

The logo for the Shire of Dardanup features a stylized, flowing line in shades of green and blue, resembling a landscape feature like a hill or a wave.

Shire of Dardanup

# MINUTES

## SPECIAL MEETING OF ELECTORS

Held

20 March 2019

At

DARDANUP HALL  
Ferguson Road  
DARDANUP

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- ~ Large Print
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Upon request.

## PROCESS REGARDING MINUTES FOR SPECIAL MEETING OF ELECTORS

### Consideration by Council

Decisions made at a Special Meeting of Electors are required to be considered in accordance with s5.33 of the Local Government Act, which states:

#### 5.33. Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
  - (a) *at the first ordinary council meeting after that meeting; or*
  - (b) *at a special meeting called for that purpose,**whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

**Due to a number of questions and some of the resolutions requiring further investigation, it was not practicable to present these minutes to Council at the Ordinary Council Meeting to be held on 27 March 2019. As such, these minutes will be presented to Council at the 17 April 2019 Ordinary Council Meeting or at a Special Council Meeting if so called earlier.**

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## SHIRE OF DARDANUP

### MINUTES OF THE SHIRE OF DARDANUP – SPECIAL MEETING OF ELECTORS HELD ON WEDNESDAY – 20 MARCH 2019, COMMENCING AT 7.00PM AT THE DARDANUP HALL, FERGUSON ROAD, DARDANUP.

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

The Presiding Member, Cr. M T Bennett – Shire President, declared the meeting open at 7.05pm, welcomed those in attendance and referred to the Acknowledgement of Country, Emergency Procedures, 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 Wardandi 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 muster point located at the side of the building, closest to Little Street, Dardanup.*

#### 2      **RECORD OF ATTENDANCE/APOLOGIES**

##### **2.1      Attendance**

###### Elected Members:

Cr. Michael Bennett	-	Shire President (Chairperson)
Cr. Peter Robinson	-	Deputy Shire President
Cr. Patricia Perks	-	Elected Member
Cr. Janice Dow	-	Elected Member
Cr. Tyrell Gardiner	-	Elected Member
Cr. Carmel Boyce	-	Elected Member
Cr. Luke Davies	-	Elected Member

Council Staff:

Mr André Schönfeldt	-	Chief Executive Officer
Mr Phil Anastasakis	-	Director Corporate & Community Services
Mr Luke Botica	-	Director Engineering & Development Services
Mrs Suzanne Occhipinti	-	Senior Planning Officer
Mrs Cecilia Muller	-	Principal Planning Officer
Mrs Cathy Lee	-	Manager Governance & HR
Mrs Gaylene Godfrey	-	Personal Assistant to Chief Executive Officer and Shire President
Mrs Donna Bailye	-	Executive Governance Officer
Mrs Rhianna Scheffner	-	Governance Officer

Electors/Members of the Public [Non electors]:

There were approximately 276 Members of the public

Mr Stuart McGuckin	-	South Western Times
Mr Jim Zheng	-	J&P Metals
Mr Drew Griffiths	-	Dept. Biodiversity Conservation & Attraction
Mr Damian Burton	-	Cleanaway General Manager

**2.2 Apologies**Elected Members:

Cr. James Lee	-	Elected Member
Hon. Mick Murray MLA	-	Member for Collie-Preston

Council Staff:

None.

Electors/Members of the Public [Non electors]:

Cheryl Rourke  
 Richard George  
 Gail George  
 Mr Lynton Gillies  
 Mrs Denise Gillies  
 Jo Giumelli  
 Jody Devereux  
 Josh Giumelli  
 Karin Williams  
 Tony Ferris  
 Kirk Reynolds  
 Emma Reynolds

### 3 DECLARATION OF INTEREST

Discussion:

There were no Declarations of Interest made.

### 4 ITEMS FOR DISCUSSION

#### 4.1 Meeting Procedure

In accordance with the Act and Regulations, the procedure to be followed at a special meeting of electors is to be determined by the person presiding at the meeting. The Local Government Act 1995 states the person presiding at electors' meeting to be:

#### ***Local Government Act 1995***

#### ***5.30. Who presides at electors' meetings***

- (1) *The mayor or president is to preside at electors' meetings.*
- (2) *If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.*
- (3) *If the circumstances mentioned in section 5.34(a) or (b) apply and —*
  - (a) *the office of deputy mayor or deputy president is vacant; or*
  - (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*

*then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.*

#### ***Division 3 — Acting for the mayor or president***

#### ***5.34. When deputy mayors and deputy presidents can act***

*If —*

- (a) *the office of mayor or president is vacant; or*
- (b) *the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,*

*then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.*

The Local Government (Administration) Regulations 1996 describes the following:

***Local Government (Administration) Regulations 1996***  
***Part 3 — Electors' meetings***

15. Matters to be discussed at general meeting (Act s. 5.27(3))

*For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.*

16. Request for special meeting, form of (Act s. 5.28(2))

*A request for a special meeting of the electors of a district is to be in the form of Form 1.*

17. Voting at meeting (Act s. 5.31)

- (1) *Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.*
- (2) *All decisions at a general or special meeting of electors are to be made by a simple majority of votes.*
- (3) *Voting at a general or special meeting of electors is to be conducted so that no voter's vote is secret.*

18. Procedure at meeting (Act s. 5.31)

*Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.*

The following order of business / procedures will normally apply to the meeting (unless changed by the Presiding Member):

NOTED.

4.2 Request for Special Meeting of Electors – Business to be Discussed

A request for a Special Meeting of Electors was lodged by Ms Lisa Ferris, Secretary of Dardanup District Resident's Association, together with 181 signatures in accordance with regulation 16 of the Local Government (Administration) Regulations 1996, for the purpose of discussing:

***Proposals by Cleanaway to increase the scope of their waste facility site on Banksia Road, Dardanup.***

NOTED

### 4.3 Public Questions

Only questions related to the business item listed on the agenda for the meeting will be accepted.

If you would like to ask a question at the meeting, you are asked to register your questions by either emailing it to [records@dardanup.wa.gov.au](mailto:records@dardanup.wa.gov.au) or hand delivering it to the Shire Office by 4.30pm the previous business day (Tuesday, 19 March 2019). This will assist in preparing an appropriate and adequate response to your question.

During the meeting, members of the public will be called forward to ask their question. Members of the public who have registered their question/s will be called in the order they have registered. Any person who has not registered will have an opportunity to speak, after registered persons.

When the presiding member invites you to ask your question, please state your full name and locality of address and then proceed to ask one question at a time.

All questions are to be directed to the Presiding Member who may invite a response from the Chief Executive Officer or other senior staff members.

Maximum speaking timer per person is four (4) minutes.

