

# Special Council Meeting

## AGENDA

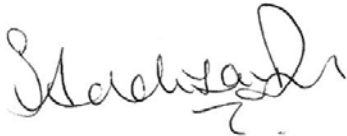
FOR THE MEETING TO BE HELD  
WEDNESDAY 18 MARCH 2020  
IN COUNCIL CHAMBERS,  
WALLCLIFFE ROAD, MARGARET RIVER  
COMMENCING AT 11.00AM

# Meeting Notice

Dear Councillor

I advise that a Special Council Meeting of the Shire of Augusta Margaret River will be held in Council Chambers, Wallcliffe Road, Margaret River on Wednesday 18 March 2020, commencing at 11.00am for the purpose of Establishing a team to oversee and coordinate how the organisation responds to the Coronavirus (COVID-19) situation

Yours faithfully



**STEPHANIE ADDISON-BROWN**  
**CHIEF EXECUTIVE OFFICER**

## **ATTENTION/DISCLAIMER**

This agenda has yet to be dealt with by the Council. The Recommendations shown at the foot of each item have yet to be considered by the Council and are not to be interpreted as being the position of the Council. The minutes of the meeting held to discuss this agenda should be read to ascertain the decision of the Council.

In certain circumstances members of the public are not entitled to inspect material, which in the opinion of the Chief Executive Officer is confidential, and relates to a meeting or a part of a meeting that is likely to be closed to members of the public.

No responsibility whatsoever is implied or accepted by the Shire of Augusta Margaret River for any act, omission, statement or intimation occurring during Council or Committee meetings.

The Shire of Augusta-Margaret River 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 or statement of intimation occurring during Council or Committee meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee meeting does so at that person's or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a licence, any statement or intimation of approval made by any member or Officer of the Shire of Augusta Margaret River during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Augusta Margaret River.

The Shire of Augusta Margaret River advises that anyone who has any application lodged with the Shire of Augusta Margaret River must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application and any conditions attaching to the decision made by the Shire of Augusta Margaret River in respect of the application.

The Shire of Augusta Margaret River advises that any plans or documents contained within this agenda may be subject to copyright law provisions (Copyright Act 1968, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction. It should be noted that Copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

## TABLE OF CONTENTS

<b>ITEM NO.</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
<b>1.0</b>	<b>DECLARATION OF OPENING</b>	<b>5</b>
<b>2.0</b>	<b>ATTENDANCE</b>	<b>5</b>
2.1	APOLOGIES	5
2.2	APPROVED LEAVE OF ABSENCE	5
<b>3.0</b>	<b>DISCLOSURES OF INTEREST</b>	<b>5</b>
<b>4.0</b>	<b>PUBLIC QUESTIONS</b>	<b>5</b>
4.1	PUBLIC QUESTION TIME	5
<b>5.0</b>	<b>DEPUTATIONS</b>	<b>5</b>
<b>6.0</b>	<b>SPECIAL BUSINESS</b>	<b>5</b>
6.1	INTERIM SHIRE RESPONSE TO CORONAVIRUS COVID-19 PANDEMIC	6
<b>7.0</b>	<b>CLOSURE OF MEETING</b>	<b>11</b>

# Special Council Meeting

**1.0 DECLARATION OF OPENING**

**2.0 ATTENDANCE**

**2.1 Apologies**

**2.2 Approved Leave of Absence**

**3.0 DISCLOSURES OF INTEREST**

**4.0 PUBLIC QUESTIONS**

**4.1 Public Question Time**

**5.0 DEPUTATIONS**

**6.0 SPECIAL BUSINESS**

# 6.1 Special Business

## 6.1 SHIRE RESPONSE TO CORONAVIRUS COVID-19 PANDEMIC

---

<b>LOCATION/ADDRESS</b>	Shire of Augusta Margaret River
<b>APPLICANT/LANDOWNER</b>	N/A
<b>FILE REFERENCE</b>	COR/277
<b>REPORT AUTHOR</b>	Stephanie Addison-Brown, Chief Executive Officer
<b>AUTHORISING OFFICER</b>	Stephanie Addison Brown, Chief Executive Officer

---

### IN BRIEF

- Coronavirus COVID-19 pandemic has escalated within WA.
- Council is asked to establish a Pandemic Response Liaison Group (PRLG) in order to respond to directives from State and Federal Government agencies.
- Plans are in place to protect safety of staff and public, however these plans are fluid with the rapidly changing situation.

