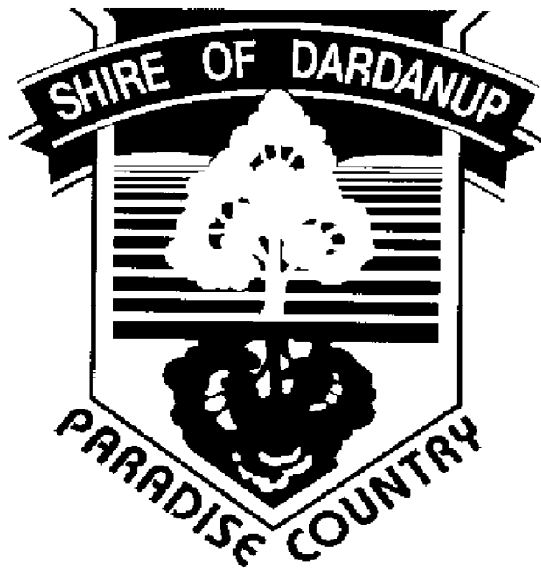


# **A G E N D A**



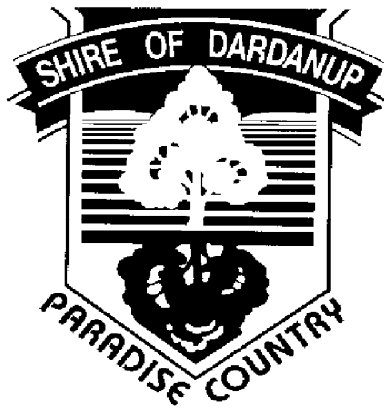
## **SPECIAL MEETING**

**TO BE HELD**

**WEDNESDAY, 21ST OCTOBER 2009  
COMMENCING AT 4.30PM**

**AT**

**SHIRE OF DARDANUP  
ADMINISTRATION CENTRE EATON  
1 COUNCIL DRIVE - EATON**



**SHIRE OF DARDANUP**

**NOTICE OF A SPECIAL COUNCIL MEETING**

Dear Council Member

The next Special Meeting of the Shire of Dardanup will be held on Wednesday 21st October 2009 in the Council Chambers, Shire of Dardanup - Administration Centre Eaton, 1 Council Drive, Eaton - commencing at 4.30pm.

A handwritten signature in black ink, appearing to read 'Mark L Chester', is positioned above the printed name.

**MR MARK L CHESTER**  
**Chief Executive Officer**

Date: 19<sup>th</sup> October 2009

# **TABLE OF CONTENTS**

<b>1</b>	<b>DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS.....</b>	<b>1</b>
<b>2</b>	<b>RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED.....</b>	<b>1</b>
2.1	Attendance.....	1
2.2	Apologies.....	1
<b>3</b>	<b>REPORTS OF OFFICERS – SWEARING IN .....</b>	<b>1</b>
3.1	Title: Election of Shire President and Deputy Shire President .....	2
<b>4</b>	<b>PUBLIC QUESTION TIME .....</b>	<b>6</b>
<b>5</b>	<b>CLOSURE OF MEETING.....</b>	<b>6</b>

## COUNCIL ROLE

Advocacy	When Council advocates on its own behalf or on behalf of its community to another level of government / body /agency.
Executive/Strategic	The substantial direction setting and oversight role of the Council eg. Adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
Legislative	Includes adopting local laws, town planning schemes and policies.
Review	When Council reviews decisions made by Officers.
Quasi-Judicial	<p>When Council determines an application/matter that directly affects a person's rights and interests. The Judicial character arises from the obligations to abide by the principles of natural justice.</p> <p>Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg: under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</p>

## DISCLAIMER

"Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

Any person or entity who has an application before the Shire must obtain, and should only rely on, written notice of the Shire's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

Any advice provided by an employee of the Shire on the operation of a written law, or the performance of a function by the Shire, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the Shire. Any advice on a matter of law, or any thing sought to be relied upon as a representation by the Shire should be sought in writing and should make clear the purpose of the request."

## **SHIRE OF DARDANUP**

### **AGENDA FOR THE SHIRE OF DARDANUP SPECIAL MEETING OF COUNCIL TO BE HELD ON WEDNESDAY 21ST OCTOBER 2009, AT SHIRE OF DARDANUP – EATON ADMINISTRATION CENTRE, COMMENCING AT 3.00PM.**

#### **1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

Mr M L Chester, Chief Executive Officer, to act as the Presiding Officer; to welcome those in attendance and refer to the Disclaimer and the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers:

##### *Affirmation of Civic Duty and Responsibility*

*Councillors and Officers of the Shire of Dardanup collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the Shire's Code of Conduct and Standing Orders to ensure efficient, effective and orderly decision making with in this forum.*

Mr Chester to announce that he will be presiding over the meeting until the swearing in and signing of the Declarations of Elected Members and the Office of President is filled (Local Government Act 1995 Sch 2.3,3).

