin via Broad Avenue.

**CONCLUSION**

Issue associated with access to CBH was identified by Council and Growers over several years. The proposal by CBH is considered to be the best access option for the 2020/21 Harvest.

**ATTACHMENTS**

*Attachment 1 - Item 6.1.1 CBH Proposal.*

*Cr Katona had declared a Proximity Interest in Item 6.1.2 Request for Donation – ‘1 Palm Farm Royal Flying Doctor Rally’ to be held over 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> of September 2020 and left the Chambers at 5.32pm.*

**SUSPENSION OF STANDING ORDERS**

**200902 Moved: Cr Carslake                      Seconded: Cr Collins**

*A motion was moved that Council suspend standing orders (5.32pm).*

**CARRIED BY SIMPLE MAJORITY 5/0**

**RESUMPTION OF STANDING ORDERS**

**200903 Moved: Cr Carslake                      Seconded: Cr Harris**

*A motion was moved that Council resume standing orders (5.58pm).*

**CARRIED BY SIMPLE MAJORITY 5/0**

<b>6.1.2 Request for Donation – ‘1 Palm Farm Royal Flying Doctor Rally’ to be held over 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> of September 2020</b>
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**Author:**                                              Acting Chief Executive Officer Services

**Authorising Officer:**                      Acting Chief Executive Officer

**Disclosure of Interest:**                      The Author/Authorising Officer declares that he does not have any conflicts of interest in relation to this item.

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**OFFICER’S RECOMMENDATION**

**That with regards to the Request for Donation – ‘1 Palm Farm Royal Flying Doctor (RFDS) Rally’ to be held over 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> of September 2020, Council:**

- 1. Authorise the Chief Executive Officer allow trained Shire staff (only) to access and use Shire equipment for the ‘RFDS Rally’ in their own time (out of work hours) where the organisers have provided:**
  - a) Proof of public liability insurance in the form of a Certificate of Currency;**
  - b) Proof of insurance that specifically addresses theft, fire, third party or damage to Shire equipment; and**
  - c) a completed Shire Public Events application.**

**all to the satisfaction of the Chief Executive Officer.**

**RESOLUTION****200904 Moved: Cr Carslake Seconded: Cr Collins**

That with regards to the Request for Donation – ‘1 Palm Farm Royal Flying Doctor (RFDS) Rally’ to be held over 25th, 26th and 27th of September 2020, Council:

1. Authorise the Chief Executive Officer allow trained Shire staff (only) to access and use Shire equipment for the ‘RFDS Rally’ in their own time (out of work hours) where the organisers have provided:
  - a) Proof of public liability insurance in the form of a Certificate of Currency;
  - b) Proof of insurance that specifically addresses theft, fire, third party or damage to Shire equipment; and
  - c) a completed Shire Public Events application.all to the satisfaction of the Chief Executive Officer.
2. That the proponent be advised that for Council to consider a similar request for future years, Council will require, in addition to a, b, c above, the request to be lodged with the Shire at least 3 months prior to the event and that the ‘Rally’ be undertaken through an incorporated body.

***CARRIED BY ABSOLUTE MAJORITY 5/0***

*Reason for Change: Council considered that for any future request for a Shire donation to the ‘Rally’ that adequate time to assess the request was needed along with the event being undertaken through an incorporated body.*

**PURPOSE**

Council has been asked by the organisers of the ‘1 Palm Farm Royal Flying Doctor Rally’ to provide as a donation, access to Shire equipment for approximately 8 hours of use (comprising a Shire grader and water cart).

