



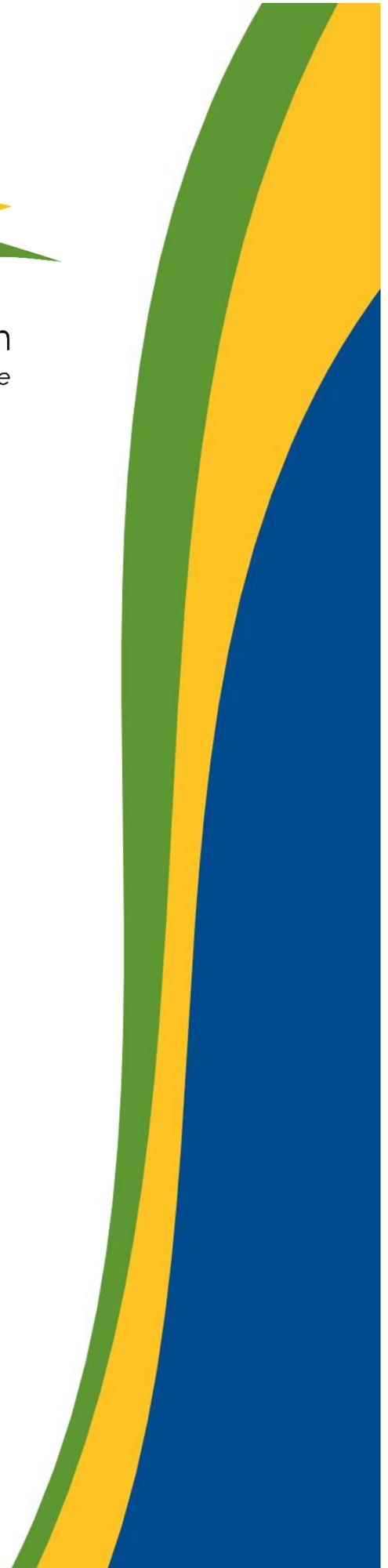
Shire of Northam
Heritage, Commerce and Lifestyle

Shire of Northam

Agenda

Special Council Meeting

13 May 2020



NOTICE PAPER
Special Council Meeting
13 May 2020

President and Councillors

I inform you that a Special Council meeting will be held by electronic means on 13 May 2020 at 4:30pm.

Yours faithfully



Jason Whiteaker
Chief Executive Officer

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.

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1. DECLARATION OF OPENING

2. ATTENDANCE

Council:

Shire President
Deputy Shire President
Councillors

C R Antonio
J E G Williams
M I Girak
A J Mencshelyi
D Galloway
C P Della
T M Little
R W Tinetti
M P Ryan
S B Pollard

Staff:

Chief Executive Officer	J B Whiteaker
Executive Manager Engineering Services	C D Kleynhans
Executive Manager Development Services	C B Hunt
Executive Manager Community Services	R Rayson
Executive Manager Corporate Services	C Young
Executive Assistant to the CEO (Acting)	J Grant

2.1 APOLOGIES

Nil

2.2 APPROVED LEAVE OF ABSENCE

Nil.

3. DISCLOSURE OF INTERESTS

Members should fill in Disclosure of Interest forms for items in which they have a financial, proximity or impartiality interest and forward these to the Presiding Member before the meeting commences.

A **financial interest** occurs where a Councillor, or a person with whom the Councillor is closely associated, has a direct or indirect financial interest in the matter. That is, the person stands to make a financial gain or loss from the decision, either now or at some time in the future.

An **indirect financial** interest includes a reference to a financial relationship between that person and another person who requires a Local Government decision in relation to the matter.

A person has a **proximity interest** in a matter if the matter concerns a proposed change to a planning scheme affecting land that adjoins the person's land; or a proposed change to the zoning or use of land that adjoins the person's land; or a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.

An **impartiality interest** means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

Item Name	Item No.	Name	Type of Interest	Nature of Interest

4. ANNOUNCEMENT BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Nil.

5. PUBLIC QUESTION TIME

5.1 PUBLIC QUESTIONS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

7. RECEIVING OF PETITIONS, PRESENTATIONS AND DEPUTATIONS

7.1 PETITIONS

Nil.

7.2 PRESENTATIONS

Nil.

7.3 DEPUTATIONS

8. APPLICATION FOR LEAVE OF ABSENCE

Nil.

9. CONFIRMATION OF MINUTES

10. ITEMS BROUGHT FORWARD FOR THE CONVENIENCE OF THOSE IN THE PUBLIC GALLERY

Nil.

11. REPORTS OF COMMITTEE MEETINGS

Nil.

