

# Special Council Meeting

# MINUTES

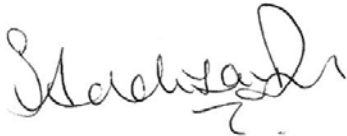
FOR THE MEETING TO BE HELD  
WEDNESDAY 18 MARCH 2020  
IN COUNCIL CHAMBERS,  
WALLCLIFFE ROAD, MARGARET RIVER  
COMMENCING AT 11.00AM

# 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 11.30am 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<br>Cr Naomi Godden<br>Cr Brian Daniel<br>Cr Kylie Kennaugh<br>Cr Pauline McLeod<br>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  |
| <b>MEMBERS OF THE PUBLIC</b>                | : | 0  |
| <b>MEMBERS OF THE PRESS</b>                 | : | 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

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|                            |  |
|----------------------------|--|
| <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 |

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### 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.'**

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### 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><br><i>Power that enables a delegation to be made</i>  | <i>Local Government Act 1995:</i><br>s.5.42 Delegation of some powers or duties to the CEO<br>s.5.43 Limitations on delegations to the CEO   |
| <b>Express Power or Duty Delegated:</b>   | <i>Local Government Act 1995:</i><br>s.3.57 Tenders for providing goods or services<br><i>Local Government (Functions and General) Regulations 1996:</i><br>r.21A Varying a contract for the supply of goods or services   |
| <b>Delegated to:</b>  | <b>Chief Executive Officer</b>   |
| <b>Function:</b><br><i>This is a precis only. Delegates must act with full understanding of the legislation and conditions relevant to this delegation.</i> | Power to:<br><br>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;<br><br>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 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;<br><br>(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>Express Power to Sub-Delegate:</b>   | <i>Local Government Act 1995:</i><br>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;**
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#### **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

#### **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;**
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Cr Godden nominated Cr Cristoffanini, Cr Cristoffanini accepted the nomination.  
Cr McLeod nominated Cr Meldrum, Cr Meldrum declined the nomination.  
Cr Kennaugh nominated Cr Daniel, Cr Daniel accepted the nomination.

*Cr Cristoffanini left Chambers at 11.33am  
Cr Cristoffanini re-entered Chambers at 11.34am*

*As there were two nominees, the CEO advised the meeting a ballot would be conducted.*

*The CEO distributed ballot papers to each Councillor.*

*The CEO collected each ballot paper and counted the votes.*

*The CEO announced Cr Cristoffanini had won with a vote count of 4/3.*

*Debate then continued on the primary motion:*

#### **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;
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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 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.'**

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*Cr Kennaugh moved the following amendment:*

**AMENDMENT / COUNCIL DECISION**

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**CR KENNAUGH, CR DANIEL SM2020/1**

**That the third Councillor be a proxy.**

**LOST 3/4**

**CRS GODDEN, MELDRUM, MCLEOD, AND CRISTOFFANINI VOTED AGAINST**

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*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**

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**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;**
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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**

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**7.0 CLOSURE OF MEETING**

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

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