



**CONFIRMED**

# **MINUTES**

# **SPECIAL MEETING**

Held

**24 January 2018**

At

**Shire of Dardanup  
ADMINISTRATION CENTRE EATON  
1 Council Drive - EATON**

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**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 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."

## SHIRE OF DARDANUP

### MINUTES OF THE SHIRE OF DARDANUP SPECIAL MEETING OF COUNCIL HELD ON WEDNESDAY 24 JANUARY 2018, AT SHIRE OF DARDANUP – EATON ADMINISTRATION CENTRE, COMMENCING AT 9.00AM.

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

The Presiding Member, Cr. M T Bennett declared the meeting open at 9.00am, 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 by recognising the strength, resilience and capacity of Gnaala Karla Booja people in this land.*

##### *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 (Chairperson)
Cr. Peter Robinson	-	Deputy Shire President
Cr. Carmel Boyce	-	Elected Member
Cr. Tyrrell Gardiner	-	Elected Member

Cr. James Lee	-	Elected Member [9.04AM]
Cr. Patricia Perks	-	Elected Member
Cr. Janice Dow	-	Elected Member
Mr Mark Chester	-	Chief Executive Officer
Mr Phil Anastasakis	-	Director Corporate & Community Services
Mrs Cathy Lee	-	Manager Governance & HR
Mrs Natalie Hopkins	-	Manager Financial Services
Ms Lee Holben	-	Manager Community Services
Mr James Reilly	-	Project Development Engineer
Mr Mick Saunders	-	Manager Assets
Mr Nathan Ryder	-	Acting Director Engineering & Development Services

## 2.2 Apologies

Cr. Luke Davies	-	Elected Member
Cr. Danny Harris	-	Elected Member
Mr Steve Potter	-	Manager Development Services
Mr Luke Botica	-	Director Engineering & Development Services

### **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 13 December 2017**

Note: The Minutes of the Ordinary Council meeting held on 13 December 2017 will be brought to the 5.00pm Ordinary Council meeting on 24 January 2018 for confirmation.

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

None.

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

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 a matter that has information that has a commercial value to a person.*

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

None.

## **11 DECLARATION OF INTEREST**

*Discussion:*

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

*There was no response.*

**12 REPORTS OF OFFICERS AND COMMITTEES****12.1** Title: Administration and Library Project

This Report is to be considered as a Matter Behind Closed Doors - Item 16.1.

**13 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****13.1** Title: Administration and Library Building Project

This Foreshadowed Motion and Report is to be considered as a Matter Behind Closed Doors – Item 16.2.

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

None.

**15 PUBLIC QUESTION TIME**

None.

**16 MATTERS BEHIND CLOSED DOORS**

It is recommended that the following item be heard behind closed doors.

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.*

## OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION

01-18            MOVED -    Cr. T G Gardiner            SECONDED -    Cr. C N Boyce

**THAT Council go Behind Closed Doors [9.02am] to discuss this item in accordance with Section 5.23(2) of the Local Government Act 1995, as it refers to information that has a commercial value to a person.**

CARRIED  
6/0

16.1 Title: Administration and Library Project

Reporting Department: Engineering & Development Services

Reporting Officer: Mr Luke Botica – Director Engineering & Development Services

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.

Change to Officer Recommendation

As per Local Government (Administration) Regulations 1996 11(da) Council records the following reasons for amending the Officer Recommended Resolution:

- Addition of Part 5 to investigate the option of council entering into a 'design and construct' type contract.
- Amendment to Part 2d) to obtain possible financial assistance with relocating the skate park; and
- Addition of Part 2m) to flag that Council wishes to ensure that a hydrological analysis is completed.

**OFFICER RECOMMENDED RESOLUTION  
& COUNCIL RESOLUTION**

02-18      MOVED - Cr. M T Bennett      SECONDED - Cr. J Lee

**THAT Council:**

1. **Adopts the concept for the new three-storey Shire administration and library building (with a floor area of 6,069m<sup>2</sup>), incorporating timber construction as specified in the Concept Plans and Financial Analysis Report prepared by Bollig Design Group.**
2. **Directs the Chief Executive Officer to prepare a Heads of Agreement with Citygate Properties for the creation of a new lot for the purposes of a Shire administration and library and the sale of crown land, incorporating the following:**
  - a) **Land swap between Citygate Properties Pty Ltd and the Shire of Dardanup for the creation of a new lot of 3000 m<sup>2</sup> of land from Citygate Properties land to be vested in the Shire and an equivalent portion being excised from Lot 500, Council Drive, Eaton;**