**DETAIL**

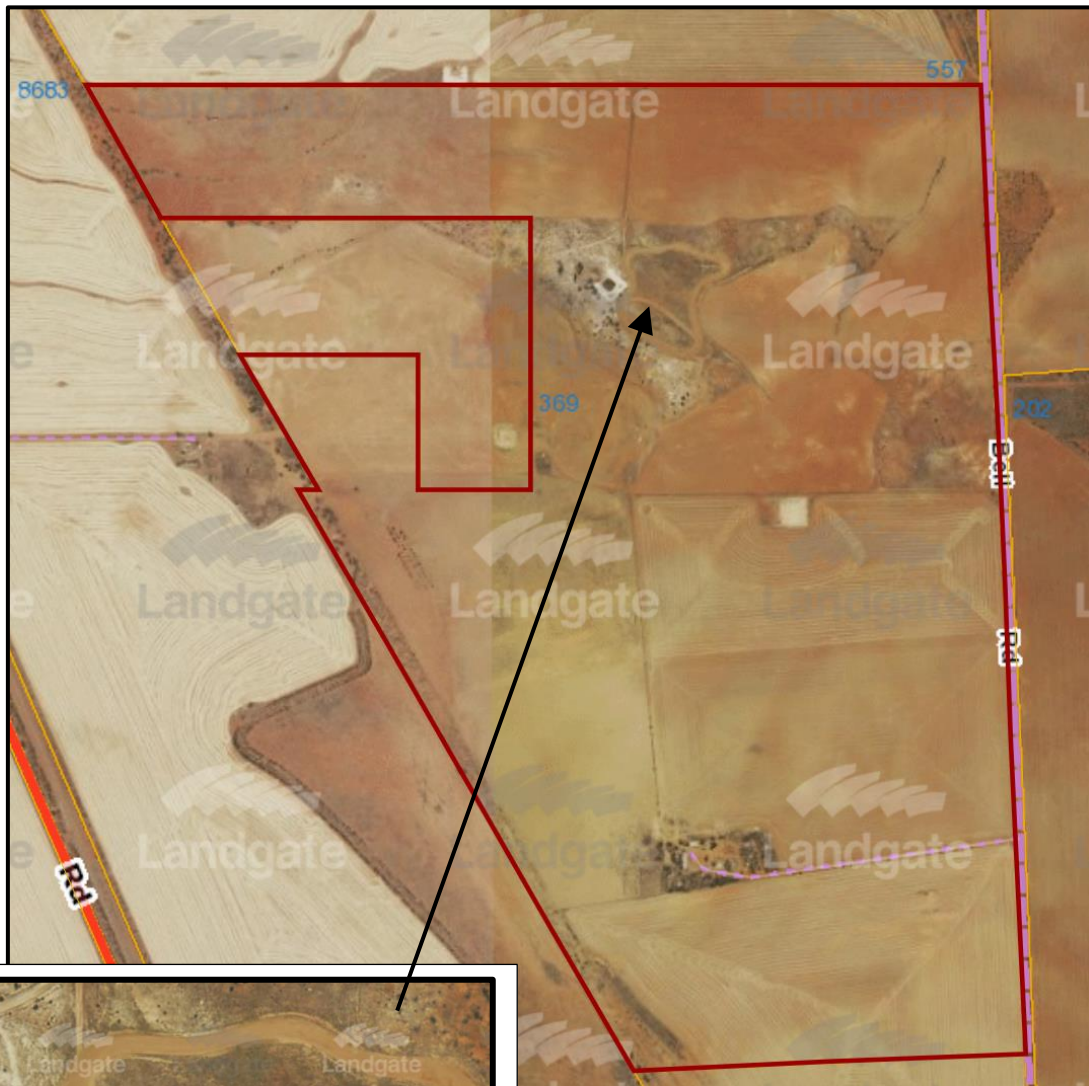
The ‘1 Palm Farm Royal Flying Doctor Rally’ is to be held over 25th, 26th and 27th of September 2020 at Location 4095, 369 Bells Road, Pintharooka (‘1 Palm Farm’). It is understood that the event has been undertaken in various forms for many years with the ‘rally track’ already formed.