### RECOMMENDATION

That Council:

1. Notes the establishment by the CEO of a COVID-19 Pandemic Response Liaison Group comprising of three Councillors, CEO and Director Corporate and Community Services, Acting Director Sustainable Development, Acting Director Infrastructure Services and the Community Emergency Services Manager for an initial period of two months to consider the implications of decisions required to be made by the CEO in response to the Coronavirus COVID-19;
2. Appoints the Shire President, Deputy Shire President and Councillor \_\_\_\_\_ to be the Councillors on the Pandemic Response Liaison Group;
3. Endorses any expenditure from the Municipal Fund authorised in advance by the President in an emergency under section 6.8(1)(c) of the *Local Government Act 1995*;
4. Provides prior endorsement of the appointment of the Director Corporate and Community Services as the Acting Chief Executive Officer should the Chief Executive Officer find herself unwell and unable to attend work during this period; and
5. Varies the condition in delegation 10 to include the following highlighted text:
  - (a) A price variance must not exceed 10 % of the original contract value or \$50,000, whichever is the lesser amount **except in the event of an emergency where Council are unable to meet within a two week period in which case a price variation must not exceed \$150,000;**
  - (b) **Where any price variation to a contract exceeds \$50000 an agenda item shall be brought to Council as soon as is practically possible to provide Council with the information as to why the variation was required, why it was urgent and any other details relevant to the price variation.'**

---

### LOCATION PLAN

Nil

### TABLED ITEMS

Nil

### BACKGROUND

In recent weeks, the Coronavirus COVID-19 pandemic has escalated and the Shire will need to respond to directives from State and Federal Government agencies quickly and/or make decisions prior to these directives for the protection of staff and the community. This nature of this pandemic is global and unprecedented, so the Shire must be proactive and ready to respond should government directives

about travel, isolation, people being at work, the number of people allowed at public gatherings and other community issues change.

Measures have already been put into place at Shire work locations to protect the safety of staff and the public, but it is noted that these measures may need to change rapidly.

## **CONSULTATION AND ADVICE**

### **External Consultation**

- WA Department of Health

### **Internal Consultation**

- Shire President
- Human Resources Manager
- Community Development
- Media Team
- All Managers and Coordinators

## **DISCUSSION / OFFICER COMMENTS**

### **Pandemic Response Liaison Group**

The CEO intends to form a liaison group that will assist in the prompt implementation and communication of operation decisions made in response to the COVID-19 pandemic and its impacts. For reasons explained under the 'Statutory Environment' heading operational decisions cannot be delegated directly to a working group and Councillors are not able to direct operations, under *the Local Government Act 1995 (the Act) and Local Government Administration Regulations 1996*, Councillors may not exercise any of the CEO's functions. It is likely that there will need to be quick decisions made over the next two months in response to any issues arising from the pandemic. These may include decisions relating to any and all Shire operational units and the level of support the Shire can provide to the community through a range of mechanisms. This team will be supported by professional staff and follow Federal and State Government directives and guidelines. Such decisions may relate to the closure of community facilities, reduction or cancellation of Shire services, limitations on face to face contact and implementation of any other measures to protect staff and the community as appropriate.

### **Decisions for which the CEO has no power or delegation**

Where there is any decision that requires an absolute majority decision by Council or cannot otherwise be delegated or exercised by the CEO, the President may convene a special Council meeting with no set notice period.

### **Attendance at Meetings**

At the moment a Councillor generally needs to be within a townsite over 150km from the meeting place before they can attend remotely. Regulation 14 of the *Local Government (Administration) Regulations 1996* allows for the President or Council to authorise Councillors to attend by 'instantaneous communication' after a 'natural disaster' that prevents them from being physically present. The Shire is waiting on direction from the Department to whether the COVID-19 Pandemic constitutes a natural disaster. It is our intent to implement should the Department provide a direction.

### **Communication with the public**

It is intended that communication with all Councillors, staff and the community regarding the Shire response to the pandemic will continue via email and Facebook, and that the Shire will endeavour to provide its usual services to the community for as long as possible with appropriate Occupational Safety and Health measures in place pending further advice and direction from the Federal or State Governments.

### **Variations to delegations to the CEO**

Officers have reviewed all the delegations to the CEO under the delegation register and have only identified one delegation that may need to be varied to deal with situations that may arise during the pandemic response. That delegation is delegation 10 'Variations to contracts formed with a successful tenderer'. The proposed change to the conditions is shown as **highlighted text** in the below extract from the delegation register.