- b) The relocation of all drainage infrastructure from the newly created lot;**
- c) The relocation of all Shire drainage infrastructure from Lot 500 and Council Drive to be relocated to other Shire managed land or easement or if not relocated immediately, to be protected via easement when the land changes ownership to Citygate Properties Pty Ltd. This is to be at the cost of Citygate Properties Pty Ltd;**
- d) The skate park to be relocated to another suitable location in the Eaton Town Centre with the possibility of a contribution from Citygate towards that relocation;**
- e) The newly created lot to be fully serviced by utilities including electricity, water, gas and sewer at the cost of Citygate Properties Pty Ltd at the time of creation; and**
- f) The newly created lot to be prepared (site worked) by Citygate Properties Pty Ltd to be suitable for a three-storey development.**
- g) The Shire to be able to remain in the existing building at no lease cost following the sale of Lot 500 until the new building is completed and fully occupied by the Shire administration.**
- h) The Shire to acquire Lot 500 from the Crown for the purpose of land swap and sale to Citygate Properties Pty Ltd.**
- i) The sale of the balance of Lot 500 to Citygate Properties is at a minimum price of \$5,200,585 plus GST.**
- j) The amendment of the Eaton Fair Activity Centre Plan to include the proposed changes to Lot 500, closure of the western portion of Council Drive, and creation of new lot to be vested in the Shire.**
- k) The acquisition of Lot 500, land swap, and sale of land to Citygate Properties is subject to approval of the Minister.**
- l) An agreed timeframe for the implementation of the various components of the Heads of Agreement to ensure that the construction of the new Shire building is expedited.**

- m) **A hydrology analysis and the treatment of storm water is acknowledged as a component of the Development Application.**
3. **Once the Heads of Agreement is executed between the Shire and Citygate Properties and the Minister has granted approval for the acquisition of Lot 500, land swap, and sale of land to Citygate Properties Pty Ltd, directs the Chief Executive Officer to call tenders for a suitably qualified consultant for:**
- a) **The preparation of detailed designs and specifications;**
- b) **The preparation of construction tender documentation;**
- c) **Tender evaluation;**
- d) **The preparation of contract documentation for the construction of the new Shire administration and library building; and**
- e) **The role of Superintendent for the construction project.**
4. **Authorises the Shire President and Chief Executive Officer to meet with the Minister for Transport; Planning; Lands to seek in-principle support for the proposal for the land swap and sale of Lot 500 for the purposes of the new Shire building and expansion of Eaton Fair.**
5. **Request the Chief Executive Officer to investigate a 'design and construct' option as an alternative, and arrange a presentation to Council regarding what the positive and negative aspects of that option.**

CARRIED  
4/3

**FOR THE RESOLUTION:**

CR. M T BENNETT  
CR. J LEE  
CR. T G GARDINER  
CR. P S ROBINSON

**AGAINST THE RESOLUTION:**

CR. C N BOYCE  
CR. J DOW  
CR. P R PERKS

**16.2**      *Title: Item Withdrawn - Administration and Library Building Project*

*Reporting Department: Elected Member*

*Reporting Officer: Cr J Dow*

*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:*

*As the previous resolution was adopted by Council the foreshadowed motion was not dealt with and item 16.2 was withdrawn.*

**OFFICER RECOMMENDED RESOLUTION & COUNCIL RESOLUTION**

03-18      MOVED - Cr. P S Robinson      SECONDED - Cr. J Dow

**THAT Council return from Behind Closed Doors [11.09am].**

CARRIED  
7/0

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

**17 CLOSURE OF MEETING**

The Presiding Officer advises that the date of the next Ordinary Meeting of Council will be Wednesday 14 February 2018, commencing at 5.00pm at the Shire of Dardanup - Administration Centre Eaton.

There being no further business the Presiding Officer declared the meeting closed 11.09am.



## CONFIRMATION OF MINUTES

**“As the person presiding at the meeting at which these minutes were confirmed on 14 February 2018, I certify that these minutes have been confirmed as a true and accurate record of proceedings.**

DocuSigned by:

A handwritten signature in black ink, appearing to be "D. M. S.", is written over a horizontal line. The signature is contained within a blue DocuSign verification box.

AF5DCCF10E674C3...

**Signed**

(Chairman or Shire President or Other Presiding Officer)