



**CONFIRMED**

# **MINUTES**

## **SPECIAL COUNCIL MEETING**

Held

**5<sup>th</sup> of October 2021**

At

**Shire of Dardanup  
Administration Centre Eaton  
1 Council Drive - EATON**

This document is available in alternative formats such as:

- ~ Large Print
  - ~ Electronic Format [disk or emailed]
- Upon request.

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## **VISION STATEMENT**

“Provide effective leadership in encouraging balanced growth and development of the Shire while recognizing the diverse needs of our communities.”

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## COUNCIL ROLE

<b>Advocacy</b>	When Council advocates on its own behalf or on behalf of its community to another level of government / body /agency.
<b>Executive/Strategic</b>	The substantial direction setting and oversight role of the Council e.g. Adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.
<b>Legislative</b>	Includes adopting local laws, town planning schemes and policies.
<b>Review</b>	When Council reviews decisions made by Officers.
<b>Quasi-Judicial</b>	<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 (e.g.: 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 that 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 anything 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."

## RISK ASSESSMENT

<b>Inherent Risk</b>	The level of risk in place in order to achieve the objectives of the Council and before actions are taken to alter the risk's impact or likelihood.
<b>Residual Risk</b>	The remaining level of risk following the development and implementation of Council's response.
<b>Strategic Context</b>	These risks are associated with achieving Council's long term objectives.
<b>Operational Context</b>	These risks are associated with the day-to-day activities of the Council.
<b>Project Context</b>	<p>Project risk has two main components:</p> <ul style="list-style-type: none"><li>• Direct refers to the risks that may arise as a result of project, which may prevent the Council from meeting its objectives.</li><li>• Indirect refers to the risks which threaten the delivery of project outcomes.</li></ul>

**SHIRE OF DARDANUP**

**MINUTES OF THE SHIRE OF DARDANUP SPECIAL COUNCIL MEETING HELD ON TUESDAY, THE 5<sup>TH</sup> OF OCTOBER 2021, AT SHIRE OF DARDANUP - ADMINISTRATION CENTRE EATON, COMMENCING AT 4.00PM**

**1 DECLARATION OF OPENING/ANNOUNCEMENTS OF VISITORS**

The Presiding Member, Cr. M T Bennett declared the meeting open, welcomed those in attendance and referred to the Disclaimer, Acknowledgement of Country, Emergency Procedure and the Affirmation of Civic Duty and Responsibility on behalf of Councillors and Officers:

*Acknowledgement of Country*

*The Shire of Dardanup wishes to acknowledge that this meeting is being held on the traditional lands of the Noongar people. In doing this, we recognise and respect their continuing culture and the contribution they make to the life of this region and pay our respects to their elders, past, present and emerging.*

*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 within this forum.*

*Emergency Procedure*

*In the event of an emergency, please follow the instructions of the Chairperson who will direct you to the safest exit route. Once outside, please proceed to the Assembly Area points located to the western side of the front office car park near the skate park and gazebo where we will meet (and complete a roll call).*

**2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE PREVIOUSLY APPROVED****2.1 Attendance**

Cr. Michael Bennett	-	Shire President
Cr. Peter Robinson	-	Deputy Shire President
Cr. Tyrrell Gardiner	-	Elected Member
Cr. Carmel Boyce	-	Elected Member
Cr. Patricia Perks	-	Elected Member
Cr. Mark Hutchinson	-	Elected Member
Cr. Janice Dow	-	Elected Member
Mr André Schönfeldt	-	Chief Executive Officer
Mrs Natalie Hopkins	-	Acting Deputy Chief Executive Officer
Ms Susan Oosthuizen	-	Director Sustainable Development
Mrs Ella Rafferty	-	Executive Support Officer

**2.2 Apologies**

Cr. Stacey Gillespie	-	Elected Member
Cr. Luke Davies	-	Elected Member
Mr Phil Anastasakis	-	Deputy Chief Executive Officer

**2.3 Leave of Absence**

None.

**3      RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

None.

**4      PUBLIC QUESTION TIME**

None.

**5      APPLICATIONS FOR LEAVE OF ABSENCE**

None.

**6      PETITIONS/DEPUTATIONS/PRESENTATIONS**

None.

**7      CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**7.1      Ordinary Meeting Held on the 29<sup>th</sup> of September 2021**

**Note:** *The Minutes of the Ordinary Council Meeting held on Wednesday, the 29<sup>th</sup> of September 2021 will be confirmed at the next Ordinary Council Meeting on Wednesday, the 27<sup>th</sup> of October 2021.*

## 8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

None.