#### *Discussion:*

*Shire President, Cr. M T Bennett advised that the following questions were provided by electors prior to the meeting. Staff had provided answers.*

*The public requested that the questions and answers not be read aloud as they were available for people to read later.*

*Some comment was made on questions and responses provided to the public in writing.*

*Note: Further questions were received in writing immediately prior to the meeting and given to the Chair.*

Note: The following questions were received at the Shire of Dardanup prior to the commencement of the meeting: Shire of Dardanup staff provided responses. These were printed and made available to the public at the meeting:

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
1. Damien and Rachel Addison (793 Joshua Creek Rd Crooked Brook)	Monday 18 March 2019. 18:11pm.	Question 1. Did the original waste facility licence application assess the risk of contamination of the Yarragadee aquifer? Was the risk deemed acceptable?	<p>The Shire of Dardanup does not assess licence applications as these are made to DWER.</p> <p>This is a question for DWER..</p> <ul style="list-style-type: none"> <li>• In 1999 Council refused the Development Approval for a solid waste disposal facility on Lot 2.</li> <li>• Thereafter the proponent appealed to the Minister and the appeal was upheld. Approval was granted to establish a privately owned refuse/waste disposal site.</li> <li>• The Council was required to provide conditions for the Ministers approval and this included a requirement for monitoring bores to be installed on the norther boundary.</li> <li>• This condition is duplicated in Cleanaway's DWER Licence under the Environmental Protection Act 1986, Part V, which requires monitoring of ground water quality.</li> </ul> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - The CEO undertook to request this information from DWER on behalf of the public and to make the information available as soon as possible</i></p>
		Question 2. Have subsequent amendments to the waste facility licence revisited the risk assessment to account for the increased volumes and more hazardous nature of material being treated and stored? Is the risk still deemed acceptable?	<p>The Shire of Dardanup does not assess licence applications as these are made to DWER.</p> <p>This is a question for DWER.</p> <p>In addition to a Development Approval granted under TPS3, a Works Approval is also needed under the Environmental</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<p>Protection Act 1986. Each time a Works Approval is considered and approved by DWER, Cleanaway's Licence is amended to reflect additional conditions relevant to the new works.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - The Chief Executive Officer undertook to request this information from DWER on behalf of the public and to make the information available as soon as possible.</i></p>
		<p>Question 3. What other locations have been considered for the tailings storage facility?</p>	<p>Officers are not aware if other locations have been explored as this is not relevant to the applications received.</p> <p>Further, the Shire is required to process the three Development Applications received in accordance with the requirements set out in the Planning and Development (Local Planning Schemes) Regulations 2015.</p> <p>Council has not yet received a DA for the tailings cell.</p>
		<p>Question 4. Why are the tailings not being transported back to Greenbushes as a back load?</p>	<p>Officers are not aware if other locations have been explored as this is not relevant to the applications received.</p> <p>The Shire needs to process the applications received. The applications relate to development on Lot 2 Banksia Road and that is what needs to be considered.</p>
		<p>Question 5. Will Albemarle be paying the landfill levy? \$70 per tonne? If they have an exemption, on what grounds? Will the shire get a share of the landfill levy?</p>	<p>This is not a matter listed in Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 for the Local Government to consider. Therefore this question is not relevant to the applications that Council is assessing.</p> <p>Officers are not aware if an exemption has been applied for and are not involved in such decisions.</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - The Waste Avoidance and Resource Recovery (WARR) Levy Act 2007 provides for a landfill levy to be applied to waste received at metropolitan landfills and metropolitan waste received at landfills outside the metropolitan area.</i></p> <p><i>The Waste Avoidance and Resource Recovery Levy Act 2007 (WARR Levy Act) and Waste Avoidance and Resource Recovery Levy Regulations 2008 (WARR Levy Regulations) provide for a landfill levy for waste received at landfill premises in the metropolitan region and to waste collected in the metropolitan region and received at landfill premises outside the metropolitan region.</i>  <a href="http://www.wasteauthority.wa.gov.au/about/levy/">(http://www.wasteauthority.wa.gov.au/about/levy/)</a></p> <p><i>Therefore, waste collected from Albemarle and disposed of outside of the metropolitan region would not attract the Levy.</i></p>
		<p>Question 6. What rates are currently paid to the shire for the banksia road block of land? (The GRV is not listed for this block on the landgate website) Will the shire investigate escalating those rates based on the significant increase in the commercial value of the block?</p>	<p>Council's Rates Department has advised the following:</p> <ul style="list-style-type: none"> <li>• The total rates levied for 2018/19 were \$3,073.44 (rates \$2,991.44 and ESL \$82.00).</li> <li>• The land is currently rated on the unimproved value (UV) of the land. Landgate conduct a review of all UV rated properties annually and will advise if there is to be a change to the UV prior to the new rate year.</li> <li>• The Council reviews annually, the predominant use of land affected by significant land use changes and may make application to the Minister for Local Government</li> </ul>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<p>to change the rating basis. Any change to the rating basis (e.g. Unimproved Value to Gross Rental Value) would need to be approved by the Minister for Local Government, after which Landgate would review the property and provide Council with a Gross Rental Value.</p>
		<p>Question 7. Will Albemarle be paying the shire to compensate for damage to the road network caused by the "defined freight task" (heavy vehicle cost recovery policy guideline for sealed roads, WALGA 2017)?</p>	<p>In assessing the Development Approval applications the local government need to consider the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.</p> <p>If any of the DA applications are approved by Council where it can be reasonably expected to result in additional impacts to the road network (road maintenance), Council will need to consider requesting a road maintenance contribution as a condition of approval.</p> <p>Such a condition would require the landfill site operator (Cleanaway at present) to comply with the condition, not a third party.</p>
		<p>Question 8. Have the operators of the Banksia Rd facility published employment statistics? How many employees and a breakdown of where the live?</p>	<p>This is not a matter for the Local Government to consider when assessing a Development Approval Application.</p> <p>This is an internal business matter for Cleanaway and Council officers are not aware of the employment figures for this business.</p> <p>Council cannot control where employees live, either its own employees or those of any other employer.</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
2. Heather Elliot (41 Wellington Mill Rd)	Tuesday 19 March 2019. 12:13 pm	<p>Question 1. Any proposal likely to have a significant environmental effect on the environment should be referred to the EPA. Given community concerns and Cleanaway's stated intention to seek further licence Amendments to accommodate further tailings in the future, will Dardanup Council begin the process to have this proposal and future Amendments formally assessed through an Environmental Impact Assessment?</p>	<p>The Development Approval applications have been referred to DWER which is the lead agency for environmental matters, and which is the authority which licences such operations.</p> <p>In addition to a Development Approval granted under TPS3 a works approval is also needed under the Environmental Protection Act 1986. Each time a works approval is considered and approved by DWER, Cleanaway's Licence is amended to reflect additional conditions relevant to the new works.</p> <p>EIAs (state as opposed to Commonwealth EIAs) are requested and assessed by DWER rather than by the local government, as they are assessed under the <i>Environmental Protection Act 1986 (WA)</i>.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - This question is also subject to a resolution from the electors as detailed further below and will in part be answered when Council considers the particular resolution regarding referral of the application to EPA.</i></p>
		<p>Question 2. Would Council consider setting aside funds in 2019 - 2020 budget to engage a Specialist Consultancy to provide an independent review of the Cleanaway Application to Amend their Licence and construct a Tailings Storage Facility and to assess the impact and risks to the community?</p>	<p>It is acknowledged Local Government officers do not always have the skills and training necessary to assess complex environmental matters and therefore refers to DWER for its expertise in these matters.</p> <p>Given the licence is granted by DWER the required information may potentially not be available to the public for inspection.</p> <p>If there are any concerns that conditions of the DWER licence are not being adhered to then DWER needs to be contacted directly to provide comment.</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<p>Appointing an independent consultant could be costly to the Shire's ratepayers and it is not something that is currently budgeted for.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - This question is also subject to a resolution from the electors as detailed further below and will in part be answered when Council considers the particular resolution regarding appointment of independent specialists to assess the impact and risks to the community</i></p>
3. David Birch (268 Banksia Rd)	Tuesday 19 March 2019. 13:43pm	Question 1. What is the Shires current planning policy land use definition of a "Waste Disposal Facility" and what classifications will it allow to be disposed of within the site with Licensing approvals.	<p>"Waste Disposal Facility" is not a land use term listed in Town Planning Scheme No. 3 which is the current planning scheme for the Shire of Dardanup.</p> <p>Previous DA applications have been considered as a 'use not listed'.</p> <p>The <i>Planning and Development Regulations 2015</i> (The Regs) specifies wording that <u>all new schemes</u> should follow, unless there is strong justification for alternative wording, in order to standardise planning schemes across WA. These are referred to as "Model Scheme" text or provisions.</p> <p>When a new Planning Scheme for the Shire of Dardanup is prepared and adopted by Council and the WAPC, Council would need to be able to justify any departure from the Model Scheme text/wording in the Regs.</p> <p>The Minister for Planning will ultimately need to approve any new Planning Scheme.</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<p>The 'Model Scheme' provisions contains a land use definition for "<b>Waste Disposal Facility</b>", being:</p> <p style="padding-left: 40px;">"premises used —</p> <p style="padding-left: 80px;">(a) for the disposal of waste by landfill; or</p> <p style="padding-left: 80px;">(b) the incineration of hazardous, clinical or biomedical waste; "</p> <p><b>The definition in the Model Scheme provision does not refer to any particular class of waste.</b></p>
		<p>Question 2. Would the Council be comfortable, that it is best serving it's ratepayers, if it is reduced from being able to make decisions on development applications on the site and imposing conditions to protect their ratepayers, to just giving recommendations on proposals to a poorly resourced government authority such as DWER or DMIRS and not being able to take actions when Approval conditions are not being complied with, as is regularly happening now?</p>	<p>Under the current zoning, development on this site, will require Development Approval from the Shire.</p> <p>All Development Approval applications are rigorously assessed.</p> <p>Council is able to take enforcement action regarding non-compliance with any condition of a valid Development Approval.</p> <p>Council is unable to take enforcement action regarding non-compliance with licences or approvals issued by authorities other than Council (e.g. DWER).</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - Under the current zoning, all current and future development on this site, that does not currently have approvals will development approvals in place will require Development Approval from the Shire.</i></p> <p><i>Council when considering development applications should have regard to the form, type and scale of the development already approved as part of previous approvals and the effect</i></p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<i>that the new approvals will have on this.</i>
4. Raelene Birch (268 Banksia Rd)	Tuesday 19 March 2019. 13:52pm	Question 1. Given that by allowing the move to 24hr operations all operations such as heavy machinery like dozers, compactors, loaders as well as truck unloading/loading would be able to operate throughout the night as well as the current operating hours, does council consider that it reasonable for the proponent to impose such noise continually for 24 hours on its neighbours who already are restricted by this operation from enjoying the amenity and benefit of residing in a rural zoned area?	In coming to a decision on the application to operate the site 24 hours per day, Council will need to consider: 1. likely noise impacts, and 2. Whether any noise impacts can be mitigated to protect nearby residents .  The applicant was requested to provide proposed measures to mitigate noise on 4 February 2019.  The information requested has not been submitted to date.
		Question 2. What current longitudinal studies are being done on the water monitoring and dust monitoring at the site to capture any incremental rises in data of the monitored results?	The Environmental Protection Act 1986 contains a schedule of 'prescribed premises' which are required to be licensed with the DWER.  The Act requires 'prescribed premises' to be licensed with DWER, and the license carries conditions requiring the license holder to conduct monitoring, and provide regular monitoring reports to the CEO of DWER.  Council officers do not know whether DWER's assessment are (or would constitute) 'longitudinal studies'  <i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment. - The Chief Executive Officer undertook to request this information from DWER on behalf of the public</i>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<i>and to make the information available as soon as possible.</i>
5. Jill Cross (513 Crooked Brook Rd)	Tuesday 19 March 2019. 14:02pm	Question 1. Why is it that Cleanaway hasn't had to contain their stormwater runoff on the southern boundary as per the licence conditions?	Council has no authority to enforce compliance with licence conditions. Licences are issued and enforced by DWER.  <i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - The Chief Executive Officer undertook to investigate the concerns regarding stormwater as soon as possible and to instigate appropriate action to address issues that may arise from the outcomes of the investigations</i>
		Question 2. What action will the Council take to ensure Cleanaway complies with this licence condition?	Council has no authority to enforce compliance with licence conditions. Licences are issued and enforced by DWER.
		Question 3. How are Cleanaway going to control the stormwater runoff when the bund wall has been constructed on the southern boundary?	A bund wall was approved in the 2016 DA, along with stormwater infrastructure works, including a stormwater pond near the south-western corner of the lot.  The Cleanaway licence (DWER) requires stormwater to be retained in ponds and spillways for a 1 in 100 year ARI.  Council approved Stormwater Management Plans in 2016 as part of the DA for stormwater infrastructure works. These plans are replicated in the DWER licence.
		Question 4. Can Council explain why the Management Plan submitted and approved by Council as a condition of the licence in 1999 is not addressing the litter found frequently in the Dardanup Conservation Park. Can Council please outline what action they intend taking?	A Management Plan was required as a condition of the 1999 DA approved by the Minister for Planning.  This is not to be confused with DWER licence, for which Council has no authority to act.  Officers have been advised by Cleanaway that the company