#### **2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED**

2.1 Attendance

2.2 Apologies

#### **3 REPORTS OF OFFICERS – SWEARING IN**

Chief Executive Officer, Mr Mark Chester to preside over the swearing in and the signing of the Declarations of the newly Elected Members (LGA 1995 Sch 2.3 3):

The following five Councillors terms will run from the 21st October 2009 to October 2013:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

3.1 Title: Election of Shire President and Deputy Shire President

Reporting Department: Executive  
 Reporting Officer: Mr Mark Chester – Chief Executive Officer  
 Legislation: Local Government Act 1995  
 File Number: CO01 0006

Background -

Following the October Election, the first task is for newly elected Councillors to complete their Declarations of Office, then the new Council is to elect a Shire President and a Deputy Shire President.

Legal Implications -

Compliance with the Local Government Act 1995 Section 2.29.

2.29. *Declaration*

- (1) *A person elected as an elector mayor or president or as a councillor has to make a declaration in the prescribed form before acting in the office.*
- (2) *A person elected by the council as mayor, president, deputy mayor or deputy president has to make a declaration in the prescribed form before acting in the office.*
- (3) *A declaration required by this section is to be taken or made before a prescribed person.*
- (4) *A person who acts in an office contrary to this section commits an offence.*  
*Penalty: \$5 000 or imprisonment for one year.*

The process:

***Schedule 2.3 — When and how mayors, presidents, deputy mayors and deputy presidents are elected by the council***

*[Sections 2.11(1)(b) and 2.15]*

***Division 1 — Mayors and presidents***

**2. *When the council elects the mayor or president***

- (1) *The office is to be filled as the first matter dealt with —*
  - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*

- (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.*
- 3. CEO to preside**
- The CEO is to preside at the meeting until the office is filled.*
- 4. How the mayor or president is elected**
- (1) *The council is to elect a councillor to fill the office.*
- (2) *The election is to be conducted by the CEO in accordance with the procedure prescribed.*
- (3) *Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.*

*[Clause 4 amended by No. 49 of 2004 s. 69(2)-(5); No. 66 of 2006 s. 14.]*

- 5. Votes may be cast a second time**
- (1) *If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.*
- (3) *When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*

**Division 2 — Deputy mayors and deputy presidents****7. When the council elects the deputy mayor or deputy president**

- (1) *If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —*
  - (a) *at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
  - (b) *at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (2) *If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —*
  - (a) *as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and*
  - (b) *subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.*
- (3) *If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.*

**8. How the deputy mayor or deputy president is elected**

- (1) *The council is to elect a councillor (other than the mayor or president) to fill the office.*
- (2) *The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.*
- (3) *Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.*
- (3a) *Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.*
- (4) *If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.*
- (5) *The council members are to vote on the matter by secret ballot as if they were electors voting at an election.*
- (6) *Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.*
- (7) *As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.*

*[Clause 8 amended by No. 64 of 1998 s. 54(2)-(4); No. 49 of 2004 s. 69(6)-(9).]*

## 9. *Votes may be cast a second time*

- (1) *If, when the votes cast under clause 8(5) are counted, there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and, not more than 7 days later, a special meeting of the council is to be held.*
- (2) *Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.*
- (3) *When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.*
- (4) *The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election.*

Strategic Plan - None.

Environment - None.

Precedents - None.

Budget Implications - None.

Budget – Whole of Life Cost - None

Council Policy Compliance - None

- **ELECTION OF PRESIDENT**

### Officer Comment

Nominations for the Office of President are to be given to the Chief Executive Officer in writing.

The position of Shire President runs from the 21st October 2009 to October 2011. The office of President is for a two year term – expires at the time of each Ordinary election Local Government Act 1995 2.28(2) Item 11.

Nominee to accept the nomination in writing to the position of Shire President and sign a Declaration of Office for Shire President.

Voting Requirements- By secret ballot (Schedule 2.3 4. (5) ) (Schedule 4.1)

“The candidate that receives the greater number of votes is elected.”

The Elected Shire President, to be sworn in then to take over the position of Chairperson.

- **ELECTION OF DEPUTY SHIRE PRESIDENT**

Officer Comment

Shire President to call for written nominations for the position of Deputy Shire President.

Nominations for the Office of Deputy Shire President are to be given to the Chief Executive Officer in writing.

The position of Deputy Shire President is from the 21st October 2009 to October 2011. A two year term as with the Shire President - Local Government Act 1995 2.28 (2) Item 12.

The nominee is to sign the nomination if they accept the nomination, or advise the presiding officer orally that they accept the nomination.

Council Role - Legislative

Voting Requirements- By secret ballot (Schedule 2.3 4. (5) ) (Schedule 4.1)

“The candidate that receives the greater number of votes is elected.”

Newly elected Deputy Shire President to complete and sign a Declaration of Office for Deputy Shire President.

**4 PUBLIC QUESTION TIME**

None.

**5 CLOSURE OF MEETING**

The Shire President advises that the next Ordinary Meeting of Council will follow this meeting. Wednesday 21st October 2009, commencing at 4.30pm at the Shire of Dardanup – Administration Centre Eaton.

There being no other business on the Special meeting agenda, the Shire President to declare the meeting closed.