## 9 ANNOUNCEMENTS OF MATTERS FOR WHICH MEETING MAY BE CLOSED

### 9.1 Title: The Shire of Dardanup Administration, Library & Community Building

It is recommended that Council go behind closed doors toward the end of the meeting in accordance with Shire of Dardanup Standing Orders & Local Government Act 1995 Section 5.23 (2) - Matters for Which Meeting May Be Closed:

Standing Order and the Local Government Act 1995 provides for Council to resolve to close the meeting to the public and proceed behind closed doors for matters:

- S 5.23 (1) Subject to subsection (2), the following are to be open to members of the public-*
- (a) all Council meetings; and*
  - (b) all meetings of any committee to which a local government power or duty has been delegated.*
  - (2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following -*
    - (a) a matter affecting an employee or employees;*
    - (b) the personal affairs of any person;*
    - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
    - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
    - (e) a matter that if disclosed, would reveal -*
      - (i) a trade secret;*
      - (ii) information that has a commercial value to a person; or*
      - (iii) information about the business, professional, commercial or financial affairs of a person,*  
*where the trade secret or information is held by, or is about, a person other than the local government;*
    - (f) a matter that if disclosed, could be reasonably expected to -*
      - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*
      - (ii) endanger the security of the local government's property; or*
      - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
    - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and*
    - (h) such other matters as may be prescribed.*
  - (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

**Note:** *Shire President, Cr. M T Bennett advised that the meeting will go behind closed doors toward the end of the meeting to discuss S.5.23 section (2)(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*



**10 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

None.

**11 DECLARATION OF INTEREST**

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."

Key Management Personnel (which includes Elected Members, CEO and Directors) are reminded of their requirement to disclose biannually transactions between Council and related parties in accordance with Council Policy CnG CP039.

*Discussion*

*Shire President, Cr M.T Bennet asked Councillors and staff if there were any Declaration of Interest to be made.*

*There were none.*

**12 REPORTS OF OFFICERS AND COMMITTEES**

None.

**13 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

None.

**14 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

None.

<b>15 PUBLIC QUESTION TIME</b>
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None.

<b>16 MATTERS BEHIND CLOSED DOORS</b>
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It is recommended that the following item be heard behind closed doors.

Shire of Dardanup Standing Orders & Local Government Act 1995 Section 5.23 - Matters for Which Meeting May Be Closed:

Standing Order and the Local Government Act 1995 provides for Council to resolve to close the meeting to the public and proceed behind closed doors for matters:

- |   |
|---|
| <p><i>S 5.23 (1) Subject to subsection (2), the following are to be open to members of the public-</i></p> <ul style="list-style-type: none"> <li><i>(a) all Council meetings; and</i></li> <li><i>(b) all meetings of any committee to which a local government power or duty has been delegated.</i></li> </ul> <p><i>(2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following -</i></p> <ul style="list-style-type: none"> <li><i>(a) a matter affecting an employee or employees;</i></li> <li><i>(b) the personal affairs of any person;</i></li> <li><i>(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;</i></li> <li><i>(d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;</i></li> <li><i>(e) a matter that if disclosed, would reveal -</i> <ul style="list-style-type: none"> <li><i>(i) a trade secret;</i></li> <li><i>(ii) information that has a commercial value to a person; or</i></li> <li><i>(iii) information about the business, professional, commercial or financial affairs of a person,</i><br/><i>where the trade secret or information is held by, or is about, a person other than the local government;</i></li> </ul> </li> <li><i>(f) a matter that if disclosed, could be reasonably expected to -</i> <ul style="list-style-type: none"> <li><i>(i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;</i></li> <li><i>(ii) endanger the security of the local government's property; or</i></li> <li><i>(iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;</i></li> </ul> </li> <li><i>(g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and</i></li> <li><i>(h) such other matters as may be prescribed.</i></li> </ul> <p><i>(3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.</i></p> |
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**OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

306-21            MOVED -            Cr. P S Robinson            SECONDED -            Cr. P R Perks

**THAT in accordance with the Local Government Act 1995, S 5.23, section (2)(c) Council goes Behind Closed Doors [4.03pm] to discuss a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.**

CARRIED  
5/2

<i><b>FOR THE MOTION</b></i>	<i><b>AGAINST THE MOTION</b></i>
<i>Cr. M T Bennett</i>	<i>Cr. J Dow</i>
<i>Cr. P S Robinson</i>	<i>Cr. M R Hutchinson</i>
<i>Cr. T G Gardiner</i>	
<i>Cr. C N Boyce</i>	
<i>Cr. P R Perks</i>	