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<p>intends to install a 10m high fine mesh fence along part of the southern boundary in June 2019, to stop windblown litter entering the land to the south (Regional Open Space).</p> <p>Council may take enforcement action for non-compliance with DA conditions if it considers this matter is not being satisfactorily addressed.</p>
		<p>Question 5. How is Cleanaway going to restrict noise from machinery operating 24 hours when residents in the area already clearly hear the noise in daytime hours. What action will the Council be taking when they receive noise complaints in this regard.</p>	<p>As per previous response to R.Birch:</p> <p>In coming to a decision on the application to operate the site 24 hours per day, Council will need to consider:</p> <ol style="list-style-type: none"> <li>3. Likely noise impacts, and</li> <li>4. whether any noise impacts can be mitigated to protect nearby residents.</li> </ol> <p>The applicant was requested to provide proposed measures to mitigate noise on 4 February 2019.</p> <p>The information requested has not been submitted to date.</p> <p>No decision on this application has been made.</p> <p>If approved and noise complaints result, they will be dealt with and investigated as per any other noise complaint.</p> <p>Non-compliance may result in enforcement proceedings including potential for legal proceedings.</p>
<p>6. Lisa Ferris (104 Ferguson Rd)</p>	<p>Tuesday 19 March 2019. 15:13pm</p>	<p>Question 1. It was my understanding that the Banksia road site was, despite residents' objections, to become a regional tip. Therefore, how and why has Dardanup become the dumping ground of Western Australia, with waste from Barrow Island,</p>	<p>Officers are unaware of any proposal or agreement for Lot 2 Banksia Rd (Cleanaway site) to be restricted to only accept local or regional waste.</p> <p>There was discussion in 2004 regarding any potential for Lot 1 (to the north of the Cleanaway site) to be a Regional Waste</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
		Karratha, Kalgoorlie, Mandurah and Perth as well as our region being transported here?	Disposal Facility however this did not refer to the Cleanaway site.
7. Tony Ferris (104 Ferguson Rd)	Tuesday 19 March 2019. 15:15pm	Question 1. Does the Council believe that further expansion to Lot 2 Banksia road will <b>not</b> pose an environmental threat or health risk to the residents of Paradise, Dardanup and Crooked Brook?	This is being investigated by Council officers and the assessment of the applications has not been finished as yet.
8. Murray & Helen Harris	Tuesday 19 March 2019. 15:30pm	Question 1. At a meeting with Councillors at the Shire offices on 18 <sup>th</sup> March, Cleanaway officials stated "no water from the cells can escape from the Banksia Road site". If this is case, can they please explain these photos?	It is noted that the photos provided were taken in 2014.  In 2016 Cleanaway was granted a DA for stormwater detention works. Cleanaway's licence requires detention for a 1 in 100 ARI event however larger rainfall events may exceed the design capacity.
		Question 2. Or, better still, can you explain why the Shires grader operators try to encourage the water to drain (as per these photos) off the road and on to our farm?	This is not relevant to the Cleanaway site discussion.  This matter should be dealt with separately as a request for road or drainage work directed to Council's Engineering Department.
		Question 3. Please also explain why there is no plan for excess water to be delivered safely as to satisfy both neighbouring farmers and above all our towns residents who rely on clean potable water from the underground supply.	Officers are advised by Cleanaway that stormwater runoff is not coming from existing cells on the site (which are not at capacity), but rather from other areas of the lot.  Therefore the stormwater runoff is not considered to be contaminated.
9. Valerie Brandstater	Tuesday, 19 March 2019 15:35PM	Question 1 With regard to the increased number of truck movements to and from the facility now and even more so if the 24-hour operation goes through, we need to know what the Council's thoughts are on	Officers consider it likely that the proposed <i>additional</i> hours, which are between 10pm and 6am, are outside the school bus operating times.  However, officers do not know whether the school bus runs