12. Chief Executive Officer

12.1 Local Business Support Committee

File Reference:	1.1.9.16
Reporting Officer:	Chief Executive Officer – Jason Whiteaker
Responsible Officer:	Chief Executive Officer – Jason Whiteaker
Officer Declaration of Interest:	Nil
Voting Requirement:	Absolute Majority
Press release to be issued:	No

BRIEF

Report provided to recommend a change to the Councils established Local Business Support Committee

ATTACHMENTS

Attachment 1: NOTICE TO REVOKE DECISION OF COUNCIL OR COMMITTEE

A. BACKGROUND / DETAILS

At the April 15 2020 meeting of Full Council a decision was made, on the recommendation of staff, to establish a Local Business Support Committee. The purpose of the Committee was to oversee and make determinations on all matters associated with the established Local Business Support Grant Scheme. As part of the establishment Council made a determination to delegate the following authority to the Committee:

- a. Receive and assess grant applications; and
- b. Make a final determination on all grant applications received.

The Committee was established to be inclusive of elected members, staff and other persons. This was an oversight as section 5.17 of the Local Government Act clearly does not allow Council to delegate Authority to Committees which include staff or 'other persons'.

B. CONSIDERATIONS

B.1 Strategic Community / Corporate Business Plan

Theme Area: 6 - Governance & Leadership

Outcome: The elected members of the Shire of Northam provide accountable, strong and effective community leadership.

Objective: Open, accountable and effective decision making

B.2 Financial / Resource Implications

Nil

B.3 Legislative Compliance

5.17. Limits on delegation of powers and duties to certain committees

- 1) A local government can delegate —
 - (a) to a committee comprising council members only, any of the council's powers or duties under this Act except —
 - (i) any power or duty that requires a decision of an absolute majority of the council; and
 - (ii) any other power or duty that is prescribed; and
 - (b) to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and
 - (c) to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of —
 - (i) the local government's property; or
 - (ii) an event in which the local government is involved.
- (2) A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).

B.4 Policy Implications

Nil

B.5 Stakeholder Engagement / Consultation

Nil

B.6 Risk Implications

Refer to Risk Matrix [here](#).

Risk Category	Description	Rating (likelihood x consequence)	Mitigation Action
Financial	Nil		
Health & Safety	Nil		
Reputation	Failure to amend the Committee structure will result in a non-compliance with the LG Act, which could cause public embarrassment	5 Almost Certain x 1 Insignificant = 5 - High	Adopt Officer Recommendation to amend Committee Membership
Service Interruption	Nil		

Compliance	Failure to amend the Committee structure will result in a non-compliance with the LG Act	5 Almost Certain x 2 Minor = 10 - High	Adopt Officer Recommendation to amend Committee Membership
Property	Nil		
Environment	Nil		

C. OFFICER'S COMMENT

It is recommended that to correct this error, it would be appropriate to revoke/change the previous decision of Council and re-establish the Committee.

In order to revoke/change the decision, the provided notice / form (attachment 1) must be completed, which would satisfy the Local Government Act requirement for a notice of motion to revoke or change a decision being in writing [Admin Regulation 10(1a)] and being supported by 1/3 of the Council – inclusive of the mover. Cr Little moved the motion.

Given the current Covid-19 environment, if Cr Little and three other Elected Members indicate their willingness to submit the notice of motion to revoke (via email to the Chief Executive Officer), staff will arrange for this to be circulated and signed.

RECOMMENDATION #1

That Council revoke its decision to Establish the Local Business Support Committee, made on 15 April 2020, Minute Number C.3921

Absolute Majority Required (6)

RECOMMENDATION #2

That Council;

- 1. Establish the Local Business Support Committee, to comprise of Council Members only;**
- 2. Appoints the Shire President, the Deputy Shire President, Cr Ryan and Cr (s) _____ as members of the committee;**
- 3. Establishes the purpose of the Committee to oversee and make determinations on all matters associated with the Local Business Support Grant Scheme; and**
- 4. Delegates authority to the Local Business Support Committee to undertake the following:**
 - a. Receive and assess grant applications; and**
 - b. Make a final determination on all grant applications received.**

Absolute Majority Required (6)

Attachment 1

NOTICE TO REVOKE DECISION OF COUNCIL OR COMMITTEE

Local Government Act 1995

5.25. Regulations about council and committee meetings and committees

- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to —
- (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made);

Local Government (Administration) Regulations 1996

10. Revoking or changing decisions (Act s. 5.25(1)(e))

- (1) If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —
- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
- (b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (1a) Notice of a motion to revoke or change a decision referred to in sub regulation 1 is to be signed by members of the council or committee numbering at least 1/3 of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.
- (2) If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —
- (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
- (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

Notice is hereby given by the following

	Councillor Name	Signature
1.		
2.		
3.		
4.		

To revoke or change the following decision

Meeting / Date	
Agenda Item No	
Agenda Item Name	
File Reference	
Resolution No	

13. MATTERS BEHIND CLOSED DOORS

Nil

14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

15. URGENT BUSINESS APPROVED BY DECISION

Nil.

16. DECLARATION OF CLOSURE