



Shire of Dardanup

**CONFIRMED**

# MINUTES

## SPECIAL COUNCIL MEETING

Held

6th of July 2022

At

Shire of Dardanup  
ADMINISTRATION CENTRE EATON  
1 Council Drive - EATON

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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>	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.  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.

## 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>	Project risk has two main components: <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 WEDNESDAY, THE 6<sup>TH</sup> OF JULY 2022, AT SHIRE OF DARDANUP – ADMINISTRATION CENTRE EATON, COMMENCING AT 3.30PM.**

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

The Presiding Member, Cr M T Bennett declared the meeting open at 3.30pm, welcomed those in attendance, 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. The Shire of Dardanup also respects and celebrates all cultures of all our residents and visitors to our Shire.*

*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, you will be directed to an appropriate Assembly Area where we will meet (and complete a roll call).*

*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.*

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

Cr. Michael Bennett	-	Shire President
Cr. Tyrrell Gardiner	-	Deputy Shire President [3.35pm]
Cr. Peter Robinson	-	Elected Member
Cr. Patricia Perks	-	Elected Member
Cr. Janice Dow	-	Elected Member
Cr. Stacey Gillespie	-	Elected Member
Cr. Mark Hutchinson	-	Elected Member [3.35pm]
Cr. Ellen Lilly	-	Elected Member
Cr. Luke Davies	-	Elected Member
Mr André Schönfeldt	-	Chief Executive Officer
Mr Phil Anastasakis	-	Deputy Chief Executive Officer
Ms Susan Oosthuizen	-	Director Sustainable Development
Mr Theo Naudé	-	Director Infrastructure
Ms Cathy Lee	-	Manager Governance & HR
Mrs Gabriella Hayward	-	Acting Executive Support Officer

**2.2 Apologies**

None.

**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****7.1 Mr Michael Prosser – Citygate Properties Pty Ltd**

Mr Michael Prosser from Citygate Properties Pty Ltd addressed Council and provided Council with an update regarding the current position of the development of the Eaton Fair. Mr Prosser noted that a sum of around \$100 million had been spent on the development of Eaton Fair and surrounds. Once the area is complete there will be a further \$2M generated in Council rates per year from the Eaton Fair tenants that will assist the community.

*Note: Cr. T G Gardiner and Cr. M R Hutchinson joined the meeting [3.35pm].*

Mr Prosser advised that in terms of where we are at this point in time, we have to finalise the contract of sale. There are still two elements left to finalise. The first is to know that the Shire's development will go ahead and secondly the final clearances on the subdivision for the surrounding land is imminent as well. The money for this has been set aside for some time and there will be a 60 day settlement. I believe this will be a win-win for Council, the Eaton Fair Tenants and the community as a whole.

Shire President, Cr. M T Bennett – When do you expect to sign the Offer and Acceptance?

Mr Michael Prosser – Effectively we are now just waiting on the Shire decision and western power for the subdivision clearances.

Shire President, Cr. M T Bennett – When do you expect that we will own the land?

Mr Michael Prosser – We are hoping that will be as soon as possible.

Shire President, Cr. M T Bennett – The Shire would need to have tenure before spending significant funds on our land. Are you saying that we can do that effectively in 60 days from next week?

Mr Michael Prosser – Yes. Even if there was some uncertainty this could be written into the Contract of Sale. If something held it up a licence agreement could still be put in place until the site is effectively transacted through Landgate.

Shire President, Cr. M T Bennett thanked Mr Prosser for his presentation.

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETING****7.1 Ordinary Council Meeting Held on the 22<sup>nd</sup> of June 2022**

*Note: The Minutes of the Ordinary Council Meeting held on Wednesday, the 22<sup>nd</sup> of June 2022 will be confirmed at the next Ordinary Council Meeting to be held on Wednesday, the 27<sup>th</sup> of July 2022.*

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

None.

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

### 9.1 Title: New Shire of Dardanup Administration, Library and 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:** *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)(e)(iii) information about the business, professional, commercial or financial affairs of a person.*

## 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.

*Note: Cr. M T Bennett read aloud the following Declaration of Interest:*

*Cr. Luke W Davies declared a Financial Interest in Item '16.1 - New Shire of Dardanup Library, Administration and Community Building' as he works at Coles whom is a tenant at Eaton Fair Shopping Centre.*

**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.

**15 PUBLIC QUESTION TIME**

None.



16.1 Title: Revised Updated Guaranteed Maximum Price for the New Shire of Dardanup Library, Administration and Community Building

Reporting Department: Executive  
 Reporting Officer: Mr André Schönfeldt – Chief Executive Officer  
 Mr Phil Anastasakis – Deputy Chief Executive Officer  
 Ms Susan Oosthuizen – Director Sustainable Development  
 Legislation: Local Government Act 1995  
 Attachments: Confidential Documents

**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.

**DECLARATION OF INTEREST**

Cr. L W Davies declared a Financial Interest in this Item and left the room [3.42pm].

Refer to the list of Declarations of Interest.