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
		increased safety issues for the School bus operations on this route and what possible measures can you take to eliminate these increased Safety concerns.	<p>prior to 6am.</p> <p>Council will need to consider the impact to all traffic, not only the school buses, as part of the assessments.</p>
		Question 2 Would the Dardanup council , given that it votes NO to all three proposals from Cleanaway , and then Cleanaway then appeals to SAT , will you consider forming a Task Group with Community involvement to attend the Appeals hearing and lobby for this to not be passed ?	<p>Council will need to assess the three applications it has received and make a decision on each of those on their merits.</p> <p>The assessment has not been finalised.</p> <p>No recommendation has been forwarded to Council for consideration.</p> <p>The applicant has the right to appeal any decision (refusal or conditions, or deemed refusal) to SAT in any case.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - Whilst third party appeal rights does not exist, third parties may request to form part of a SAT appeal. Should the matter become the subject of a SAT appeal it is therefore possible for members of the community to join and such a Task Group could be given consideration at that point in time.</i></p>
10. Andrew Brandstater	Tuesday, 19 March 2019 15:35PM	Question 1 In the event of where compensation is sort for water or soil contamination, who will be responsible ?	<p>Officers do not have a response at this time and the question will be taken on notice.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - However, under the Environmental Protection Act 1986, the following principle is included under section 4A:</i></p> <p><i>4 (2) The polluter pays principle — those who</i></p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<i>generate pollution and waste should bear the cost of containment, avoidance or abatement.</i>
11. Patricia Sherwood	Tuesday, 19 March 2019 21:32pm	<p>Question 1 Given Cleanaway has a checkered career in Australia of breaching EPA conditions in several states and projects with a number of court cases involved over the years:  <a href="https://www.epa.vic.gov.au/about-us/news-centre/news-and-updates/news/2018/january/23/epa-fines-cleanaway-subsidiary-for-third-time-in-five-months">https://www.epa.vic.gov.au/about-us/news-centre/news-and-updates/news/2018/january/23/epa-fines-cleanaway-subsidiary-for-third-time-in-five-months</a>            here is a recent example,</p> <p>Why would the council believe that they will be compliant to any further conditions imposed upon them?</p>	<p>Council cannot refuse an application on the basis that it believes that the proponent will not comply with the conditions of approval.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - In accordance with The Planning and Development Act 2005, Council has powers to enforce conditions of Development Approvals.</i></p>
		<p>Question 2: What does the council intend to do to enforce redress of the existing breaches of conditions already imposed upon Cleanaway in relation to dust control, waste contamination of surrounding sites, water control, southern boundary vegetation buffer etc etc.?</p>	<p>Cleanaway has advised officers that these matters are dealt with as part of their annual DWER compliance report.</p> <p>Nevertheless, non-compliance with <u>DA conditions</u> may result in enforcement proceedings including potential for legal proceedings.</p> <p>Cleanaway has advised that it is attempting to mitigate litter on the adjoining land to the south by the installation of a 10m high mesh fence along the southern boundary in June this year.</p> <p>Council has not been provided with any plans for the fence.</p> <p><i>20 March 2019 – Chief Executive Officer, Mr André Schönfeldt comment - The Chief Executive Officer undertook</i></p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
			<i>to investigate this further and to instigate an appropriate course of action based on the outcomes of the investigations.</i>
12. James Szabadics	Tuesday, 19 March 2019, 21:38pm	Question 1: We have seen that Cleanaway during summer months have great deal of difficulty controlling fugitive dust emissions from truck movements, tipped dry loads and dozer spreading activity at the site. It seems that inadequate systems are in place to measure, monitor and control dust emissions in breach of the site licence condition (to minimise dust emissions). <b>Is the council satisfied that the current DWER licence conditions for monitoring and audit of dust currently in place are effectively protecting the local community and the environment from the preventable health hazards caused by Cleanaway dust emissions? What elevated risks are posed to the community by 24/7 operations in strong night easterly winds?</b>	<p>DWER is the leading environmental protection agency.</p> <p>Council refers to DWER for its expertise in these matters.</p> <p>DWER is required to comply with the <i>Environmental Protection Act 1986</i>.</p> <p>The 24 hour operations and any impacts resulting are matters to be considered as part of the planning assessment yet to be completed.</p>
		Question 2: Given US government procedures for handling waste containing beryllium dust require all such material to be transported in sealed containers and labelled, and further given that section 26 of the Health Act 1911 empowers and places responsibility on WA local government to administer the Act, its regulations and local laws within its district: <b>Is it possible for the Shire to enact a local law under the Health Act 1911 for the protection of the local community (citing the US government procedure as a reference) to ensure appropriate hazard controls and procedures are in place for handling and transportation of specific defined hazardous materials within shire boundaries?</b>	<p>The Shire has a Dust Local Law requiring a Dust Management Plan in certain instances and consideration will be given to the local law in considering the current applications.</p> <p>Making a Local Law is not related to or contingent upon receiving a Development Application.</p> <p>Local Laws and Development Approval applications are separate processes under separate legislation.</p>

SUBMITTER	SUBMISSION DATE & TIME	QUESTION	OFFICER COMMENT
		<b>Would the Shire need to wait for an development application for a Lithium Tailings cell on the Cleanaway site before it could enact such a local law under the Health Act 1911 or could this be put in place fairly soon?</b>	
13. Russell Sheridan	Wednesday, 20 March, 15.42pm	<p>Nearly every morning I wake to sound of bulldozers rumbling, and the annoying beeping as they reverse . They go all day and now they want to run all night.</p> <p>In a meeting just like this one here with councillors in February 2004 the community expressed its deep concerns about the expansion of waste. This is history repeating . But allot worse.</p> <p>In 2015 the regional structure plan was published and landowners where invited to comment. In respect to changing the land use from rural to waste at Banksia Road The overwhelming view was opposition.</p> <p>There was not one landholder submission supporting this as an ongoing refuse site and for a myriad of reasons. The site and the proposed highway leading to it was universally opposed.</p> <p>Is council ignoring all these stakeholders who live here invested here in favour of one or two ratepayers who don't live here and only seek to profit and leave a toxic legacy that impacts our families and property for a very long time.</p> <p>If you will refer back to the resolutions you made back then , all of Banksia Road should now be winding down.</p>	Late email – Received/Noted.

