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 11.30am 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
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Special Council Meeting

1.0 DECLARATION OF OPENING

The Shire President welcomed all in attendance and declared the meeting open at 11.30am

The Shire President gave an Acknowledgement of Country:

‘I acknowledge and respect the traditional custodians of this land and pay our respects to elders past and present and emerging, whose lands we share.’

2.0 ATTENDANCE

Shire President : Cr Ian Earl
Councillors : Cr Paula Cristoffanini
Cr Naomi Godden
Cr Brian Daniel
Cr Kylie Kennaugh
Cr Pauline McLeod
Cr Julia Meldrum

Chief Executive Officer : Ms Stephanie Addison-Brown
Acting Director Sustainable Development : Mr Nick Logan
Acting Director Infrastructure Service : Mr David Nicholson
Director Corporate and Community Services : Mr James Shepherd
Manager Legal and Governance Services : Mr Ian McLeod
Manager Corporate Services : Mr Andrew Ross
Community Emergency Services Manager : Mr Adam Jasper
Acting Manager Human and Community Services : Mr Jason Cleary
Governance Officer / Council Support : Ms Claire Schiller
Coordinator Environmental Health and Events : Ms Chris McAtee

MEMBERS OF THE PUBLIC : 0

MEMBERS OF THE PRESS : AMR Times, Warren Hately

2.1 Apologies

Nil
2.2. Approved Leave of Absence
Nil

3.0 DISCLOSURES OF INTEREST
Nil

4.0 PUBLIC QUESTIONS
4.1 Public Question Time
Nil

5.0 DEPUTATIONS
Nil

6.0 SPECIAL BUSINESS
6.1 Special Business
6.1 SHIRE RESPONSE TO CORONAVIRUS COVID-19 PANDEMIC

LOCATION/ADDRESS  Shire of Augusta Margaret River

APPLICANT/LANDOWNER  N/A

FILE REFERENCE  COR/277

REPORT AUTHOR  Stephanie Addison-Brown, Chief Executive Officer

AUTHORISING OFFICER  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 |

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Power / Duty assigned in legislation to:

Express Power to Delegate:
- Power that enables a delegation to be made

Express Power or Duty Delegated:

Delegated to: Chief Executive Officer

Function:
- This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.

Power to:
1. Vary a contract that has been entered into with a successful tenderer, provided the variation does not change the scope of the original contract;
2. 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].

Council Conditions on this Delegation:
1. 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;
2. Where any price variation to a contract exceeds $50,000 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.

Express Power to Sub-Delegate:
- Local Government Act 1995: 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 $50,000 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 / PROPONEENT
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

RECOMMENDATION
CR GODDEN, CR DANIEL
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;
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   (b) Where any price variation to a contract exceeds $50,000 an agenda item shall be brought to Council as soon as is practicably 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.'
Cr Kennaugh moved the following amendment:

**AMENDMENT / COUNCIL DECISION**

CR KENNAUGH, CR DANIEL SM2020/1
That the third Councillor be a proxy.  

**LOST 3/4**

CRS GODDEN, MELDRUM, MCLEOD, AND CRISTOFFANINI VOTED AGAINST

Acting Director Infrastructure Services left Chambers at 11.42am
Manager Legal and Governance Services left Chambers at 11.45am
Acting Director Infrastructure Services re-entered Chambers at 11.46am
Manager Legal and Governance Services re-entered Chambers at 11.47am

Debate then continued on the primary motion:

**PRIMARY MOTION / COUNCIL DECISION**

CR GODDEN, CR DANIEL SM2020/2
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 Cristoffanini 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:

   (c) 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;

   (d) Where any price variation to a contract exceeds $50,000 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.

**CARRIED 7/0**

7.0 **CLOSURE OF MEETING**

The Shire President thanked all in attendance and declared the meeting closed at 11.48am