*Note: Cr. J Dow left the meeting [4.04pm].*

16.1 Title: The Shire of Dardanup Administration, Library & Community Building

Reporting Department: Executive

Reporting Officers: Mr André Schönfeldt - Chief Executive Officer

Ms Susan Oosthuizen – Director Sustainable Development

Legislation: Local Government Act 1995

**REPORT UNDER SEPARATE COVER**

*Note: In accordance with the Local Government Act 1995 5.23 (2) this report is not available to the public. The Shire President tables the confidential report on this matter and provides copies to each elected member. The report will be located in the Records Management System of the Council.*

**PROCESS - REVOCATION OF RESOLUTION**

In accordance with Shire of Dardanup Standing Orders Local Law 2014 and S10 of Local Government (Administration) Regulations 1996 a Notice to Revoke Resolution (309-21) of the 5<sup>th</sup> of October 2021 Ordinary Council Meeting was signed by  
Cr. M T Bennett, Cr. T G Gardiner and Cr. P S Robinson

The signed notice was accepted by the Chief Executive Officer, Mr André Schönfeldt prior to the meeting.

*Note: the following Council Resolution (356-21) was made at the Ordinary Council Meeting held on the 27<sup>th</sup> of October 2021.*

**OFFICER RECOMMENDED RESOLUTION 'A' & COUNCIL RESOLUTION**

356-21            MOVED -            Cr. M T Bennett            SECONDED -            Cr. P S Robinson

**THAT Council revokes Resolution (309-21) from the Ordinary Council meeting dated 29<sup>th</sup> of September 2021.**

CARRIED  
8/0



**OFFICER RECOMMENDED RESOLUTION 'B' & COUNCIL RESOLUTION**

357-21            MOVED -            Cr. M T Bennett            SECONDED -            Cr. P R Perks

**THAT Council:**

1.        **Endorses Option 5 as presented by PHA and ATC Architects included in [Confidential Appendix BCD: 16.4B] as Council's preferred option;**
2.        **Agrees to Perkins Pty. Ltd. being joined as one of the counterparties (either jointly, or as part of the counterparty consortium) to the Early Contractor Involvement Contract and for the 15% Schematic Design for Option 5 with detailed costings to be completed by the 30<sup>th</sup> of November 2021, with the intent to enter into a Design and Construct Contract with a Guaranteed Maximum Price of \$14,500,000;**
3.        **Requires the contractor and architects to provide updated financial statements and insurance policies, before the ECI contract is finalised and before the contract progresses to a Design and Construction Contract.**
4.        **Agrees that the intended \$14,500,000 Guaranteed Maximum Price is not intended to provide for fixed contingencies related to servicing the site or buildings and that such provisions are to be made as additional costs to the project;**
5.        **Agrees that the total ECI Contract cost will not exceed \$167,500 and authorises the Chief Executive Officer to negotiate and finalise the ECI contract with PHA, ATC Studio and Perkins Pty Ltd as joint counterparties, and to commence preliminary negotiations on the Design and Construct Contract.**

CARRIED  
7/1

<i>FOR THE MOTION</i>	<i>AGAINST THE MOTION</i>
<i>Cr. M T Bennett</i>	<i>Cr. J Dow</i>
<i>Cr. P S Robinson</i>	
<i>Cr. T G Gardiner</i>	
<i>Cr. E P Lilly</i>	
<i>Cr. P R Perks</i>	
<i>Cr. S Gillespie</i>	
<i>Cr. M Hutchinson</i>	

**OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

310-21            MOVED –            Cr. T G Gardiner            SECONDED –            Cr. P S Robinson

**THAT Council return from Behind Closed Doors [6.09pm].**CARRIED  
6/0

*Note: In accordance with Standing Order 5.2(6) the Presiding Officer, did not cause the motion passed by Council whilst behind closed doors to be read out.*

## 17 CLOSURE OF MEETING

The Presiding Officer advised that the date of the next:

- Special Meeting of Council will be held on the 20<sup>th</sup> of October 2021, commencing at 5.00pm at the Shire of Dardanup – Administration Centre Eaton
- Ordinary Meeting of Council will be held on Wednesday, the 27<sup>th</sup> of October 2021, commencing at 5.00pm at the Shire of Dardanup - Administration Centre Eaton.

There being no further business the Presiding Officer declared the meeting closed at 6.09pm.