Discussion:

Shire President, Cr. M T Bennett commenced the meeting by discussing the questions that had been provided prior to the meeting.

Members of the public requested that the questions and answers not be read aloud.

David Birch [Submitter 3] spoke to his question and the Shire's response.

Heather Elliot [Submitter 2] spoke to her questions provided earlier regarding the environmental impact and referral to the EPA.

Chief Executive Officer, Mr André Schönfeldt advised Mrs Elliot that he was not aware if the applications had already been referred by the Shire, and indicated that if the Shire did not or does not under the Environmental Protection Act 1986, third parties could refer applications to the EPA for consideration.

Mr Andy Crilly read aloud the following statement/question that was also provided in writing to the Chairperson:

"Will the Dardanup shire council engage an environmental lawyer to fight the mess they have created? Senior or Queen's Council if required?"

The waste company will fight but will the Dardanup Council?

At a meeting in this very hall 10-12 years ago myself and Richard George predicted this. Why couldn't the Council see it?

Please don't answer "we weren't in office then" because that is pathetic.

No one fought for us."

Mr Crilly asked who will represent us? Who will fight for us?

Cr. M T Bennett stated that Council represents the community and it is prepared to fight. It was not Council's decision at that time. I would agree with you that it looks like we didn't put up much of a fight. We need more than Council on side to stop this from happening. The government controls this situation and has from day one. One would expect that if the government was looking at an application of such a scale, you would think when they looked at that proposal for their environmental processes. They should look at their approvals. The shire had no knowledge of what was proposed at all when the lithium people made their applications.

Cr. M T Bennett noted that we have a representative from the Hon. Mick Murray's office tonight. Mr Murray will help us.

Chief Executive Officer, Mr André Schönfeldt noted that the community considered that there is a need to engage an environmental lawyer.

Mrs Ellen Lilly read aloud the following statement/question that was also provided in writing to the Chairperson:

"In recent weeks our household has been in touch with staff members of the Dardanup shire to express concerns relating to the non-compliant

releases from the Cleanaway site along the southern boundary into the Dardanup conservation park – namely, rubbish, water erosion and infestation of cottonbush.

On two occasions we were told that as the Dardanup conservation park was not owned by the Dardanup shire that there was nothing they could do to assist with our concerns.

This is not satisfactory – the Cleanaway site is in the Dardanup shire and is clearly non-compliant and requires oversight into the management practices undertaken by this company.

Question – What are you going to do to improve the interest factor amongst your staff of issues raised by Dardanup residents relating to issues within the Dardanup shire?"

Shire President, Cr. M T Bennett referred to Mrs Jill Cross' submission [Submitter 5] and the Shire's response in regard to the non-compliant releases along the southern boundary of the property.

Chief Executive Officer, Mr André Schönfeldt advised that he has now just become aware of her concern regarding responses from staff and that he would follow up on her concerns.

Mrs Ellen Lilly read aloud the following statement/question that was addressed to representatives of Cleanaway. This was also provided in writing to the Chairperson:

"There are non-compliant releases along the southern boundary into the Dardanup Conservation Park namely rubbish, water erosion and infestation of cottonbush.

In the last week there has been a knee jerk reaction to remedy and resolve due to our concerns which have been raised.

Question – Damian Burton, General Manager of Cleanaway - What management systems have you now put in place to manage these releases and how often will this boundary be monitored?"

Mr Damian Burton, Cleanaway – I am the General Manager of Cleanaway and have responsibility for the Dardanup site. The site has been running since 1999. Cleanaway has been on the property/site since 2006. We have run the facility for 13 years. It is a very tightly regulated facility. We have regular and irregular audits. We have annual reporting and testing that we are bound to report. We cannot choose not to test and report. We have run the facility for a long time and have never breached our conditions. We have always tried, in the main, to run the facility exactly in the manner that the licence was given. It is important for us to listen to the community. I genuinely thank you for the candour in which you have approached this. Cleanaway survives on its reputation we are listed on the Australian Stock Exchange. We are bound by reputation.

The southern flank is important for us. We have a person that's sole task is to pick up rubbish and patrol that southern boundary. We do that every single day. This is not something that we have adopted this week, but we recognise that we do need to put a lot of focus on this.

David Birch noted that Cleanaway had not complied on one occasion. They receive and infringement for the late submission of a report.

David Birch [Submitter 3] referred to the response provided by shire staff to his question. Mr Birch noted that he did not think his question was well understood.

Name not provided – Were DWER invited to tonight's electors meeting?

Chief Executive Officer, Mr André Schönfeldt advised the community that DWER had been advised of the meeting.

Jill Cross [Submitter 5] advised she would like to talk about the impact that Cleanaway has on her family and property. Mrs Cross read aloud the following:

*“My husband Tom and I own a property at 361 Crooked Brook Rd. This property backs onto Banksia Rd and is opposite Lot 2 Banksia Rd, the Cleanaway operation. We purchased this property 6 years ago and in that time we have spent considerable money and time improving that block. We have planted 600 trees, new fences, stockyards, and troughs as well as improving the pasture. We feel we are the custodians of that land and want to make sure we leave that land in a better condition than when it was first purchased. We are no different to the way any farmers treats their land.*

*Four years ago this winter we noticed that a slimy mud had flooded Banksia Rd and into our property. This mud was coming from the corner of the Dardanup Conservation Park and Lot 2 Banksia Road - the Cleanaway operation. On investigation it was apparent that the slimy mud had washed off the bund walls of Lot 2 Banksia Road and onto the Dardanup Conservation Park firebreak, down the firebreak, across Banksia Rd and into our property. This was reported to the Dardanup Shire and the DBCA as it is now. Every winter since then Banksia Road has continued to flood with the storm water run-off from the bund walls though the mud content isn't quite as evident. We have built a bund wall on our fence line to stop the storm water runoff entering our property.*

*The erosion in the Dardanup Conservation Park is very evident today and in a very recent email from Drew Griffith, District Manager of the Wellington District, Drew stated that there has been a history of storm water runoff and soil deposition into the adjacent Conservation Park from the large embankment of the perimeter soil bund long the southern boundary. A history of storm water runoff!*

*How lucky are we that we have the Dardanup Conservation Park on our door step. Five minute drive from the town of Dardanup. Why did DBCA many years ago earmark this tract of land which neighbours Lot 2 Banksia Rd a Conservation Park and not just leave it as state forest? Because the Dardanup Conservation Park contains rare plant communities as well as some rare plant species according to DBCA - so its special, highly valued and it's in our backyard.*

*So not only do Tom and I have to put up with storm water runoff from Lot 2 Banksia Rd into our property that we have cared for the last 6 years but that very special Dardanup Conservation Park in our backyard containing rare plant species does too. It's obvious that the erosion and weeds resulting from the runoff are doing nothing to enhance that special piece*

of land. Little effort has been made by Cleanaway to rectify this situation. Also with expansion of the operation and increased refuse heights this storm water runoff will only get worse.