**SUSPENSION OF STANDING ORDERS**

**COUNCIL RESOLUTION**

170-22      MOVED -      Cr. J P Dow      SECONDED -      Cr. S L Gillespie

**THAT Council suspend Standing Orders [3.42pm] in order to discuss technical details in the options available to Council regarding the New Shire of Dardanup Library, Administration and Community Building.**

CARRIED  
8/0

**COUNCIL RESOLUTION**

171-22      MOVED -      Cr. P S Robinson      SECONDED -      Cr. P R Perks

**THAT Council resumes Standing Orders [5.11pm].**

CARRIED  
8/0

**RESUMPTION OF STANDING ORDERS**

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

172-22            MOVED -            Cr. M T Bennett            SECONDED -            Cr. T G Gardiner

**THAT Council:**

1.        **Accepts the Guaranteed Maximum Price \$16,224,513 excluding GST and excluding fixed contingencies required for servicing the site received from Perkins Pty Ltd to design and construct the New Shire of Dardanup Administration, Library and Community Building.**
2.        **Acknowledges that the expenditure for the 80% Design cost of \$643,000 (ex GST) has already been incurred which reduces the outstanding amount on the GMP to \$15,581,513 as per Perkins' submission received 30 June 2022.**
3.        **Accepts the submission received from Perkins Pty Ltd with regards to Infrastructure fixed contingencies of up to \$1,175,000 excluding GST to be included in the total contract Price, but excluded from the Guaranteed Maximum Price.**
4.        **Delegates, by Absolute Majority, in accordance with section 5.42 of the Local Government Act 1995, authority to the Chief Executive Officer to negotiate changes to the contract to design and construct the New Shire of Dardanup Administration, Library and Community Building to include the following:**
  - i.        **Minor variations under Clause 3A of the Contract, in accordance with Regulation 20 of the Local Government (Functions and General) Regulations 1996, to:**
    - a)        **Update the Design & Construct Contract including Part A and F to allow for the inclusion of the expected escalation in trade costs to be included as a Contingency of \$586,478 ex GST (or 4.55% of direct costs);**
  - ii.       **Variations, after the contract has been entered into, limited to variations which do not change the scope of the contract and which do not increase the contract value beyond 5%, in accordance with Regulation 21A of the Local Government (Functions and General) Regulations 1996.**
5.        **Authorises the Chief Executive Officer to make an advance payment of up to \$1,200,000 (ex GST) under the Design and Construct Contract for the timber procurement.**
6.        **Authorises the additional budget expenditure of up to \$100,000 (ex GST) for re-routing of the Optic Fibre Cable out of the Building Assets Management reserve.**

**7. Endorses the establishment of a Shire of Dardanup Administration, Library & Community Building Working Group consisting of the following 3 Councillors:**

- **Cr. M T Bennett**
- **Cr. T G Gardiner**
- **Cr. P R Perks**

(Please note that this Committee will not have any Delegated Authority).

CARRIED

5/3

*By Absolute Majority*

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

**AND**

**OFFICER RECOMMENDED RESOLUTION ‘B’ & COUNCIL RESOLUTION**

173-22            MOVED -            Cr. M T Bennett            SECONDED -            Cr. P R Perks

**THAT Council:**

1. **Authorise the Chief Executive Officer to take out additional Public Sector Construction Insurance based on the indicative cost estimate provided by LGIS.**
2. **Negotiate any savings in the Design & Construct Contract relating to the Contractors Insurance.**

CARRIED

8/0

**PROCESS**

*In accordance with the Local Government Act 1995 and Section 10 of the Local Government Administration Regulations 1996 (Act s. 5.25(1)(e)). The decision to consider revoking or changing a resolution was supported (in writing prior to the meeting) by at least 3 elected members.*

*“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,*

**PROCESS**

**REVOKING RESOLUTION****OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

174-22            MOVED -            Cr. M T Bennett            SECONDED -            Cr. P R Perks

**THAT Council revoke part 5 of Resolution 134-22 of the Ordinary Council Meeting on the 25<sup>th</sup> of May 2022 that reads as follows:**

5.        *Requests the Chief Executive Officer to call a tender for external project management consultants to assist with the procurement, project management and construction supervision of the project.*

CARRIED

8/0

*By Absolute Majority*

**OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

175-22            MOVED -            Cr. M T Bennett            SECONDED -            Cr. E P Lilly

**THAT Council in relation to “Item 16.2 - Revised Guaranteed Maximum Price for the New Shire of Dardanup Library, Administration and Community Building” of 25<sup>th</sup> of May 2022 Ordinary Council Meeting:**

1.        **Endorses a variation from the Shire of Dardanup Procurement Policy; and**
2.        **Requests the Chief Executive Officer to seek three Quotations (Request For Quotations) for an external superintendent and/or project management consultants to assist with the procurement, project management and construction supervision of the Shire of Dardanup Administration, Library and Community Building project.**

CARRIED

8/0

**OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

176-22            MOVED -            Cr. S L Gillespie            SECONDED -            Cr. M T Bennett

**THAT Council returns from Behind Closed Doors (5:37pm).**

CARRIED

8/0

*Note: Cr. L W Davies returned to the room [5.37pm]*

*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 Member, Cr. M T Bennett advised that the date of the next:

- Ordinary Meeting of Council will be Wednesday, the 27<sup>th</sup> of July 2022, commencing at 5.00pm.

There being no further business Cr. M T Bennett declared the meeting closed at 5.38pm.

**Signature:** 

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