## CONFIRMATION OF MINUTES

**“As the person presiding at the meeting at which these minutes were confirmed on the 27<sup>th</sup> of October 2021, I certify that these minutes have been confirmed as a true and accurate record of proceedings”.**

## Notice of Motion – Revoking Resolution

Local Government Act 1995 [5.25(1)e]

Local Government (Administration) Regulations 1996 [10]

Standing Orders Local Law 2014 [11.3]

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We the undersigned Councillors give Notice that we agree to support the revocation of:

**Resolution:** 309-21

**At the meeting held:** 5 October 2021

**That reads:**

*THAT Council:*

1. *Endorses Option 4 as presented by PHA and ATC Architects included in [Confidential Appendix BCD: 16.1A] page 58-69 as Council's preferred option and for it to be approximately 3,200m<sup>2</sup>;*
2. *Extends the Early Contractor Involvement contract with PHA and ATC Architects to complete a 15% Schematic Design for Option 4, including user-group workshops to refine the design with the intent to enter into a Design and Construct Contract within the GMP price of \$14,500,000.*
3. *Authorises the Chief Executive Officer to negotiate and finalise the ECI contract with PHA and ATC Architects.*

*CARRIED*  
*6/0*



## Notice of Motion – Revoking Resolution

Local Government Act 1995 [5.25(1)e]  
Local Government (Administration) Regulations 1996 [10]  
Standing Orders Local Law 2014 [11.3]


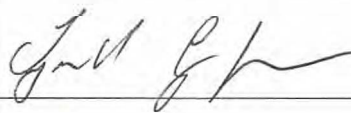

**The reason  
being:**

Council is requested to consider an alternative design option (Option 5) received from Peter Hobbs Architects (PHA) and Advanced Timber Concepts Studio (ATC). In addition this report also requests Council's consideration towards allowing Perkins Pty. Ltd. to be joined to the ECI contract and for the ECI Contract phase 2 deadline to be extended to the 30<sup>th</sup> of November 2021. This report also requests Council's consideration towards the additional costs associated with completion of the ECI contract and consideration towards making provision for the fixed contingencies as additional costs over and above the Guaranteed Maximum Price. Should Council agree to these requests a report will be presented to Council at the 15<sup>th</sup> of December 2021 Ordinary Council meeting to consider the outcomes of the ECI process, with the intent to then enter into a Design and Construct Contract with PHA, ATC and Perkins Pty. Ltd as joint contractors.

To allow for the proposed Officer recommended changes, Council will be required to revoke Resolution (309-21) from the Special Council meeting dated 5<sup>th</sup> of October 2021.

See attached alternate Officer Recommended Resolution for council to consider as replacing the proposed revocation. Note: Red

**Signed:**

 CR. M. BENNETT
 CR. FARRELL GARDNER


Note: Notice to be handed to the Chief Executive Officer.

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Office Use Only.

Signed: \_\_\_\_\_

Chief Executive Officer

Date: \_\_\_\_\_

27/10/21

05/10/2021 OCM – Original Res 309-21	27/10/2021 OCM - Recommended Res
<p><i>THAT Council:</i></p> <ol style="list-style-type: none"> <li>1. <i>Endorses Option 4 as presented by PHA and ATC Architects included in [Confidential Appendix BCD: 16.1A] page 58-69 as Council's preferred option and for it to be approximately 3,200m<sup>2</sup>;</i></li> <li>2. <i>Extends the Early Contractor Involvement contract with PHA and ATC Architects to complete a 15% Schematic Design for Option 4, including user-group workshops to refine the design with the intent to enter into a Design and Construct Contract within the GMP price of \$14,500,000.</i></li> <li>3. <i>Authorises the Chief Executive Officer to negotiate and finalise the ECI contract with PHA and ATC Architects.</i></li> </ol>	<p><i>THAT Council:</i></p> <ol style="list-style-type: none"> <li>1. <i>Endorses Option 5 as presented by PHA and ATC Architects included in [Confidential Appendix BCD: 16.4B] as Council's preferred option;</i></li> <li>2. <i>Agrees to Perkins Pty. Ltd. being joined as one of the counterparties (either jointly, or as part of the counterparty consortium) to the Early Contractor Involvement Contract and for the 15% Schematic Design for Option 5 with detailed costings to be completed by the 30th of November 2021, with the intent to enter into a Design and Construct Contract with a Guaranteed Maximum Price of \$14,500,000;</i></li> <li>3. <i>Requires the contractor and architects to provide updated financial statements and insurance policies, before the ECI contract is finalised and before the contract progresses to a Design and Construction Contract.</i></li> <li>4. <i>Agrees that the intended \$14,500,000 Guaranteed Maximum Price is not intended to provide for fixed contingencies related to servicing the site or buildings and that such provisions are to be made as additional costs to the project;</i></li> <li>5. <i>Agrees that the total ECI Contract cost will not exceed \$167,500 and authorises the Chief Executive Officer to negotiate and finalise the ECI contract with PHA, ATC Studio and Perkins Pty Ltd as joint counterparties, and to commence preliminary negotiations on the Design and Construct Contract.</i></li> </ol>

**Signature:** 

**Email:** michael.bennett@dardanup.wa.gov.au