Retaining storm water runoff was a condition of the licence as outlined by the Shire for Lot 2 Banksia Rd as early as 1999 and Cleanaway have been operating on the site for the last 13 years so my questions are why is it that Cleanaway doesn't have to retain their stormwater runoff as per their licence? What action will Council take to ensure Cleanaway complies with this licence condition?"

Shire President, Cr. M T Bennett thanked Mrs Cross for her presentation and noted that the responses to her submission provided many of the answers to the questions she had asked.

Miss Autumn Giumelli advised that she was 15 years old and wanted to know what the Council would be doing to protect her and others in the future. Miss Giumelli asked how this will affect them in 50 years' time? The people on Council now probably won't be here. What are you doing for future generations to stop us from having to deal with the problem that is going to happen.

Shire President, Cr. M T Bennett advised that when council first started in Banksia Road, it ensured that there were more investigation bores placed than was required by anyone else and we insisted on that back in the early days of 1999. So yes, we are well aware of where it is in relation to the water supply. We monitor ours as we are still partially responsible for that rubbish in Lot 1. Our information is that it is going okay. As soon as something happens we will know about it.

Mrs Raelene Birch [Submitter 4] We keep hearing what has been done. Can you tell what longitudinal monitoring has been done? Are you comparing that data from the monitored results. Are we looking at that some of the contaminants and comparing if they are on the increase?

Chief Executive Officer, Mr André Schönfeldt advised that monitoring is being run by DWER. The Shire will enquire if DWER are running longitudinal studies.

Member of Public [Name Not Confirmed] – Doesn't Council get the results of that monitoring?

Shire President, Cr. M T Bennett confirmed with the Director Engineering & Development Services, Mr Luke Botica that the Shire does receive those results.

Mr Darren Arnold - Why are we expanding a tip site that is situated in pristine countryside when we have a tip in Kemerton. The lithium plant is just across the road from Kemerton. Why are they bringing this all the way out here? Why would you contaminate another tip out here when you have one in an industrial area?

Shire President, Cr. M T Bennett noted that it was likely to be a commercial decision. The tip site at Stanley Road is coming towards the end of its life. DWER have advised that they are not able to put in another cell at Stanley Road and that they will be closing that down in the next 3.-5 years.

Mr Darren Arnold - Does that mean we are getting all the rubbish from everywhere else too?

The community noted that the Banksia Road waste site was already receiving waste from 'everywhere else'.

Mr Peter Johnson - Would the shire support the community in addressing these concerns, in particular restricting the use and the growth of this site?

Chief Executive Officer, Mr André Schönfeldt – We have the following three applications before council right now:

1. Extension of operating hours.
2. Amend (delete) the waste classification of 1999 which was changed by SAT in 2006 from Class ii to Class III landfill site by removing the classification altogether;
3. The construction of a leachate pond.

These are the three things that Council has to consider at its Council meeting. In accordance with the Regulations Council will have to consider these applications based on their planning merits. Therefore, until Council has a report from officers with a detailed assessment, we cannot answer the question.

Merinda Smith - Are you not considering what is being said by the people that have turned up tonight and are asking these questions? Are you just going to put that forward to the councillors at the time?

Chief Executive Officer, Mr André Schönfeldt - When Council receives a Development Application it is dealt with in accordance with the Planning and Development Act 2005. That process provides the community with the opportunity to comment. At tonight's meeting under the Local Government Act 1995 the electors have an opportunity to make resolutions and recommendations to Council. These recommendations are also to be considered by Council at a formal Council meeting. Therefore, although there are two separate processes both will be provided to Council for consideration.

Mr John Mazza asked the following questions:

- Has the council approved the expansion?
- What is the life if this expansion goes ahead?
- What is the percentage increase, currently as to what the new proposals volume would be?
- If they have 24 hour operation they are going to have a lot going into that area. Are there any boundaries or life spans placed on that?

Cr. M T Bennett – No, Council has not approved the expansion. The waste site is expected to be operating until 2035.

Chief Executive Officer, Mr André Schönfeldt advised that the current development approvals do not have a time limit on them and therefore they don't expire. They continue indefinitely as per the condition placed on the State Administrative Tribunal [SAT] approval. The three applications put forward do not have an expiry date but the application states a proposed finish date of Thursday, 2 August 2035.

Mr Peter Gardiner – How can we trust this process going forward? Look at the problems that have been experienced with run-offs.

Shire President, Cr. M T Bennett - I was not aware of how bad the run off problem was until Cr. P S Robinson provided photos of the run off.

Deputy Shire President, Cr. P S Robinson - These councillors are dedicated. The previous decision we made was overturned by a Minister. The second one where the Council said 'No' was appealed to SAT. SAT said 'Yes'. As a Council we have limited powers. Here in this room there is enormous power if you are prepared to fight. Are you willing to fight together?

Community – "Acclamation".

Mrs Marion Gaunt - The Cleanaway trucks are coming down from Onslow. They are passing miles and miles of desert. Why is the site there? Why are you destructing this beautiful land and messing with the Yarragadee?

Mr Damian Burton, General Manager Cleanaway -I can't determine why it was placed here. The fact is that the government only issues a very restricted number of licences for landfill. They put very strict controls in place and we have to comply with that in every way. We have 8 bores that we are required to test. There has been no evidence in anyway of contamination of the water table. There is an absolute science put into this and we have an obligation to look after it until 2056. We are obligated to run it as effectively and safely as possible. Nobody wants a waste site in their area, but it is necessary to have one.

Mr Russell Sheridan - We were upset about the site when it was first proposed. Being an artist I am a visual person. I'm thinking that for you to understand how much there is up there, it would be three times the amount of space of the Dardanup Townsite up there in waste. It's going to be our legacy forever. When I was listening to you in 2004 all sorts of the same problems and same questions were made. The resolutions were that we didn't want it and I don't think that anyone here wants it now; Yet it keeps on growing. I was told then that it was going to be over 2020. I listen to the annoying bulldozers every day. Now I've just heard that it will be there until 2056! The resident's association has brought this up to you. We trust you to do this and nothing is happening.

Shire President, Cr. M T Bennett – There was a government paper published in the past saying that by 2020 there was going to be no more waste going to landfill. Our council has been looking forward to waste to energy. We are not in favour of it going to landfill anywhere. In 2004/05, the only objection that the Council could use was that the community didn't want it. The SAT tribunal over turned our decision. We try as hard as we can to avoid matters going to SAT. Once they go there, conditions get wiped out by SAT. The proponent can appeal the conditions. We are between a rock and a hard place all the way through this process. We need to fight more waste going to landfill, not just as a Council; we need to fight it as a whole community.

Shire President, Cr. M T Bennett – The Hon Mick Murray has a representative here and we hope that Mick will help us with our current concerns. The previous decision was made by SAT. You can't blame that on Council. You can't appeal a SAT decision.

Shire President, Cr. M T Bennett advised that there were further questions that were received in writing immediately prior to the meeting. These questions will not be able to be responded to at this time. Cr. M T Bennett advised that the meeting would move on to the motions put to the meeting.