The organisers have requested that the Shire provide as a donation to the event, the use of Shire equipment comprising a grader and water cart for approximately 8 hours over the duration of the event. The Shire has been advised by the organisers as follows:

*“The event consists of motor racing on a specially formulated track that is 1km in length that has right and left bends. Spectators safely view the racing from the top of a rock face down on the track. Approval Permits have been submitted to:-*

- a) Morawa Shire – Event Permit;
- b) AASA Pty Ltd – Public Liability Insurance
- c) Clerk of Courts – Liquor Permit – Saturday from 5pm to midnight/ Sunday from 4pm to 10pm

St Johns Ambulance will be in attendance with 1 x EMT and 1 x EMA  
Morawa Fire Services will also be attending with 3 x trained fire control officers  
Approx 150 to 200 attendees expected to attend  
We anticipate to raise in the vicinity of \$7000 to \$10000 from the weekend of events.”



Location 4095, 369 Bells Road, Pintharooka (1 Palm Farm) and expanded area showing the 'rally track'.

## LEVEL OF SIGNIFICANCE

Medium. The request essentially expands the arrangements with Council and Shire staff established under *Council Policy: 7.8 Private Use of Plant or Equipment*.

## CONSULTATION

President Cr Karen Chappel  
Executive Management Team

## LEGISLATION AND POLICY CONSIDERATIONS

This report has been written in accordance with the:

- *Local Government Act 1995*; and
- *Local Government (Financial Management) Regulations 1996*; and
- *Local Government (Functions and General) Regulations 1996*

***Council Policy: 7.8 Private Use of Plant or Equipment (Attachment 1)***

**Strategic Community Plan 2018 to 2028 (Desktop Reviewed June 2020)**

**Outcome 4.3** A local government that is respected, professional and accountable.

**Outcome 3.4** A wide range of regional events.

## FINANCIAL AND RESOURCES IMPLICATIONS

Under Council's adopted 2020/21 Fees and Charges, the cost per hour for a grader and water truck (each with a Shire operator) is:

- Grader: \$196.36 (inc. GST); and
- Water Truck (25,000l): \$174.55.

For an 8 hour working period, the cost would be:

- Grader: \$1570.88 (inc. GST); and
- Water Truck (25,000l): \$1396.40.

Although the Shire does not hire such equipment without an operator, the estimated weekday chargeable cost per hour for an operator for a grader and water truck is approximately 50% of the adopted fee/charge. This would increase to reflect the normal penalty rates for staff on weekends and public holidays.

## RISK MANAGEMENT CONSIDERATIONS

Low to Medium. The main risks relate to ensuring:

- Adequate insurance for both the event and Shire equipment;
- A completed Shire Public Events application; and

- that only Shire staff operate the equipment which can be managed through a direct written arrangement with the Acting Chief Executive Officer and the respective staff member volunteering their time for the event.

**CONCLUSION**

The value of the requested 'donation' is approximately \$3,000, however, with Shire staff trained in the operation of the grader and the water truck, the cost is significantly reduced (especially taking into account operation of the equipment over a weekend and possibly, public holiday).

Should Council agree to allow trained Shire staff (only) to access and use Shire equipment for the 'RFDS Rally' in their own time (out of work hours), it is also appropriate that the organisers provide prior to the Rally:

- Proof of public liability insurance in the form of a Certificate of Currency;
- Proof of insurance that specifically addresses theft, fire, third party or damage to Shire equipment; and
- A completed Shire Public Events application.

all to the satisfaction of the Acting Chief executive Officer

**ATTACHMENTS**

*Attachment 1 – 6.1.2 Council Policy: 7.8 Private Use of Plant or Equipment*

*Cr Katona returned to the Chambers at 5.59pm.*

*At the request of the President, the Acting Chief Executive Officer read the Council resolution to Cr Katona.*



**Item 7 Matters for Which the Meeting May Be Closed (Confidential Items)**

Nil


**Item 8 Closure**

**16.1 Date of Next Meeting**

The next meeting will be the Ordinary Meeting of Council to be held on Thursday, 17 September 2020 commencing at 5.30pm.

**16.2 Closure**

There being no further business, the President declared the meeting closed at 6.00pm.



..... Presiding Member