**Delegator:**

**Council**



SHIRE OF AUGUSTA MARGARET RIVER  
SPECIAL COUNCIL MEETING AGENDA 18 MARCH 2020

<i>Power / Duty assigned in legislation to:</i>	
<b>Express Power to Delegate:</b> <i>Power that enables a delegation to be made</i>	<i>Local Government Act 1995:</i> s.5.42 Delegation of some powers or duties to the CEO s.5.43 Limitations on delegations to the CEO
<b>Express Power or Duty Delegated:</b>	<i>Local Government Act 1995:</i> s.3.57 Tenders for providing goods or services <i>Local Government (Functions and General) Regulations 1996:</i> r.21A Varying a contract for the supply of goods or services
<b>Delegated to:</b>	<b>Chief Executive Officer</b>
<b>Function:</b> <i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i>	Power to:  i. Vary a contract that has been entered into with a successful tenderer, provided the variation does not change the scope of the original contract;  ii. Exercise an extension option that was included in the original tender specification and contract in accordance with r.11(2)(j). [F&G r.21A].
<b>Council Conditions on this Delegation:</b>	(a) A price variance must not exceed 10 % of the original contract value or \$50,000, whichever is the lesser amount except <b>in the event of an emergency where Council are unable to meet within a two week period in which case a price variation must not exceed \$150,000;</b>  (b) <b>Where any price variation to a contract exceeds \$50000 an agenda item shall be brought to Council as soon as is practically possible to provide Council with the information as to why the variation was required, why it was urgent and any other details relevant to the price variation.'</b>
<b>Express Power to Sub-Delegate:</b>	<i>Local Government Act 1995:</i> s.5.44 CEO may delegate some powers and duties to other employees

#### STATUTORY ENVIRONMENT / LEGAL IMPLICATIONS

1. There are no emergency powers in the Local Government Act other than:
  - a. the power to enter private land without the owner's consent (s3.34); or
  - b. the power to incur expenditure from the municipal budget authorised in advance by the President (s6.8);
  - c. power to impose a supplementary general rate or specified area rate for the unexpired portion of a year (6.32(3));
2. There will always be some limitations on the powers that can be delegated to CEO or committees, most specifically any power that requires an absolute or 75% majority;
3. The CEO's operation functions under s5.41 can only be delegated to another employee and not to a committee or non-employee (s5.44(1)), operational decision making power can not be exercised by a committee or working group;
4. The Shire President can call special meeting with no set period of notice – this can be used to exercise any power that needs an absolute majority.

**Attachment 1** to this report is a memorandum of advice which provides detail on the points above.  
**Attachment 2** to this report is a list of powers that can only be exercised by an absolute majority of Council.

#### STRATEGIC PLAN / POLICY IMPLICATIONS

**Community Strategic Plan 2036 (CSP)**

**Corporate Business Plan 2019-2023**

Key Result Area 1: Valuing, protecting and enhancing the natural environment

Community Outcome 6: Community emergency preparedness

Strategy 4: Enhance local emergency response and disaster management through collaboration

#### PLANNING FRAMEWORK

Nil

**ADVOCACY**

Nil

**IMPLICATIONS OF ALTERNATIVE RESOLUTION**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**RECOMMENDATION**

That Council:

1. Notes the establishment by the CEO of a COVID-19 Pandemic Response Liaison Group comprising of three Councillors, CEO and Director Corporate and Community Services, Acting Director Sustainable Development, Acting Director Infrastructure Services and Community Emergency Services Manager for an initial period of two months to consider the implications of decisions required to be made by the CEO in response to the Coronavirus COVID-19;
2. Appoints the Shire President, Deputy Shire President and Councillor \_\_\_\_\_ to be the Councillors on the Pandemic Response Liaison Group;
3. Endorses any expenditure from the Municipal Fund authorised in advance by the President in an emergency under section 6.8(1)(c) of the *Local Government Act 1995*;
4. Provides prior endorsement of the appointment of the Director Corporate and Community Services as the Acting Chief Executive Officer should the Chief Executive Officer find herself unwell and unable to attend work during this period; and
5. Varies the condition in delegation 10 to include the following highlighted text:
  - (a) A price variance must not exceed 10 % of the original contract value or \$50,000, whichever is the lesser amount except in the event of an emergency where Council are unable to meet within a two week period in which case a price variation must not exceed \$150,000;
  - (b) Where any price variation to a contract exceeds \$50000 an agenda item shall be brought to Council as soon as is practically possible to provide Council with the information as to why the variation was required, why it was urgent and any other details relevant to the price variation.'

**ADVICE TO APPLICANT / PROPONENT**

Nil

**ATTACHMENTS**

1. Memorandum of advice which provides detail on the points above
2. List of powers that can only be exercised by an absolute majority of Council

**7.0 CLOSURE OF MEETING**