#### 4.4 Public Statements and Motions

Refer to the beginning of this agenda document – page headed “Guidelines For the Special Meeting of Electors’ ”

Speakers “for” and “against” alternatively / Consideration of Motions (if any).

#### **PROCESS:**

The following four motions were received by the Shire of Dardanup via email [20/03/19 – 12.36pm] from Jenny Trigwell on behalf of the Dardanup Residents Association Inc. Mrs Trigwell advised that these motions were to be put at the Special Meeting of Electors to be held at 7pm. A copy of these motions were provided to the community prior to the meeting also.

#### MOTION 1 – Lithium Tailings

*Background to the Motion:*

1. There is currently no Australian waste classification for lithium tailings.
2. Beryllium has been identified as a risk factor in tailings from lithium plants. The fine powdered nature of the tailings when dry, must be considered by Council in terms of possible risk to human and animal health or safety.
3. We believe the Council has the responsibility to consider the suitability of the site given the ongoing issues with dust emissions and water/erosion control. These issues are increasing with the expansion of activities on the site.

#### **SPECIAL MEETING OF ELECTORS RESOLUTION “1”**

SME 01-19    MOVED -    Jenny Trigwell                      SECONDED -            Wayne Bendotti

**THAT the Dardanup Shire does not approve developments relating to the storage of lithium tailings and associated leachate ponds on Lot 2 Banksia Road, or any other part of the Waste Precinct as currently identified in the Local Planning Strategy.**

CARRIED  
Unanimously

#### MOTION 2 – Waste Disposal Facility

*Background to the Motion:*

1. The change to Waste Disposal Facility will dilute the ability of the Dardanup Shire Council to consult with the local community, and to approve or otherwise, the developments necessary for the disposal of specified or particular types of waste that fall outside of the current Class II and Class III.
2. Waste Disposal sites.

3. The total size of the identified current Waste Precinct is far too big for its location in such a desirably located, and expanding, rural residential area.
4. The current 121 hectare Lot 2 is already a significant size for a waste facility. The potential risks in relation to dust and airborne emissions, ground and surface water contamination, visual aspect, heavy road vehicle and amenity impacts will be multiplied exponentially if the whole site is used for waste disposal.
5. This is an extremely poor past planning initiative that contravenes the Shires own controls to preserve the visual amenity of the Ferguson Valley and rural atmosphere of Dardanup and its surrounds.
6. No assessment has been made of the impacts of a potentially 400 hectare waste precinct in relation to the future development of the Ferguson Valley into one of the states premier tourism destinations, within reasonable proximity to the two largest cities in Western Australia. The Valley has the potential to generate far more dollars and jobs than a waste precinct.
7. The suitability of the site has been questioned by local residents since the Shire first purchased Lot 1 and commenced a local town rubbish tip. Concerns were based on local knowledge and experience in the area regarding the topography, soil type, wind conditions, and aquifer recharge links. Visual and noise pollution, increased heavy vehicle movements, and litter accumulating in our bushland regional open space are further issues that have eventuated. These are all valid considerations as per Clause 67 in the Planning and Development (Local Planning Schemes) Regulations 2015 and should be addressed.

### **SPECIAL MEETING OF ELECTORS RESOLUTION "2"**

SME 02-19    MOVED -    Jenny Trigwell                      SECONDED -            Jill Cross

- a) **That the Dardanup Shire Council does not approve the Cleanaway application to amend the reference to Class III landfill site to Waste Disposal Facility.**
- b) **That the Dardanup Shire Council and associated salaried staff, pursue changes to the current Local Planning Strategy to remove reference to a Waste Precinct as currently identified across the seven lots, and the Waste Precinct to be limited to Lot 2 Banksia Road.**

CARRIED  
Unanimously

### *MOTION 3 – Operational Hours*

#### *Background to the Motion:*

Residents already experience various levels of noise and fugitive light from operations at the site and associated heavy haulage vehicles. Council needs to take into the consideration the compatibility of the operation, including its future scale, against the rights of residents to quiet enjoyment of their homes, and plan accordingly.

**SPECIAL MEETING OF ELECTORS RESOLUTION “3”**

SME 03-19    MOVED -    Jenny Trigwell                      SECONDED -            Russell Sheridan

**That Council takes into consideration the previous consistent conditions placed on the Tip Site operational hours and continues to enforce these conditions to enable residents to enjoy the quiet atmosphere and amenity expected when residing in a rural area with limited access to services and facilities offered in more metropolitan residential areas.**

CARRIED  
Unanimously

MOTION 4 – Monitoring and Control*Background to the Motion:*

When the Ministers determination in 1999 was made, it was unlikely that the tip site was considered for little more than local municipal waste ‘filling in the areas from where sand and gravel were extracted.’ The SAT decisions of the past should not be used as precedents to continue to grow the scale of the operations on the site, above the current and future impacts on the local community and the growing tourism aspirations for the Ferguson Valley.

**SPECIAL MEETING OF ELECTORS RESOLUTION “4”**

SME 04-19    MOVED -    Jenny Trigwell                      SECONDED -            Andy Crilly

**That Council considers our questions, concerns and motions at the next possible Council Meeting, and gives due consideration to resolving to work collaboratively with the Dardanup Community and the Department of Water & Environmental Regulation to increase the monitoring and control of current emissions from Lot 2 Banksia Road, and disallowing the storage or ensiling of other sources of industrial processing tailings or leachate on the site.**

CARRIED  
Unanimously

*Note: The following two motions were provided in writing by Heather Elliot prior to the meeting, to the Chairperson.*

MOTION 5 – Refer to EPA**SPECIAL MEETING OF ELECTORS RESOLUTION “5”**

SME 05-19    MOVED -    Heather Elliott                      SECONDED -            Ellen Lilly

**That the Dardanup Shire Council refer the proposals by Cleanaway to increase the scope of their Waste Facility site on Banksia Road Dardanup, to the EPA to be assess through an Environmental Impact Assessment.**

CARRIED  
Unanimously

MOTION 6 – Independent Environmental Consultancy**SPECIAL MEETING OF ELECTORS RESOLUTION “6”**

SME 06-19    MOVED -    Heather Elliott                      SECONDED -            Kate Cross

**That the Dardanup Shire Council set aside funds to engage an Independent Environmental Consultancy, who specialises in Tailings Storage Facilities, to provide a report of the impact, now and in the future of Cleanaway’s proposed expansion and how the existing risks can be best managed and that this occur as soon as possible.**

CARRIED

MOTION 7 – Seeking Restitution from Cleanaway for Consultancy Fees**SPECIAL MEETING OF ELECTORS RESOLUTION “7”**

SME 07-19    MOVED -    Jenny Trigwell                      SECONDED -            Murray Harris

**That the community would like the Dardanup Shire Council to seek restitution from Cleanaway or the Landowner of Lot 2 Banksia Road for any funds spent to engage an Independent Environmental Consultant who specialises in Tailings Storage Facilities for the expansion and risks on Cleanaway’s proposed site.**

CARRIED  
Unanimously*Discussion:*

*Ken Gardiner – How can the councillors possibly be qualified to make a decision on motions before the council when they haven’t got any independent assessment and they are relying on an assessment that they haven’t received yet. Given that they have no control on the outcome. How do they feel qualified to make the decision?*

*Cr. M T Bennett – We are not qualified. We rely on our Officers to provide us with professional reports. In this instance we can make it a condition that information be assessed. I’m not sure how that will go as we have statutory requirements that require the applications to be determined within a time period.*

*Peter Buck - We talk about Council paying for this and Council paying for that. We have to remember that council doesn’t have a lot of money. The money they have is our money. Referring to Cr. P S Robinson comments about us fighting this together, I am prepared to put up a one year issue of rates to fund some sort of funding toward having serious experts address this. The Council is between a rock and a hard place. We need to have the funds to back this up.*

*Cr. M T Bennett – This could be referred to the Dardanup Residents Association.*

Mr Andy Crilly – If this had this been done in 1999 it wouldn't cost so much. Its been asked who from us is going to do something about it. It will come in a motion of vote of no confidence. Then we will get involved.

Mrs Gitte O'Connor - Why is Cleanaway able to have their leachates leaking onto the properties and this was only in the last two or three years. What happens when it is upgraded to a more toxic and volatile waste and therefore who has the governance of this. Who is the authority to allow that to happen?

Cr. M T Bennett - This is a matter for DWER.

Mr Anthony Congdon – Referred to the problems experienced in the town of Wittenoom. We have a problem that is going to be around for a long time. What mechanisms does the Council have, if any, that will protect the community in the case that Cleanaway aren't here in twenty years' time? If they cease to exist, is there any mechanism to have the funds locked in trust to handle that in the future?

Cr. M T Bennett – We will put this question to DWER. Cleanaway are responsible for the site until 2056.

Mr Damian Burton, General Manager of Cleanaway – Our licence takes us through to 2035. The licence is that we have to look after the site until 2056; we are obligated to find funds until then. If Cleanaway was sold (and there are no plans to), whoever buys the licence is obligated to maintain that lease. It is protected as the landholder is obligated to protect the site and run it safely. Ultimately the responsibility would be with the government.

Shire President, Cr. M T Bennett advised the community that the meeting was to be closed. The questions provided in writing earlier would be taken on notice and included in the minutes:

SUBMITTER	QUESTION ON NOTICE	BELOW RESPONSES PROVIDED BY SHIRE STAFF "FOLLOWING THE MEETING" AND INCLUDED IN THE MINUTES FOR THE BENEFIT OF THE COMMUNITY
Alan Norman	Why was the meeting 20 years ago the motion was rescinded?	<p>Officers believe Mr Norman may be referring to 24 November 2005 Council meeting where it was resolved:</p> <ul style="list-style-type: none"> <li>• Not to approve the upgrade of the facility from a Class II to a Class III site, and</li> <li>• That it was premature to consider an extension to the expiry term prior to the expiry of the original approval, which was not until 2009.</li> </ul> <p>Therefore, Council refused to rescind the earlier (1999) expiry condition.</p> <p>Council's refusal was appealed to SAT, which overturned Council's refusal and subsequently rescinded the expiry date condition, and allowed the operation to run indefinitely.</p>
Tony Ferris	<p>I wish to register my apology as I am unable to attend the special electors meeting due to family commitments.</p> <p>I am vehemently opposed to any expansion of the current Dardanup waste facility on the grounds that it will have detrimental impact on both local residents and the surrounding environment. Keep the Dardanup waste facility as a local area facility and not a state wide waste facility; it is shameful that such a large company as Cleanaway would put profits before community.</p>	Noted.
Tom and Maria Garbellini	<p>Tom and Maria Garbellini do not want truck movements on Waterloo Road between 10pm and 6am. 44 truck movements equate to one truck every 11 minutes. What is in place for 1 in 100 year flood? How high is the tip going to grow above the tree line of the Forestry on the south side? Who is keeping count of truck movements what happens when more than 44 movements – who is</p>	<p>Cleanaway's DWER Licence requires on site stormwater detention for a 1 in 100 ARI event. In April 2016 Council approved a DA for Stormwater Infrastructure which included Stormwater Management Plans.</p> <p>Officers have no information regarding the height of the tree line on the adjacent land. Contour plans for Lot 2 Banksia Road, which were approved in 2014, show a final maximum contour height of</p>

SUBMITTER	QUESTION ON NOTICE	BELOW RESPONSES PROVIDED BY SHIRE STAFF "FOLLOWING THE MEETING" AND INCLUDED IN THE MINUTES FOR THE BENEFIT OF THE COMMUNITY
	<p>counting?            There are six houses on Ferguson Road            18 houses on Waterloo Road            5 residents within 100m of Ferguson and Waterloo road intersections.</p>	<p>approximately 150m AHD. The approved heights reduce toward the southern and northern boundaries, and towards the centre of the lot.</p> <p>The DWER licence requires Cleanaway to maintain records for the annual report which state the date and time of each waste delivery, amongst other details.</p> <p>If Council was to approve a maximum number of truck movements, this would require Council to enforce such conditions through an active enforcement regime. Council would need to consider the cost of resourcing such an enforcement regime.</p>
Jo-Anne Pope	<p>What benefits will the shire receive if the proposal is approved? In definite terms, eg. Dollar amounts.</p>	<p>Officers are unable to answer this question until the matter is considered by Council.</p>
Name not provided at time of question.	<p>Did the original waste facility licence application assess the risk of contamination of the Yarragadee aquifer – was the risk deemed acceptable?</p> <p>Have the subsequent amendments to the waste facility licence reinstall the risk assessment to account for the increased volumes and more hazardous material.</p> <p>What rates are currently paid to the shire for the banksia road block?</p>	<p>The Shire of Dardanup does not assess licence applications as these are made to DWER.</p> <p>Questions regarding licence assessments and/or amendments should be directed to DWER.</p> <p>The total rates levied for 2018/19 were \$3,073.44 (rates \$2,991.44 and ESL \$82.00).</p>
Brendan Oversby	<p>How are Cleanaway proposing to manage contaminants leaving their proposed facilities, given that they were unable to stop large volumes of plastic and other rubbish from discharging for more than 5 months at their Picton Depot?</p>	<p>The only facility (works) that has been applied for to Council at this point is a leachate pond.</p> <p>The application for the leachate pond states that it is designed to accommodate run-off pumped from the waste operations for the 1 in 20 year, 72 hour storm event, calculated at 4,400m<sup>3</sup>. The application states that stormwater will be directed to the existing stormwater drain south of the proposed leachate pond. Council will need to consider whether this is acceptable when coming to a decision on this application.</p>

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Matty Hawkes	<p>Why isn't Greenbushes waste returned to site is it for convenience and commercial reasons?</p> <p>The majority of mines in WA store their own waste product onsite.</p> <p>What is the difference in this case?</p>	<p>Officers are not aware if other locations have been explored as this is not relevant to the three DA applications received.</p> <p>The Shire is required to process the three Development Applications received in accordance with the requirements set out in the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>. The Regulations do not provide any opportunity to explore the appropriateness of other sites compared to the site proposed.</p> <p>Council only has the ability under Planning legislation to consider the applications as submitted, on the land proposed in the application, and will consider whether it should be approved or refused.</p> <p>It is noted that the Shire has not received a DA application as yet for any tailings cell.</p>

## 5. CLOSE

### Consideration by Council

Decisions made at a Special Meeting of Electors are required to be considered in accordance with s5.33 of the Local Government Act, which states:

#### 5.33. Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
  - (a) *at the first ordinary council meeting after that meeting; or*
  - (b) *at a special meeting called for that purpose,*  
*whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

### Close

Shire President, Cr. M T Bennett thanked everyone for their attendance. There being no further business, the Presiding Member declared the meeting closed at 8.51 pm.